



UNIVERSITY OF CALIFORNIA  
AT LOS ANGELES



THE GIFT OF  
MAY TREAT MORRISON  
IN MEMORY OF  
ALEXANDER F MORRISON

*glory*

*Da,*

*Jacob Spangler*  
STATE PAPERS  
*York Pa.* AND

# PUBLIC DOCUMENTS

OF

## THE UNITED STATES

FROM THE  
DATE OF  
ACCESSION

ACCESSION OF GEORGE WASHINGTON TO THE PRESIDENCY, EXHIBITING A COMPLETE VIEW OF OUR FOREIGN RELATIONS SINCE THAT TIME.

IN TEN VOLUMES.—VOL. I.

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SECOND EDITION.

PUBLISHED UNDER THE PATRONAGE OF CONGRESS.

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INCLUDING

CONFIDENTIAL DOCUMENTS,

NOW FIRST PUBLISHED.

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## ADVERTISEMENT.

THE public are now presented with a second edition of State Papers and Publick Documents of the United States.—In the first edition the publishers stated the care they had taken and the rules by which they had been governed in selecting and arranging the Papers; and expressed a hope “that the undertaking in their proposals would be considered as honourably fulfilled.”—This hope has been more than realized. They have been gratified not only with the approbation of a numerous list of subscribers, but by the sanction of Congress, who have been pleased to direct that the Secretary of State should subscribe for and receive five hundred copies of the present edition. Since which the Senate of the U. S. have authorized the publication of confidential documents that have never appeared, which add peculiar value to the work, and complete the view of our foreign relations up to the present period.—These confidential papers are referred to in the work, and will be published in a supplementary volume.

MAR 27 '43 12 v.  
GIFT OF MRS. A. F. MORRISON

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UNION OF  
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INAUGURAL SPEECH

OF THE PRESIDENT OF THE UNITED STATES. APRIL 30, 1789.

Fellow citizens of the Senate,  
and of the House of Representatives,

AMONG the vicissitudes incident to life, no event could have filled me with greater anxieties, than that of which the notification was transmitted by your order, and received on the 14th day of the present month. On the one hand, I was summoned by my country, whose voice I can never hear but with veneration and love, from a retreat which I had chosen with the fondest predilection, and, in my flattering hopes, with an immutable decision, as the asylum of my declining years, a retreat which was rendered every day more necessary as well as more dear to me, by the addition of habit to inclination, and of frequent interruptions in my health to the gradual waste committed on it by time. On the other hand, the magnitude and difficulty of the trust to which the voice of my country called me, being sufficient to awaken in the wisest and most experienced of her citizens, a distrustful scrutiny into his qualifications, could not but overwhelm with despondence, one, who, inheriting inferior endowments from nature, and unpractised in the duties of civil administration, ought to be peculiarly conscious of his own deficiencies. In this conflict of emotions, all I dare aver, is, that it has been my faithful study to collect my duty from a just appreciation of every circumstance by which it might be affected. All I dare hope, is, that, if in executing this task, I have been too much swayed by a grateful remembrance of former instances, or by an affectionate sensibility to this transcendent proof of the confidence of my fellow citizens, and have thence too little consulted my incapacity as well as

disinclination, for the weighty and untried cares before me, my error will be palliated by the motives which misled me, and its consequences be judged by my country, with some share of the partiality in which they originated.

Such being the impressions under which I have, in obedience to the publick summons, repaired to the present station, it would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being, who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that his benediction may consecrate to the liberties and happiness of the people of the United States, a government instituted by themselves for these essential purposes, and may enable every instrument employed in its administration, to execute with success the functions allotted to his charge. In tendering this homage to the great Author of every publick and private good, I assure myself that it expresses your sentiments not less than my own; nor those of my fellow citizens at large, less than either. No people can be bound to acknowledge and adore the invisible hand, which conducts the affairs of men, more than the people of the United States. Every step, by which they have advanced to the character of an independent nation, seems to have been distinguished by some token of providential agency. And in the important revolution just accomplished in the system of their united government, the tranquil deliberations, and voluntary consent of so many distinct communities, from which the event has resulted, cannot be compared with the means by which most governments have been established, without some return of pious gratitude, along with a humble anticipation of the future blessings which the past seem to presage. These reflections arising out of the present crisis, have forced themselves too strongly on my mind to be suppressed. You will join with me, I trust, in thinking that there are none under the influence of which the proceedings of a new and free government can more auspiciously commence.

By the article establishing the executive department, it is made the duty of the President, "to recommend to your consideration such measures as he shall judge necessary and expedient." The circumstances under which I now

meet you, will acquit me from entering into that subject, further than to refer to the great Constitutional Charter under which you are assembled, and which, in defining your powers, designates the objects to which your attention is to be given. It will be more consistent with those circumstances, and far more congenial with the feelings which actuate me, to substitute, in place of a recommendation of particular measures, the tribute that is due to the talents, the rectitude and the patriotism which adorn the characters selected to devise and adopt them. In these honourable qualifications, I behold the surest pledges, that as on one side no local prejudices or attachments, no separate views, nor party animosities, will misdirect the comprehensive and equal eye which ought to watch over this great assemblage of communities and interests; so on another, that the foundations of our national policy will be laid in the pure and immutable principles of private morality; and the pre-eminence of free government be exemplified by all the attributes which can win the affections of its citizens, and command the respect of the world.

I dwell on this prospect with every satisfaction which an ardent love for my country can inspire. Since there is no truth more thoroughly established, than that there exists in the economy and course of nature, an indissoluble union between virtue and happiness—between duty and advantage—between the genuine maxims of an honest and magnanimous policy, and the solid rewards of publick prosperity and felicity. Since we ought to be no less persuaded that the propitious smiles of Heaven can never be expected on a nation that disregards the eternal rules of order and right which Heaven itself has ordained. And since the preservation of the sacred fire of liberty, and the destiny of the republican model of government, are justly considered as *deeply*, perhaps as *finally*, staked on the experiment intrusted to the hands of the American people.

Besides the ordinary objects submitted to your care, it will remain with your judgment to decide, how far an exercise of the occasional power delegated by the fifth article of the constitution, is rendered expedient at the present juncture by the nature of objections which have been urged against the system, or by the degree of iniquitude which has given birth to them. Instead of undertaking particular recommendations on this subject, in

which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the publick good. For I assure myself, that whilst you carefully avoid every alteration which might endanger the benefits of an united and effective government, or which ought to await the future lessons of experience; a reverence for the characteristick rights of freemen, and a regard for the publick harmony, will sufficiently influence your deliberations on the question, how far the former can be more impreguably fortified, or the latter be safely and advantageously promoted.

To the preceding observations I have one to add, which will be most properly addressed to the House of Representatives. It concerns myself, and will therefore be as brief as possible. When I was first honoured with a call into the service of my country, then on the eve of an arduous struggle for its liberties, the light in which I contemplated my duty, required that I should renounce every pecuniary compensation. From this resolution I have in no instance departed. And being still under the impressions which produced it, I must decline as inapplicable to myself, any share in the personal emoluments, which may be indispensably included in a permanent provision for the executive department; and must accordingly pray, that the pecuniary estimates for the station in which I am placed, may, during my continuance in it, be limited to such actual expenditures as the publick good may be thought to require.

Having thus imparted to you my sentiments, as they have been awakened by the occasion which brings us together, I shall take my present leave; but not without resorting once more to the benign Parent of the human race, in humble supplication, that since he has been pleased to favour the American people with opportunities for deliberating in perfect tranquillity, and dispositions for deciding with unparalleled unanimity on a form of government, for the security of their union, and the advancement of their happiness; so his divine blessing may be equally *conspicuous* in the enlarged views, the temperate consultations, and the wise measures on which the success of this government must depend.

GEORGE WASHINGTON.

## MESSAGE

OF THE PRESIDENT OF THE UNITED STATES TO THE HOUSE  
OF REPRESENTATIVES. SEPT. 29, 1789.

HIS Most Christian Majesty, by a letter dated the 7th of June last, addressed to the President and Members of the General Congress of the United States of North America, announces the much lamented death of his son, the Dauphin. The generous conduct of the French monarch and nation towards this country, renders every event that may effect his or their prosperity, interesting to us; and I shall take care to assure him of the sensibility with which the United States participate in the affliction, which a loss so much to be regretted, must have occasioned both to him and to them.

GEORGE WASHINGTON.

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## SPEECH

OF THE PRESIDENT OF THE UNITED STATES TO BOTH  
HOUSES OF CONGRESS. JAN. 8, 1790.

Fellow citizens of the Senate,  
and House of Representatives,

I EMBRACE with great satisfaction the opportunity which now presents itself, of congratulating you on the present favourable prospects of our publick affairs. The recent accession of the important State of North Carolina to the constitution of the United States, (of which official information has been received) the rising credit and respectability of our country, and the general increasing good-will towards the government of the Union, and the concord, peace and plenty, with which we are blessed, are circumstances, auspicious, in an eminent degree, to our national prosperity.

In resuming your consultations for the general good, you cannot but derive encouragement from the reflection, that the measures of the last session have been as satisfactory to your constituents, as the novelty and difficulty of the work allowed you to hope. Still further to realize their expectations, and to secure the blessings which a

gracious providence has placed within our reach, will, in the course of the present important session, call for the cool and deliberate exertion of your patriotism, firmness and wisdom.

Among the many interesting objects, which will engage your attention, that of providing for the common defence, will merit particular regard. To be prepared for war is one of the most effectual means of preserving peace.

A free people ought not only to be armed, but disciplined; to which end, a uniform and well digested plan is requisite: And their safety and interest require that they should promote such manufactories, as tend to render them independent on others, for essential, particularly, for military supplies.

The proper establishment of the troops which may be deemed indispensable, will be entitled to mature consideration. In the arrangements which may be made respecting it, it will be of importance to conciliate the comfortable support of the officers and soldiers, with a due regard to economy.

There was reason to hope, that the pacifick measures adopted with regard to certain hostile tribes of Indians, would have relieved the inhabitants of our southern and western frontiers from their depredations. But you will perceive, from the information contained in the papers which I shall direct to be laid before you (comprehending a communication from the commonwealth of Virginia) that we ought to be prepared to afford protection to those parts of the Union; and if necessary, to punish aggressors.

The interest of the United States requires, that our intercourse with other nations should be facilitated by such provisions as will enable me to fulfil my duty in that respect, in the manner which circumstances may render most conducive to the publick good: And to this end, that the compensations to be made to the persons, who may be employed, should, according to the nature of their appointments, be defined by law; and a competent fund designated for defraying the expenses incident to the conduct of our foreign affairs.

Various considerations also render it expedient that the terms on which foreigners may be admitted to the rights of citizens, should be speedily ascertained by a uniform rule of naturalization.



Uniformity in the currency, weights and measures of the United States, is an object of great importance, and will, I am persuaded, be duly attended to.

The advancement of agriculture, commerce and manufactures, by all proper means, will not, I trust, need recommendation. But I cannot forbear intimating to you, the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between the distant parts of our country, by a due attention to the post office and post roads.

Nor am I less persuaded, that you will agree with me in opinion, that there is nothing which can better deserve your patronage, than the promotion of science and literature. Knowledge is, in every country, the surest basis of publick happiness. In one, in which the measures of government receive their impression so immediately from the sense of the community, as in ours, it is proportionably essential. To the security of a free constitution it contributes in various ways: By convincing those who are intrusted with the publick administration, that every valuable end of government is best answered by the enlightened confidence of the people; and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; between burdens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness, cherishing the first, avoiding the last, and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect to the laws.

Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a national university, or by any other expedients, will be well worthy of a place in the deliberations of the legislature.

*Gentlemen of the House of Representatives,*—I saw with peculiar pleasure, at the close of the last session, the resolution entered into by you, expressive of your opinion, that an adequate provision for the support of the publick

credit, is a matter of high importance to the national honour and prosperity. In this sentiment I entirely concur. And to a perfect confidence in your best endeavours to devise such a provision as will be truly consistent with the end, I add an equal reliance on the cheerful co-operation of the other branch of the legislature. It would be superfluous to specify inducements to a measure, in which the character and permanent interests of the United States are so obviously and so deeply concerned, and which has received so explicit a sanction from your declaration.

*Gentlemen of the Senate and House of Representatives,*— I have directed the proper officers to lay before you, respectively, such papers and estimates as regard the affairs particularly recommended to your consideration, and necessary to convey to you that information of the state of the Union, which it is my duty to afford.

The welfare of our country is the great object to which our cares and efforts ought to be directed. And I shall derive great satisfaction from a co-operation with you, in the pleasing, though arduous task of ensuring to our fellow citizens the blessings which they have a right to expect from a free, efficient and equal government.

GEORGE WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO EASTERN BOUNDARY ON BRITISH TERRITORY. FEB. 9,  
1790.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO EASTERN BOUNDARY ON BRITISH TERRITORY. FEB. 18,  
1790.

[See Vol. Confidential Documents.]

## SPEECH

OF THE PRESIDENT OF THE UNITED STATES, TO BOTH  
HOUSES OF CONGRESS. DEC. 8, 1790.

Fellow citizens of the Senate,  
and House of Representatives,

IN meeting you again, I feel much satisfaction in being able to repeat my congratulations on the favourable prospects which continue to distinguish our publick affairs. The abundant fruits of another year have blessed our country with plenty, and with the means of a flourishing commerce. The progress of publick credit is witnessed by a considerable rise of American stock abroad as well as at home. And the revenues allotted for this and other national purposes, have been productive beyond the calculations by which they were regulated. This latter circumstance is the more pleasing, as it is not only a proof of the fertility of our resources, but as it assures us of a further increase of the national respectability and credit; and let me add, as it bears an honourable testimony to the patriotism and integrity of the mercantile and marine part of our citizens. The punctuality of the former in discharging their engagements has been exemplary.

In conforming to the powers vested in me by acts of the last session, a loan of three millions of florins, towards which some provisional measures had previously taken place, has been completed in Holland. As well the celerity with which it has been filled, as the nature of the terms (considering the more than ordinary demand for borrowing created by the situation of Europe) give a reasonable hope, that the further execution of those powers may proceed with advantage and success. The secretary of the treasury has my direction to communicate such further particulars as may be requisite for more precise information.

Since your last sessions, I have received communications, by which it appears, that the district of Kentucky, at present a part of Virginia, has concurred in certain propositions contained in a law of that state, in consequence of which the district is to become a distinct member of the Union, in case the requisite sanction of Con-

gress be added. For this sanction application is now made. I shall cause the papers on this very important transaction to be laid before you. The liberality and harmony with which it has been conducted, will be found to do great honour to both the parties. And the sentiments of warm attachment to the Union, and its present government, expressed by our fellow citizens of Kentucky, cannot fail to add an affectionate concern for their particular welfare, to the great national impressions under which you will decide on the case submitted to you.

It has been heretofore known to Congress, that frequent incursions have been made on our frontier settlements by certain banditti of Indians, from the north-west side of the Ohio. These, with some of the tribes dwelling on and near the Wabash, have of late been particularly active in their depredations; and being emboldened by the impunity of their crimes, and aided by such parts of the neighbouring tribes as could be seduced to join in their hostilities, or afford them a retreat for their prisoners and plunder, they have, instead of listening to the humane invitations and overtures made on the part of the United States, renewed their violences with fresh alacrity and greater effect. The lives of a number of valuable citizens have thus been sacrificed, and some of them under circumstances peculiarly shocking; whilst others have been carried into a deplorable captivity.

These aggravated provocations rendered it essential to the safety of the western settlements, that the aggressors should be made sensible that the government of the Union is not less capable of punishing their crimes, than it is disposed to respect their rights and reward their attachments. As this object could not be effected by defensive measures, it became necessary to put in force the act which empowers the President to call out the militia for the protection of the frontiers. And I have accordingly authorized an expedition, in which the regular troops in that quarter are combined with such draughts of militia as were deemed sufficient. The event of the measure is yet unknown to me. The Secretary of War is directed to lay before you a statement of the information on which it is founded, as well as an estimate of the expense with which it will be attended.

The disturbed situation of Europe, and particularly the

critical posture of the great maritime powers, whilst it ought to make us the more thankful for the general peace and security enjoyed by the United States, reminds us at the same time, of the circumspection with which it becomes us to preserve these blessings. It requires also that we should not overlook the tendency of a war, and even of preparations for a war, among the nations most concerned in active commerce with this country, to abridge the means, and thereby at least enhance the price of transporting its valuable productions to their proper markets. I recommend it to your serious reflections, how far, and in what mode, it may be expedient to guard against embarrassments from these contingencies, by such encouragements to our own navigation as will render our commerce and agriculture less dependent on foreign bottoms, which may fail us in the very moment most interesting to both of these great objects. Our fisheries, and the transportation of our own produce, offer us abundant means for guarding ourselves against this evil.

Your attention seems to be not less due to that particular branch of our trade which belongs to the Mediterranean. So many circumstances unite in rendering the present state of it distressful to us, that you will not think any deliberations misemployed which may lead to its relief and protection.

The laws you have already passed for the establishment of a judiciary system, have opened the doors of justice to all descriptions of persons. You will consider in your wisdom, whether improvements in that system may yet be made; and particularly, whether an uniform process of execution on sentences issuing from the federal courts, be not desirable through all the States.

The patronage of our commerce, of our merchants and seamen, has called for the appointment of consuls in foreign countries. It seems expedient to regulate by law the exercise of that jurisdiction, and those functions which are permitted them, either by express convention, or by a friendly indulgence in the places of their residence. The Consular Convention too with his Most Christian Majesty, has stipulated, in certain cases, the aid of the national authority to his consuls established here. Some legislative provision is requisite to carry these stipulations into full effect.

The establishment of the militia, of a mint, of standards of weights and measures, of the post office and post roads, are subjects which (I presume) you will resume of course, and which are abundantly urged by their own importance.

*Gentlemen of the House of Representatives,*—The sufficiency of the revenues you have established, for the objects to which they are appropriated, leaves no doubt but the residuary provisions will be commensurate to the other objects, for which the publick faith stands now pledged. Allow me, moreover, to hope, that it will be a favourite policy with you, not merely to secure a payment of the interest of the debt funded, but as far and as fast as the growing resources of the country will permit, to exonerate it of the principal itself. The appropriations you have made of the western lands, explain your dispositions on this subject: and I am persuaded, that the sooner that valuable fund can be made to contribute, along with other means, to the actual reduction of the publick debt, the more salutary will the measure be to every publick interest, as well as the more satisfactory to our constituents.

*Gentlemen of the Senate and House of Representatives,*—In pursuing the various and weighty business of the present session, I indulge the fullest persuasion, that your consultations will be equally marked with wisdom, and animated by the love of your country. In whatever belongs to my duty, you shall have all the co-operation which an undiminished zeal for its welfare can inspire. It will be happy for us both, and our best reward, if, by a successful administration of our respective trusts, we can maket<sup>h</sup>e established government more and more instrumental in promoting the good of our fellow citizens, and more and more the object of their attachment and confidence.

GEORGE WASHINGTON.

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## REPORT

OF SECRETARY OF STATE RELATIVE TO THE TRADE OF THE UNITED STATES IN THE MEDITERRANEAN. DEC. 28, 1790.

[See Vol. Confidential Documents.]

**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO AMERICAN PRISONERS AT ALGIERS. DEC. 30, 1790.

[See Vol. Confidential Documents.]

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**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO FRANCE. JAN. 17, 1791.

[See Vol. Confidential Documents.]

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**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO FRANCE. JAN. 19, 1791.

[See Vol. Confidential Documents.]

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**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES. FRENCH  
LETTER AND DECREE RELATIVE TO THE DEATH OF DR.  
FRANKLIN. JAN. 26, 1791.

[See Vol. Confidential Documents.]

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**MESSAGE**

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO GREAT BRITAIN. FEB. 14, 1791.

[See Vol. Confidential Documents.]

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO SPAIN AND PORTUGAL. FEB. 18, 1791.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO ALGIERS AND MOROCCO. FEB. 22, 1791.

[See Vol. Confidential Documents.]

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## SPEECH

OF THE PRESIDENT OF THE UNITED STATES TO BOTH  
HOUSES OF CONGRESS. OCT. 25, 1791.

Fellow citizens of the Senate  
and House of Representatives,

I MEET you, upon the present occasion, with the feelings which are naturally inspired by a strong impression of the prosperous situation of our common country, and by a persuasion equally strong, that the labours of the session which has just commenced, will, under the guidance of a spirit, no less prudent than patriotick, issue in measures conducive to the stability and increase of national prosperity.

Numerous as are the providential blessings which demand our grateful acknowledgments, the abundance with which another year has again rewarded the industry of the husbandman is too important to escape recollection.

Your own observations, in your respective situations, will have satisfied you of the progressive state of agriculture, manufactures, commerce and navigation: in tracing their causes, you will have remarked, with particular pleasure, the happy effects of that revival of confidence, publick as well as private, to which the constitution and laws of the United States have so eminently contributed. And you will have observed, with no less interest, new and



decisive proofs of the increasing reputation and credit of the nation. But you, nevertheless, cannot fail to derive satisfaction from the confirmation of these circumstances, which will be disclosed in the several official communications that will be made to you in the course of your deliberations.

The rapid subscriptions to the bank of the United States, which completed the sum allowed to be subscribed in a single day, is among the striking and pleasing evidences which present themselves not only of confidence in the government, but of resource in the community.

In the interval of your recess, due attention has been paid to the execution of the different objects which were specially provided for by the laws and resolutions of the last session.

Among the most important of these is the defence and security of the western frontiers. To accomplish it on the most humane principles, was a primary wish.

Accordingly, at the same time that treaties have been provisionally concluded, and other proper means used to attach the wavering, and to confirm in their friendship the well-disposed tribes of Indians, effectual measures have been adopted to make those of a hostile description sensible, that a pacification was desired upon terms of moderation and justice.

These measures having proved unsuccessful, it became necessary to convince the refractory of the power of the United States to punish their depredations; offensive operations have therefore been directed; to be conducted, however, as consistently as possible with the dictates of humanity. Some of these have been crowned with full success, and others are yet depending. The expeditions which have been completed, were carried on under the authority, and at the expense of the United States, by the militia of Kentucky; whose enterprise, intrepidity, and good conduct, are entitled to peculiar commendation.

Overtures of peace are still continued to the deluded tribes, and considerable numbers of individuals belonging to them have lately renounced all further opposition, removed from their former situations, and placed themselves under the immediate protection of the United States.

It is sincerely to be desired, that all need of coercion, in future, may cease, and that an intimate intercourse may

succeed, calculated to advance the happiness of the Indians, and to attach them firmly to the United States.

In order to this, it seems necessary—That they should experience the benefits of an impartial dispensation of justice—That the mode of alienating their lands, the main source of discontent and war, should be so defined, and regulated, as to obviate imposition, and, as far as may be practicable, controversy concerning the reality and extent of the alienations which are made—That commerce with them should be promoted under regulations tending to secure an equitable deportment towards them, and that such rational experiments should be made, for imparting to them the blessings of civilization, as may, from time to time, suit their condition—That the Executive of the United States should be enabled to employ the means to which the Indians have been long accustomed for uniting their immediate interests with the preservation of peace—And, that efficacious provision should be made for inflicting adequate penalties upon all those, who, by violating their rights, shall infringe the treaties, and endanger the peace of the Union.

A system corresponding with the mild principles of religion and philanthropy towards an unenlightened race of men, whose happiness materially depends on the conduct of the United States, would be as honourable to the national character, as conformable to the dictates of sound policy.

The powers specially vested in me by the act, laying certain duties on distilled spirits, which respect the subdivisions of the districts into surveys, the appointment of officers, and the assignment of compensations, have likewise been carried into effect. In a matter, in which both materials and experience were wanting to guide the calculation, it will be readily conceived that there must have been difficulty in such an adjustment of the rates of compensation as would conciliate a reasonable competency, with a proper regard to the limits prescribed by the law. It is hoped that the circumspection which has been used will be found in the result to have secured the last of the two objects; but it is probable, that with a view to the first, in some instances a revision of the provision will be found advisable.

The impressions with which this law has been received

by the community, have been, upon the whole, such as were to be expected among enlightened and well-disposed citizens, from the propriety and necessity of the measure. The novelty, however, of the tax, in a considerable part of the United States, and a misconception of some of its provisions, have given occasion in particular places to some degree of discontent. But it is satisfactory to know, that this disposition yields to proper explanations and more just apprehensions of the true nature of the law. And I entertain a full confidence, that it will, in all, give way to motives which arise out of a just sense of duty, and a virtuous regard to the publick welfare.

If there are any circumstances in the law, which, consistently with its main design, may be so varied as to remove any well-intentioned objections that may happen to exist, it will consist with a wise moderation to make the proper variations. It is desirable, on all occasions, to unite with a steady and firm adherence to constitutional and necessary acts of government, the fullest evidence of a disposition, as far as may be practicable, to consult the wishes of every part of the community, and to lay the foundations of the publick administration in the affections of the people.

Pursuant to the authority contained in the several acts on that subject, a district of ten miles square, for the permanent seat of the government of the United States, has been fixed, and announced by proclamation; which district will comprehend lands on both sides of the river Potomac, and the towns of Alexandria and Georgetown. A city has also been laid out agreeably to a plan which will be placed before Congress; and as there is a prospect favoured by the rate of sales which have already taken place, of ample funds for carrying on the necessary publick buildings, there is every expectation of their due progress.

The completion of the census of the inhabitants, for which provision was made by law, has been duly notified, (excepting in one instance, in which the return has been informal; and another, in which it has been omitted or miscarried) and the returns of the officers who were charged with this duty, which will be laid before you, will give you the pleasing assurance, that the present population of the United States borders on four millions of persons.

It is proper also to inform you, that a further loan of two millions and an half of florins has been completed in Holland; the terms of which are similar to those of the one last announced, except as to a small reduction of charges. Another, on like terms, for six millions of florins, had been set on foot, under circumstances that assured an immediate completion.

*Gentlemen of the Senate*,—Two treaties which have been provisionally concluded with the Cherokees, and Six Nations of Indians, will be laid before you for your consideration and ratification.

*Gentlemen of the House of Representatives*,—In entering upon the discharge of your legislative trust, you must anticipate with pleasure, that many of the difficulties, necessarily incident to the first arrangements of a new government, for an extensive country, have been happily surmounted by the zealous and judicious exertions of your predecessors in co-operation with the other branch of the Legislature. The important objects which remain to be accomplished, will, I am persuaded, be conducted upon principles equally comprehensive, and equally well calculated for the advancement of the general weal.

The time limited for receiving subscriptions to the loans proposed by the act for making provision for the debt of the United States, having expired, statements from the proper department, will, as soon as possible, apprise you of the exact result. Enough, however, is known already to afford an assurance that the views of that act have been substantially fulfilled. The subscription in the domestick debt of the United States, has embraced by far the greatest proportion of that debt; affording at the same time, proof of the general satisfaction of the publick creditors with the system which has been proposed to their acceptance, and of the spirit of accommodation to the convenience of the government with which they are actuated. The subscriptions in the debts of the respective states, as far as the provisions of the law have permitted, may be said to be yet more general. The part of the debt of the United States which remains unsubscribed, will naturally engage your further deliberations.

It is particularly pleasing to me to be able to announce to you, that the revenues which have been established, promise to be adequate to their objects, and may be per-

mitted, if no unforeseen exigency occurs, to supersede, for the present, the necessity of any new burdens upon our constituents.

An object which will claim your early attention, is a provision for the current service of the ensuing year, together with such ascertained demands upon the treasury, as require to be immediately discharged, and such casualties as may have arisen in the execution of the publick business, for which no specifick appropriation may have yet been made; of all which, a proper estimate will be laid before you.

*Gentlemen of the Senate, and House of Representatives,*—I shall content myself with a general reference to former communications for several objects, upon which the urgency of other affairs has hitherto postponed any definitive resolution. Their importance will recall them to your attention; and I trust that the progress already made in the most arduous arrangements of the government will afford you leisure to resume them with advantage.

There are, however, some of them of which I cannot forbear a more particular mention; these are, the militia—the post office and post roads—the mint—weights and measures—a provision for the sale of the vacant lands of the United States.

The first is certainly an object of primary importance, whether viewed in reference to the national security, to the satisfaction of the community, or to the preservation of order. In connexion with this, the establishment of competent magazines and arsenals, and the fortification of such places as are peculiarly important and vulnerable naturally present themselves to consideration. The safety of the United States, under divine protection, ought to rest on the basis of systematic and solid arrangement; exposed as little as possible to the hazards of fortuitous circumstances.

The importance of the post office and post roads, on a plan sufficiently liberal and comprehensive, as they respect the expedition, safety and facility of communication, is increased by the instrumentality in diffusing a knowledge of the laws and proceedings of the government; which, while it contributes to the security of the people, serves also to guard them against the effects of misrepresentation and misconception. The establishment of ad-

ditional cross posts, especially to some of the important points in the western and northern parts of the Union, cannot fail to be of material utility.

The disorders in the existing currency, and especially the scarcity of small change, a scarcity so peculiarly distressing to the poorer classes, strongly recommend the carrying into immediate effect the resolution already entered into concerning the establishment of a mint.— Measures have been taken pursuant to that resolution for procuring some of the most necessary artists, together with the requisite apparatus.

An uniformity in the weights and measures of the country is among the important objects submitted to you by the constitution, and if it can be derived from a standard at once invariable and universal, must be no less honourable to the publick councils than conducive to the publick convenience.

A provision for the sale of the vacant lands of the United States, is particularly urged, among other reasons, by the important considerations ; that they are pledged as a fund for reimbursing the publick debt ; that if timely and judiciously applied, they may save the necessity of burdening our citizens with new taxes for the extinguishment of the principal ; and that being free to discharge the principal, but in a limited proportion, no opportunity ought to be lost for availing the publick of its right.

GEORGE WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
SPAIN, AND NAVIGATION OF THE MISSISSIPPI. JAN. 11,  
1792.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
MARCH 5, 1792.

KNOWING the friendly interest you take in whatever may promote the happiness and prosperity of the French

nation, it is with pleasure that I lay before you the translation of a letter which I have received from his most Christian Majesty, announcing to the United States of America, his acceptance of the constitution presented to him by his nation.

GEORGE WASHINGTON.

*Translation of a letter from the King of France, of Sept.  
19, 1791.*

Very dear, great Friends and Allies,

We make it our duty to inform you, that we have accepted the Constitution which has been presented to us in the name of the nation, and according to which France will be henceforth governed.

We do not doubt that you take an interest in an event so important to our kingdom, and to us; and it is with real pleasure we take this occasion to renew to you assurances of the sincere friendship we bear you: Whereupon we pray God to have you, very dear, great friends and allies, in his just and holy keeping.—Written at Paris, the 19th of September, 1791.

Your good Friend and Ally.

LOUIS.  
MONTMORIN,

To the United States of North America.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
NEGOTIATIONS AT MADRID. MARCH 7, 1792.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
APRIL 13, 1792.

I HAVE thought it proper to lay before you a communication of the 11th instant, from the minister plenipotentiary of Great Britain, to the Secretary of State, relative

to the commerce of the two countries ; together with their explanatory correspondence, and the Secretary of State's letter to me on the subject.

GEORGE WASHINGTON.

*Philadelphia, April 13, 1792.*

SIR,—I have the honour to lay before you a communication from Mr. Hammond, minister plenipotentiary of his Britannick Majesty, covering a clause of a statute of that country relative to its commerce with this ; and notifying a determination to carry it into execution henceforward.—Conceiving that the determination announced could not be really meant as extensively as the words import, I asked and received an explanation from the minister, as expressed in the letter and answer herein enclosed ; and, on consideration of all circumstances, I cannot but confide in the opinion expressed by him, that its sole object is to exclude foreign vessels from the islands of Jersey and Guernsey.

The want of proportion between the motives expressed and the measure, its magnitude and consequences, total silence as to the proclamation on which the intercourse between the two countries has hitherto hung, and of which, in this broad sense, it would be a revocation, and the recent manifestations of the disposition of that government, to concur with this in mutual offices of friendship and good will, support his construction.

The minister moreover assured me verbally, that he would immediately write to his court for an explanation, and in the mean time is of opinion, that the usual intercourse of commerce between the two countries (Jersey and Guernsey excepted) need not be suspended. I have the honour to be, &c. THOMAS JEFFERSON.

\* The President of the United States.

*Philadelphia, April 11, 1792.*

SIR,—I have received by a circular despatch from my court, directions to inform this government, that, considerable inconveniences having arisen from the importation of tobacco in foreign vessels into the ports of his majesty's dominions, contrary to the act of the 12th Charles 2. chap. 18. Sect. 3. (commonly called the navigation



act) it has been determined in future strictly to enforce this clause, of which I take the liberty of enclosing to you a copy; and I have the honour to be, with perfect esteem and respect, Sir, your most obedient humble servant.

GEORGE HAMMOND.

Mr. Jefferson.

12 Charles 2. Chap. 18. Sect. 3.

And it is further enacted by the authority aforesaid, that no goods or commodities whatsoever, of the growth, production, or manufacture of Africa, Asia, or America, or of any part thereof, which are described or laid down in the usual maps or charts of those places, be imported into England, Ireland, or Wales, islands of Guernsey and Jersey, or town of Berwick upon Tweed, in any other ship or ships, vessel or vessels, whatsoever, but in such as do truly and without fraud, belong only to the people of England or Ireland, Dominion of Wales, or town of Berwick upon Tweed, or of the lands, islands, plantations or territories in Asia, Africa, or America, to his majesty belonging, as the proprietors and right owners thereof, and whereof the master and three-fourths at least of the mariners are English, under the penalty of the forfeiture of all such goods and commodities, and of the ship or vessel in which they were imported, with all her guns, tackle, furniture, ammunition and apparel, one moiety to his majesty, his heirs and successors, and the other moiety to him or them who shall seize, inform, or sue for the same, in any court of record, by bill, information, plaint or other action, wherein no essoine, protection, or wager of law shall be allowed.

*Philadelphia, April 12, 1792.*

SIR,—I am this moment favoured with the letter you did me the honour of writing yesterday, covering the extract of a British statute forbidding the admission of foreign vessels into any ports of the British dominions, with goods or commodities of the growth, production, or manufacture of America.

The effect of this appears to me so extensive, as to induce a doubt whether I understand rightly the determination to enforce it, which you notify, and to oblige me

to ask of you, whether we are to consider it as so far a revocation of the proclamation of your government, regulating the commerce between the two countries, and that henceforth no articles of the growth, production, or manufacture of the United States, are to be received in the ports of Great Britain, or Ireland, in vessels belonging to the citizens of the United States? I have the honour to be, &c.

THOMAS JEFFERSON.

The minister plenipotentiary of Great Britain.

*Philadelphia, April 12, 1792.*

SIR,—In answer to your letter of this day, I have the honour of observing, that I have no other instructions upon the subject of my communication, than such as are contained in the circular despatch, of which I stated the purport in my letter dated yesterday.—I have, however, no difficulty in assuring you, that the result of my personal conviction is, that the determination of his majesty's government to enforce the clause of the act of navigation (a copy of which I transmitted to you) with respect to the importation of commodities in foreign vessels, has originated in consequence of the many frauds that have taken place in the importation of tobacco into his majesty's dominions, in foreign vessels, and is not intended to militate against the proclamation, or order of the king in council, regulating the commercial intercourse between Great Britain and the United States, which I have every reason to believe still exists in full force, as I have not had the most distant intimation of its being revoked.

I have the honour to be, &c.

GEORGE HAMMOND.

Mr. Jefferson.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
ALGIERS. MAY 3, 1792.

[See Vol. Confidential Documents.]

## SPEECH

OF THE PRESIDENT OF THE UNITED STATES TO BOTH  
HOUSES OF CONGRESS. NOV. 6, 1792.

Fellow citizens of the Senate,  
and of the House of Representatives,

It is some abatement of the satisfaction, with which I meet you on the present occasion, that, in felicitating you on a continuance of the national prosperity, generally, I am not able to add to it information that the Indian hostilities, which have for some time past distressed our north-western frontier, have terminated.

You will, I am persuaded, learn with no less concern than I communicate it, that reiterated endeavours towards effecting a pacification have hitherto issued only in new and outrageous proofs of persevering hostility, on the part of the tribes with whom we are in contest. An earnest desire to procure tranquillity to the frontier—to stop the further effusion of blood—to arrest the progress of expense—to forward the prevalent wish of the nation for peace, has led to strenuous efforts, through various channels, to accomplish these desirable purposes: in making which efforts, I consulted less my own anticipations of the event, or the scruples which some considerations were calculated to inspire, than the wish to find the object attainable; or if not attainable, to ascertain, unequivocally, that such is the case.

A detail of the measures that have been pursued, and of their consequences, which will be laid before you, while it will confirm to you the want of success, thus far, will, I trust, evince that means as proper and as efficacious as could have been devised, have been employed. The issue of some of them, indeed, is still depending; but a favourable one, though not to be despaired of, is not promised by any thing that has yet happened.

In the course of the attempts which have been made, some valuable citizens have fallen victims to their zeal for the publick service. A sanction commonly respected even among savages, has been found, in this instance, insufficient to protect from massacre the emissaries of peace. It will, I presume, be duly considered whether the occa-

sion does not call for an exercise of liberality towards the families of the deceased.

It must add to your concern, to be informed, that beside the continuation of hostile appearances among the tribes north of the Ohio, some threatening symptoms have of late been revived among some of those south of it.

A part of the Cherokees, known by the name of Chickamagas, inhabiting five villages on the Tennessee river, have long been in the practice of committing depredations on the neighbouring settlements.

It was hoped that the treaty of *Holston*, made with the Cherokee nation in July, 1791, would have prevented a repetition of such depredations. But the event has not answered this hope. The Chickamagas, aided by some banditti of another tribe, in their vicinity, have recently perpetrated wanton, and unprovoked hostilities upon the citizens of the United States in that quarter. The information which has been received on this subject will be laid before you. Hitherto, defensive precautions only have been strictly enjoined, and observed.

It is not understood that any breach of treaty, or aggression whatsoever, on the part of the United States, or their citizens, is even alleged as a pretext for the spirit of hostility in this quarter.

I have reason to believe that every practicable exertion has been made (pursuant to the provision by law for that purpose) to be prepared for the alternative of a prosecution of the war, in the event of the failure of pacifick overtures. A large proportion of the troops authorized to be raised, have been recruited, though the number is still incomplete; and pains have been taken to discipline and put them in condition for the particular kind of service to be performed. A delay of operations (besides being dictated by the measures which were pursuing towards a pacifick termination of the war) has been in itself deemed preferable to immature efforts. A statement from the proper department, with regard to the number of troops raised, and some other points which have been suggested, will afford more precise information, as a guide to the legislative consultations; and among other things, will enable Congress to judge whether some additional stimulus to the recruiting service may not be advisable.

In looking forward to the future expense of the opera-

tions, which may be found inevitable, I derive consolation from the information I receive, that the product of the revenues for the present year, is likely to supersede the necessity of additional burdens on the community, for the service of the ensuing year. This, however, will be better ascertained in the course of the session; and it is proper to add, that the information alluded to, proceeds upon the supposition of no material extension of the spirit of hostility.

I cannot dismiss the subject of Indian affairs, without again recommending to your consideration the expediency of more adequate provision for giving energy to the laws throughout our interior frontier, and for restraining the commission of outrages upon the Indians; without which, all pacifick plans must prove nugatory. To enable, by competent rewards, the employment of qualified and trusty persons to reside among them, as agents, would also contribute to the preservation of peace and good neighbourhood. If, in addition to these expedients, an eligible plan could be devised for promoting civilization among the friendly tribes, and for carrying on trade with them, upon a scale equal to their wants, and under regulations calculated to protect them from imposition and extortion, its influence in cementing their interests with ours, could not but be considerable.

The prosperous state of our revenue has been intimated. This would be still more the case, were it not for the impediments, which in some places continue to embarrass the collection of the duties on spirits distilled within the United States. These impediments have lessened and are lessening in local extent; and, as applied to the community at large, the contentment with the law appears to be progressive.

But symptoms of increased opposition having lately manifested themselves in certain quarters, I judged a special interposition on my part, proper and advisable; and, under this impression, have issued a proclamation, warning against all unlawful combinations and proceedings, having for their object, or tending to obstruct the operation of the law in question, and announcing that all lawful ways and means would be strictly put in execution for bringing to justice the infractors thereof, and securing obedience thereto.

Measures have also been taken for the prosecution of offenders. And Congress may be assured, that nothing within constitutional and legal limits, which may depend on me, shall be wanting to assert and maintain the just authority of the laws. In fulfilling this trust, I shall count entirely upon the full co-operation of the other departments of government, and upon the zealous support of all good citizens.

I cannot forbear to bring again into the view of the legislature, the subject of a revision of the judiciary system. A representation from the Judges of the Supreme Court, which will be laid before you, points out some of the inconveniences that are experienced. In the course of the execution of the laws, considerations arise out of the structure of that system, which, in some cases, tend to relax their efficacy. As connected with this subject, provisions to facilitate the taking of bail upon processes out of the courts of the United States, and a supplementary definition of offences against the constitution and laws of the Union, and of the punishment for such offences, will, it is presumed, be found worthy of particular attention.

Observations on the value of peace with other nations are unnecessary. It would be wise, however, by timely provisions, to guard against those acts of our own citizens, which might tend to disturb it, and to put ourselves in a condition to give that satisfaction to foreign nations, which we may sometimes have occasion to require from them. I particularly recommend to your consideration the means of preventing those aggressions by our citizens on the territory of other nations, and other infractions of the law of nations, which, furnishing just subject of complaint, might endanger our peace with them. And, in general, the maintenance of a friendly intercourse with foreign powers will be presented to your attention by the expiration of the law for that purpose, which takes place, if not renewed, at the close of the present session.

In execution of the authority given by the legislature, measures have been taken for engaging some artists from abroad to aid in the establishment of our mint; others have been employed at home. Provision has been made of the requisite buildings, and these are now putting into proper condition for the purposes of the establishment. There has also been a small beginning in the coinage of half

dimes; the want of small coins in circulation calling the first attention to them.

The regulation of foreign coins, in correspondency with the principles of our national coinage, as being essential to their due operation, and to order in our money concerns, will, I doubt not, be resumed and completed.

It is represented that some provisions in the law, which establishes the post office, operate, in experiment, against the transmission of newspapers to distant parts of the country. Should this, upon due inquiry, be found to be the fact, a full conviction of the importance of facilitating the circulation of political intelligence and information, will, I doubt not, lead to the application of a remedy.

The adoption of a constitution for the state of Kentucky, has been notified to me. The legislature will share with me in the satisfaction which arises from an event interesting to the happiness of the part of the nation to which it relates, and conducive to the general order.

It is proper likewise to inform you, that since my last communication on the subject, and in further execution of the acts, severally making provision for the publick debt, and for the reduction thereof, three new loans have been effected, each for three millions of florins; one at Antwerp, at the annual interest of four and one half per cent. with an allowance of four per cent. in lieu of all charges; and the other two at Amsterdam, at the annual interest of four per cent. with an allowance of five and one half per cent. in one case, and of five per cent. in the other, in lieu of all charges. The rates of these loans, and the circumstances under which they have been made, are confirmations of the high state of our credit abroad.

Among the objects to which these funds have been directed to be applied, the payment of the debts due to certain foreign officers, according to the provision made during the last session, has been embraced.

*Gentlemen of the House of Representatives,*—I entertain a strong hope, that the state of the national finances is now sufficiently matured to enable you to enter upon a systematick and effectual arrangement for the regular redemption and discharge of the publick debt, according to the right which has been reserved to the government. No measure can be more desirable, whether viewed with an

eye to its intrinsic importance, or to the general sentiment and wish of the nation.

Provision is likewise requisite for the reimbursement of the loan which has been made of the Bank of the United States, pursuant to the eleventh section of the act by which it is incorporated. In fulfilling the publick stipulations in this particular, it is expected a valuable saving will be made.

Appropriations for the current service of the ensuing year, and for such extraordinaries as may require provision, will demand, and, I doubt not, will engage your early attention.

*Gentlemen of the Senate, and of the House of Representatives,*—I content myself with recalling your attention, generally, to such objects, not particularized in my present, as have been suggested in my former communications to you.

Various temporary laws will expire during the present session. Among these, that which regulates trade and intercourse with the Indian tribes, will merit particular notice.

The results of your common deliberations hitherto, will, I trust, be productive of solid and durable advantages to our constituents; such as, by conciliating more and more their ultimate suffrage, will tend to strengthen and confirm their attachment to that constitution of government, upon which, under Divine Providence, materially depend their union, their safety, and their happiness.

Still further to promote and secure these inestimable ends, there is nothing which can have a more powerful tendency, than the careful cultivation of harmony, combined with a due regard to stability, in the publick councils.

GEORGE WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
SPANISH INTERFERENCE WITH INDIANS. NOV. 7, 1792.

[See Vol. Confidential Documents.]



## SPEECH

OF THE PRESIDENT OF THE UNITED STATES TO BOTH  
HOUSES OF CONGRESS. DEC. 3, 1793.

Fellow citizens of the Senate,  
and of the House of Representatives,

SINCE the commencement of the term, for which I have been again called into office, no fit occasion has arisen for expressing to my fellow citizens at large, the deep and respectful sense, which I feel, of the renewed testimony of publick approbation. While, on the one hand, it awakened my gratitude for all those instances of affectionate partiality, with which I have been honoured by my country; on the other, it could not prevent an earnest wish for that retirement, from which no private consideration should ever have torn me. But influenced by the belief, that my conduct would be estimated according to its real motives; and that the people, and the authorities derived from them, would support exertions, having nothing personal for their object, I have obeyed the suffrage, which commanded me to resume the executive power; and I humbly implore that Being, on whose will the fate of nations depends, to crown with success, our mutual endeavours for the general happiness.

As soon as the war in Europe had embraced those powers with whom the United States have the most extensive relations, there was reason to apprehend that our intercourse with them might be interrupted, and our disposition for peace, drawn into question, by the suspicions, too often entertained by belligerent nations. It seemed therefore to be my duty, to admonish our citizens of the consequences of a contraband trade, and of hostile acts to any of the parties; and to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities, belonging to our situation. Under these impressions, the proclamation which will be laid before you, was issued.

In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the treaties, and assert the privileges, of the United States. These were reduced into a system, which will be communicated to you. Although I have not thought myself at

liberty to forbid the sale of the prizes, permitted by our treaty of commerce with France to be brought into our ports, I have not refused to cause them to be restored, when they were taken within the protection of our territory, or by vessels commissioned, or equipped in a warlike form, within the limits of the United States.

It rests with the wisdom of Congress, to correct, improve or enforce this plan of procedure ; and it will probably be found expedient, to extend the legal code, and the jurisdiction of the Courts of the United States, to many cases which, though dependent on principles already recognised, demand some further provisions.

Where individuals shall, within the United States, array themselves in hostility against any of the powers at war ; or enter upon military expeditions, or enterprises within the jurisdiction of the United States ; or usurp and exercise judicial authority within the United States ; or where the penalties on violations of the law of nations may have been indistinctly marked, or are inadequate ; these offences cannot receive too early and close an attention, and require prompt and decisive remedies.

Whatsoever those remedies may be, they will be well administered by the Judiciary, who possess a long established course of investigation, effectual process, and officers in the habit of executing it. In like manner, as several of the courts have *doubted*, under particular circumstances, their power to liberate the vessels of a nation at peace, and even of a citizen of the United States, although seized under a false colour of being hostile property, and have *denied* their power to liberate certain captures within the protection of our territory ; it would seem proper to regulate their jurisdiction in these points. But if the Executive is to be the resort, in either of the two last mentioned cases, it is hoped, that he will be authorized by law, to have facts ascertained by the courts, when, for his own information, he shall request it.

I cannot recommend to your notice measures for the fulfilment of *our* duties to the rest of the world, without again pressing upon you the necessity of placing ourselves in a condition of complete defence, and of exacting from *them* the fulfilment of *their* duties towards *us*. The United States ought not to indulge a persuasion, that, contrary to the order of human events, they will, for ever, keep at a

distance those painful appeals to arms, with which the history of every other nation abounds. There is a rank due to the United States among nations, which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our rising prosperity, it must be known that we are at all times ready for war.

The documents which will be presented to you; will show the amount, and kinds of arms and military stores now in our magazines and arsenals; and yet an addition, even to these supplies, cannot, with prudence, be neglected, as it would leave nothing to the uncertainty of procuring a warlike apparatus, in the moment of publick danger. Nor can such arrangements, with such objects, be exposed to the censure or jealousy of the warmest friends of republican government. They are incapable of abuse in the hands of the militia, who ought to possess a pride in being the depository of the force of the Republick, and may be trained to a degree of energy, equal to every military exigency of the United States. But it is an inquiry, which cannot be too solemnly pursued, whether the act "more effectually to provide for the national defence by establishing an uniform militia throughout the United States," has organized them so as to produce their full effect; whether your own experience in the several States has not detected some imperfections in the scheme; and whether a material feature in an improvement of it, ought not to be, to afford an opportunity for the study of those branches of the military art, which can scarcely ever be attained by practice alone?

The connection of the United States with Europe, has become extremely interesting. The occurrences which relate to it, and have passed under the knowledge of the Executive, will be exhibited to Congress in a subsequent communication.

When we contemplate the war on our frontiers, it may be truly affirmed, that every reasonable effort has been made, to adjust the causes of dissention with the Indians north of the Ohio. The instructions given to the commissioners evince a moderation and equity, proceeding from a sincere love of peace, and a liberality having no restriction but the essential interests and dignity of the United States.

The attempt, however, of an amicable negotiation having been frustrated, the troops have marched to act offensively. Although the proposed treaty did not arrest the progress of military preparation, it is doubtful, how far the advance of the season, before good faith justified active movements, may retard them during the remainder of the year. From the papers and intelligence which relate to this important subject, you will determine, whether the deficiency in the number of troops, granted by law, shall be compensated by succours of militia, or additional encouragements shall be proposed to recruits. An anxiety has been also demonstrated by the Executive, for peace with the Creeks and the Cherokees. The former have been relieved with corn and with clothing, and offensive measures against them prohibited during the recess of Congress. To satisfy the complaints of the latter, prosecutions have been instituted for the violences committed upon them. But the papers which will be delivered to you, disclose the critical footing on which we stand in regard to both those tribes; and it is with Congress to pronounce, what shall be done.

After they shall have provided for the present emergency, it will merit their most serious labours, to render tranquillity with the savages permanent, by creating ties of interest. Next to a rigorous execution of justice on the violators of peace, the establishment of commerce with the Indian nations in behalf of the United States, is most likely to conciliate their attachment. But it ought to be conducted without fraud, without extortion, with constant and plentiful supplies; with a ready market for the commodities of the Indians, and a stated price for what they give in payment, and receive in exchange. Individuals will not pursue such a traffick, unless they be allured by the hope of profit; but it will be enough for the United States to be reimbursed only. Should this recommendation accord with the opinion of Congress, they will recollect that it cannot be accomplished by any means yet in the hands of the Executive.

*Gentlemen of the House of Representatives,*—The commissioners, charged with the settlement of accounts between the United and individual States, concluded their important functions, within the time limited by law; and the balances struck in their report, which will be laid

before Congress, have been placed on the books of the treasury.

On the first day of June last, an instalment of one million of florins became payable on the loans of the United States in Holland. This was adjusted by a prolongation of the period of reimbursement, in nature of a new loan, at an interest at five per cent. for the term of ten years; and the expenses of this operation, were a commission of three per cent.

The first instalment of the loan of two millions of dollars from the bank of the United States, has been paid, as was directed by law. For the second, it is necessary that provision should be made.

No pecuniary consideration is more urgent, than the regular redemption and discharge of the publick debt: on none can delay be more injurious, or an economy of time more valuable.

The productiveness of the publick revenues hitherto, has continued to equal the anticipations which were formed of it; but it is not expected to prove commensurate with all the objects which have been suggested. Some auxiliary provisions will, therefore, it is presumed, be requisite; and it is hoped that these may be made, consistently with a due regard to the convenience of our citizens, who cannot but be sensible of the true wisdom of encountering a small present addition to their contributions, to obviate a future accumulation of burdens.

But here, I cannot forbear to recommend a repeal of the tax on the transportation of publick prints. There is no resource so firm for the government of the United States, as the affections of the people, guided by an enlightened policy; and to this primary good, nothing can conduce more, than a faithful representation of publick proceedings, diffused, without restraint, throughout the United States.

An estimate of the appropriations, necessary for the current service of the ensuing year, and a statement of a purchase of arms and military stores, made during the recess, will be presented to Congress.

*Gentlemen of the Senate and of the House of Representatives,*—The several subjects to which I have now referred, open a wide range to your deliberations; and involve some of the choicest interests of our common country. Permit

me to bring to your remembrance the magnitude of your task. Without an unprejudiced coolness, the welfare of the government may be hazarded; without harmony, as far as consists with freedom of sentiment, its dignity may be lost. But as the legislative proceedings of the United States will never, I trust, be reproached for the want of temper or candour; so shall not the publick happiness languish, from the want of my strenuous and warmest co-operations.

GEORGE WASHINGTON.

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## PROCLAMATION OF NEUTRALITY.

EXTRACT FROM JOURNALS OF CONGRESS, DEC. 3, 1793.

A MESSAGE was received from the President of the United States, by Mr. Dandridge his Secretary, who delivered in a copy of the proclamation, together with a copy of the rules prescribed by the President, for the government of the Executive officers, in executing the treaties between the United States and foreign powers, referred to in the President's Speech to both Houses.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

### A PROCLAMATION.

WHEREAS it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, of the one part, and France on the other, and the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward the belligerent powers:

I have therefore thought fit by these presents to declare the disposition of the United States to observe the conduct aforesaid towards those powers respectively; and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

And I do hereby also make known that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding or abetting hostilities against any of the said

powers, or by carrying to any of them those articles which are deemed contraband by the *modern usage* of nations, will not receive the protection of the United States, against such punishment or forfeiture: and further, that I have given instructions to those officers, to whom it belongs, to cause prosecutions to be instituted against all persons, who shall, within the cognizance of the courts of the United States, violate the law of nations, with respect to the powers at war, or any of them.

In testimony whereof I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand.

[L.S.] Done at the city of Philadelphia, the twenty-second day of April, one thousand seven hundred and ninety-three, and of the Independence of the United States of America the seventeenth.

GEORGE WASHINGTON.

By the President,

TH. JEFFERSON.

[CIRCULAR.]

INSTRUCTIONS TO THE COLLECTORS OF THE CUSTOMS.

*Philadelphia, August 4, 1793.*

SIR,

It appearing that repeated contraventions of our neutrality have taken place in the ports of the United States without having been discovered in time for prevention or remedy. I have it in command from the President to address to the collectors of the respective districts a particular instruction on the subject.

It is expected that the officers of the customs in each district will in the course of their official functions have a vigilant eye upon whatever may be passing within the ports, harbours, creeks, inlets and waters of such district, of a nature to contravene the laws of neutrality, and upon discovery of any thing of the kind will give immediate notice to the governour of the state, and to the attorney of the judicial district, comprehending the district of the customs within which any such contravention may happen.

To assist the judgment of the officers on this head I transmit herewith a schedule of rules concerning sundry particulars which have been adopted by the President, as

deductions from the laws of neutrality, established and received among nations. Whatever shall be contrary to these rules, will of course be to be notified as above mentioned.

There are some other points, which, pursuant to our treaties and the determination of the Executive, I ought to notice to you.

If any vessel of either of the powers at war with France should *bring or send* within your district a prize made of the subjects, people, or property of France, it is immediately to be notified to the governour of the state, in order that measures may be taken, pursuant to the 17th article of our treaty with France, to oblige such vessel and her prize, or such prize when sent in without the capturing vessel, to depart.

No privateer of any of the powers at war with France coming within a district of the United States, can by the 22d article of our treaty with France, enjoy any other privilege than that of *purchasing such victuals as shall be necessary for her going to the next port of the prince or state from which she has her commission*. If she should do any thing beside this, it is immediately to be reported to the governour and the attorney of the district. You will observe by the rules transmitted, that the term privateer is understood not to extend to vessels armed for merchandise and war, commonly called with us *letters of marque*, nor of course, to vessels of war in the immediate service of the government of either of the powers at war.

No armed vessel which has been or shall be *originally fitted out* in any port of the United States, by either of the parties at war, is henceforth to have asylum in any district of the United States. If any such armed vessel shall appear within your district, she is immediately to be notified to the governour and attorney of the district, which is also to be done in respect to any prize that such armed vessel shall bring or send in. At foot is a list of such armed vessels of the above description as have hitherto come to the knowledge of the Executive.

The purchasing within, and exporting from the United States, *by way of merchandise*, articles commonly called contraband, being generally, warlike instruments and military stores, is free to all the parties at war, and is not to be interfered with. If our own citizens undertake to carry



them to any of those parties they will be abandoned to the penalties which the laws of war authorize.

You will be particularly careful to observe, and to notify as directed in other instances, the case of any citizen of the United States who shall be found in the service of either of the parties at war.

In case any vessel shall be found in the act of contravening any of the rules or principles which are the ground of this instruction, she is to be refused a clearance until she shall have complied with what the governour shall have decided in reference to her. Care, however, is to be taken in this, not unnecessarily or unreasonably to embarrass trade, or to vex any of the parties concerned.

In order that *contraventions* may be the better ascertained, it is desired that the officer who shall first go on board any vessel arriving within your district, shall make an accurate survey of her then condition as to *military equipment* to be forthwith reported to you, and that prior to her clearance a like survey be made, that any transgression of the rules laid down may be ascertained.

But as the propriety of any such inspection of a *vessel of war in the immediate service of the government* of a foreign nation is not without question in reference to the usage of nations, no attempt is to be made to inspect any such vessel till further order on the point.

The President desires me to signify to you his most particular expectation, that the instruction contained in this letter will be executed with the greatest vigilance, care, activity and impartiality. Omissions will tend to expose the government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country; objects of too much importance not to engage every proper exertion of your zeal. With consideration, I am, sir, &c.

ALEXANDER HAMILTON.

1. The original arming and equipping of vessels in the ports of the United States by any of the belligerent parties for military service, offensive or defensive, is deemed unlawful.

2. Equipments of merchant vessels by either of the belligerent parties in the ports of the United States, purely for the accommodation of them as such, is deemed lawful.

3. Equipments in the ports of the United States of vessels of war in the immediate service of the government of any of the belligerent parties, which if done to other vessels would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize of the subjects, people, or property of France coming with their prizes into the ports of the United States pursuant to the 17th article of our treaty of amity and commerce with France.

4. Equipments in the ports of the United States, by any of the parties at war with France, of vessels fitted for merchandize and war, whether with or without commissions, which are doubtful in their nature as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize, &c.

5. Equipments of any of the vessels of France, in the ports of the United States, which are doubtful in their nature as being applicable to commerce or war, are deemed lawful.

6. Equipments of every kind in the ports of the United States, of privateers of the powers at war with France, are deemed unlawful.

7. Equipments of vessels in the ports of the United States, which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the 18th article of our treaty with France, the 16th of our treaty with the United Netherlands, the 9th of our treaty with Prussia; and except those mentioned in the 19th article of our treaty with France, the 17th of our treaty with the United Netherlands, the 18th of our treaty with Prussia.

8. Vessels of either of the parties not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist therein their own subjects or citizens, not being inhabitants of the United States; except privateers of the powers at war with France, and except those vessels which shall have made prize, &c.

**MESSAGE**

OF THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
DEC. 5, 1793.

As the present situation of the several nations of Europe, and especially of those with which the United States have important relations, cannot but render the state of things between them and us, matter of interesting inquiry to the legislature, and may indeed give rise to deliberations, to which they alone are competent, I have thought it my duty to communicate to them, certain correspondences, which have taken place.

The representative and executive bodies of France have manifested generally, a friendly attachment to this country, have given advantages to our commerce and navigation, and have made overtures for placing these advantages on permanent ground; a decree, however, of the National Assembly, subjecting vessels laden with provisions to be carried into their ports, and making enemy goods lawful prize in the vessel of a friend, contrary to our treaty, though revoked at one time, as to the United States, has been since extended to their vessels also, as has been recently stated to us. Representations on the subject will be immediately given in charge to our minister there, and the result shall be communicated to the legislature.

It is with extreme concern, I have to inform you, that the proceedings of the person, whom they have unfortunately appointed their minister plenipotentiary here, have breathed nothing of the friendly spirit of the nation, which sent him; their tendency, on the contrary, has been to involve us in war abroad, and discord and anarchy at home. So far as his acts, or those of his agents, have threatened our immediate commitment in the war, or flagrant insult to the authority of the laws, their effect has been counteracted by the ordinary cognizance of the laws, and by an exertion of the powers confided to me. Where their danger was not imminent, they have been borne with, from sentiments of regard to his nation; from a sense of their friendship towards us; from a conviction, that they would not suffer us to remain long exposed to the action of a person, who has so little respected our mutual dispo-

sitions; and, I will add, from a reliance on the firmness of my fellow citizens in their principles of peace and order.

In the mean time, I have respected and pursued the stipulations of our treaties, according to what I judged their true sense; and have withheld no act of friendship, which their affairs have called for from us, and which justice to others left us free to perform. I have gone further; rather than employ force for the restitution of certain vessels, which I deemed the United States bound to restore, I thought it more advisable to satisfy the parties, by avowing it to be my opinion, that if restitution were not made, it would be incumbent on the United States to make compensation. The papers, now communicated, will more particularly apprise you of these transactions.

The vexations and spoliation understood to have been committed on our vessels and commerce, by the cruisers and officers of some of the belligerent powers, appeared to require attention. The proofs of these, however, not having been brought forward, the description of citizens, supposed to have suffered, were notified, that on furnishing them to the Executive, due measures would be taken to obtain redress of the past, and more effectual provisions against the future. Should such documents be furnished, proper representations will be made thereon, with a just reliance on a redress proportioned to the exigency of the case.

The British government having undertaken, by orders to the commanders of their armed vessels, to restrain, generally, our commerce, in corn and other provisions, to their own ports, and those of their friends, the instructions now communicated, were immediately forwarded to our minister at that court. In the mean time, some discussions on the subject took place between him and them: These are also laid before you, and I may expect to learn the result of his special instructions, in time to make it known to the legislature, during their present session.

Very early after the arrival of a British minister here, mutual explanations on the inexecution of the treaty of peace, were entered into, with that minister; these are now laid before you, for your information.

On the subjects of mutual interests between this country and Spain, negotiations and conferences are now depending. The publick good requiring that the present state of

these should be made known to the legislature, *in confidence only*, they shall be the subject of a separate and subsequent communication.

GEORGE WASHINGTON.

TRANSLATION.

LIQUIDATION OF THE DEBT OF THE UNITED STATES TO  
FRANCE.

*The citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State of the United States of America. Philadelphia, May 22, 1793—2d year of the French Republick.*

SIR,—THE executive council of the French Republick has learnt through my predecessor, the citizen Ternant, the readiness with which the government of the United States of America attended to the facilitation of the purchases which that minister was charged to make in the United States, on account of the French Republick; as also the acquittal of the draughts of the colonies for which imperious circumstances obliged it to provide. The executive council, sir, has charged me to express to the American government, the acknowledgment inspired by all the marks of friendship which it has given on this subject to the French nation; and to prove to it the reciprocity of our sentiments, it has determined to give at once a great movement to the commerce of France with America, in drawing henceforth from the United States the greatest part of the subsistence and stores necessary for the armies, fleets and colonies of the French Republick.

The executive council has intrusted me with the direction of these great and useful operations, and has given me particular powers comprehended in the reports, and in the resolutions now enclosed, in virtue of which I am authorized by the council and by the national treasury of France, to employ the sums of which the United States can effect the payment (towards their debt to France) or those which I can procure on my personal draughts, payable by the national treasury, in purchasing provisions, naval stores, and in fulfilling other particular services, conformably to the orders which have been given to me by the minister of the interior, of war, of the marine, and of foreign affairs.

The government of the United States is too enlightened, not to perceive the immense advantages which will result from this measure to the people of America, and I cannot doubt that, knowing the difficulties which different circumstances might oppose at this moment, to the execution of the pressing commissions which have been given to me, if it should not facilitate to us still the receipt of new sums by anticipation, it will find in its wisdom, and in the reports now enclosed, of the minister of the publick contributions of France, measures proper to answer our views, and to satisfy our wants.

It does not belong to me to judge, if the President of the United States is invested with powers sufficient to accede to our request, without the concurrence of the legislative body: but I will permit myself to observe to you, sir, that the last anticipated payments, which took place, prove it, and that this question appears equally decided by the act of Congress, which authorizes the executive power not to change the order of the reimbursements of the foreign debt of the United States, unless it shall find therein an evident advantage. Now what advantage more sensible can we offer to you, than that of discharging your debt to us with your own productions, without exporting your cash, without recurring to operations—the burdensome operation of bankers? It is furnishing you, at the same time, with the means of paying your debts, and of enriching your citizens; in short, it is to raise the value of your productions, and consequently of your lands, in establishing a necessary competition between us and a nation which has in a measure resumed with a great deal of art and of sacrifices, the monopoly of your own productions. It is time, sir, that this commercial revolution, which I consider the completion of your immortal political revolution, should accomplish itself in a solid manner; and France appears to me to be the only power which can operate this incalculable good. She desires it ardently. The wise arrangements, of which I have now given you an account, are the proof of it. It remains then with your government to second the views which are suggested to us by our constant friendship for our brethren the Americans, and by the desire we have to strengthen the bonds which unite us to them. It will be a pleasing duty to me, sir, to conform myself, in the administration which is confided to

me, to these sentiments of the French nation, for all the United States; and in order that every one of them may participate in the extension of our commercial relations, I will take care to distribute my purchases among the different states of the Union, as much as the natural productions of their soil and the nature of their commerce, will permit. I will neglect no means, moreover, in order that the modes of purchase prescribed to me, may enable, not only the American and French merchants, but also the landholders and farmers to take advantage of the benefits which may result from our purchases. GENET.

## TRANSLATION.

## AMERICAN DEBT, FIRST REPORT.

CITIZEN GENET, minister of the French Republick to the United States of America, has been charged by the provisory executive council, to solicit the American government, for the payment of the sums remaining due to France by the said States, though all the terms stipulated for the reimbursement have not yet expired.

The provisory executive council were led to this resolution,

1. By the extensive wants of the Republick, as well in subsistence for interior consumption, as for warlike stores and provisions required for the army by sea and land.

2. From the convenience with which a part of these stores and provisions may be purchased in the different markets of the United States.

3. From the advantage which the Republick would find in making these purchases in, and with the moneys arising from the American debt.

4. In fine, from the consideration that the United States might find it convenient to anticipate the reimbursements of the moneys due to France, when they were to be employed within themselves in purchasing the productions of their soil.

In consequence, the citizen Genet has concerted with the ministers of the interior, of war, of the marine, and of foreign affairs, in order to obtain a statement of the expenses of their several departments. According to this, the funds to be disposed of by citizen Genet, will amount to about seventeen millions of livres tournois, a sum not

equal to the whole of the balance due by the United States to France.

But here two questions arise with citizen Genet—

1st. How to arrange the matter so as that this sum shall be properly accounted for in the national treasury, through which it ought to pass?

And supposing, secondly—That the purchases of warlike stores and provisions are indispensable, and ought to be made and expedited to France with celerity, the minister Genet desires to know how the money can be replaced, in case the American government should refuse to anticipate the reimbursements?

OBSERVATIONS.—1st. *On the Consistency.*

Supposing that the United States should consent to anticipate their reimbursements; they may do so, in two ways—

- By *sonantes*,\* or bank notes for the same term;
- Or by state securities on interest, and reimbursable on a given term.

The first of these is accompanied with no difficulty. The minister Genet will furnish his assignments or notes on the treasury of the American government, for the warlike stores and provisions, and other pressing wants, for expenses relative to the support of consuls—for extraordinary and secret purposes of embassy—and for victualing and refitting vessels. These notes will be stamped by the department of the ministry, upon the *compatibility* of whom they will have been furnished; the American treasury will return them into the French treasury, in payment of the debt of the United States; when they will be passed to the credit of the said States; and to the debit of each department of the ministry whence they issued, or whose stamp they bear, as a part of the sums allowed by the National Convention to each, for their expenses.

The method in the second place should be the same, because the minister Genet will not accept state securities of the American government, unless he can make use of them as ready money, of which he is to assure himself before the conclusion of any transaction on either side.

Then the receipts which the minister Genet will furnish the American government, with the stamp of the department for which their value shall have been employed,

\* Bills of Exchange.



shall have the same effect with regard to this government and the French treasury, as if their value had been paid in specie.

It might happen that the state securities which the minister Genet should receive instead of ready money, as above mentioned, may lose something of their value by depreciation, but then this loss is to be carried to the debit side of the account, which the minister Genet will furnish, of the manner in which they shall have been employed, for the departments of the interior, of war, of the marine, and of foreign affairs.

2d. *In case the American government should not consent to any anticipation in the payment of the debt of the United States to France,*

There are but two methods to provide for this improbable contingency—if we can suppose that the United States have any interest in acknowledging the French Republick, and living on friendly terms with her.

Even admitting that we could not reckon on the good will of the United States, the situation of the finances or the excessive dearness of the metals, in comparison to notes, not permitting us to export a large sum of dollars to America, we should be obliged to make use of draughts on Europe: they must be either on London and Amsterdam, by the help of a credit to be obtained for citizen Genet, and of which he must give information in America, or upon the national treasury of France itself.

The English government having determined to make war on us, the first method cannot and ought not to be made use of.—It would be not only impossible to obtain a credit to the end of our operations, but it would be attended with great expense, from the low state of exchange occasioned by the war. The only resource then remaining, would be to furnish orders on the national treasury: but if these should enjoy the credit which they merit, there is reason to believe, that the Americans would still prefer them for assignments of the debt of the United States. So that it is very probable, that this means of managing the matter in America, the best the Republick is at present capable of devising, is that on which the executive council may with greatest safety rely, unless the United States would wish to render themselves hostile towards the Republick, which, from every appearance is unlikely to be the case.

But it is proper we should provide for every contingency, the omission of which might cause citizen Genet embarrassment; therefore, the minister of publick contributions proposes to the provisory executive council the following

## DECISION.

The national treasury will furnish citizen Genet with a declaration in writing, authorizing him to employ agreeably to the orders of the ministers of the interior, of war, of the marine, and foreign affairs, the sums he shall receive from the government of the United States, on account of the debt due to France, or the complete balance thereof, as well principal as interest, in conformity to the instructions given to citizen Genet, on that subject.

The national treasury will authorize the citizen Genet to furnish or cause to be furnished upon his banker, bills of exchange drawn at two months, sight, to the amount of the sums requisite for the payment of subsistence, warlike stores, and other expenses of those ministers. The said bills of exchange should be employed to make up the said payments only in case citizen Genet should not be able to do so, either in whole or in part, with the funds arising from the American debt, which he is charged to negotiate.

And in fine, in order to induce the United States to make this reimbursement, in case they should not be able to effect it, either in whole or in part, with specie, the citizen Genet is authorized to accept it from the American government in such state notes, bearing interest, as shall be received at par, by the persons to whom citizen Genet may have payments to make on account of the Republick. The orders which citizen Genet shall furnish on the treasury of the United States, in exchange for specie or state notes, shall carry in their faces the declaration of the department for which they shall have been employed: the treasurer of the United States, after discharging their amount, shall send them to the French treasury, where they will be received as so much ready money, in discharge of the debt of the United States, and as expenditures in part of the sums allowed by the National Convention to the three departments designated in the *orders*.—The bills of exchange on the national treasury, shall in the same manner bear the stamp of the ministerial department, for the expense of which they have been furnished, and shall be charged by

the national treasury, on account of the sum allowed by the National Convention to the said department.

The citizen Genet shall transmit to each minister proper statements, supported with vouchers, as well of the use made of the funds agreeably to his orders, as of the manner in which he shall have procured them.

In case the citizen Genet shall have received from the American government, bills or state securities in reimbursement of the debt of the United States, which he could not pass without some sacrifice; the loss, in that case, shall be considered as part of the expenses of purchase, transportation, or payments, confided to him.

Should the council approve of this decision, a copy thereof shall be sent to the citizen Genet, certified by the secretary of the council, as well as the ministers of the interior, of war, of the marine, and of foreign affairs.

Paris, the 2d Jan. 1793—the 2d year of the Republick.

The present *memoire* has been read and approved in the provisory executive council, the 4th of Jan. 1793—in the 2d year of the Republick.

The Secretary of the Council, GROUVELLE.

Le BRUN, Minister for Foreign Affairs.

I hereby certify, that the foregoing is a true copy from the original in my possession.—Philadelphia, 22d May, 1793—in the second year of the Republick.

The Minister of the French Republick, GENET.

TRANSLATION.

*Extract from the Registers of the deliberations of the provisory executive council, of the 4th Jan. 1793—in the 2d year of the Republick.*

THE minister for foreign affairs, having informed that the citizen Genet, appointed minister plenipotentiary from the French Republick to the Congress of the United States of America, and that it would be necessary for the council to decide definitively on his instructions for the fulfilment of his mission.

The draught of the same was accordingly read—the council in adopting it, declares that the copy thereof for citizen Genet shall be signed by the President, and counter-signed by the minister for foreign affairs.

After which the executive council, wishing to determine the form in which the full powers given to citizen Genet shall be exercised relatively to the general direction of consular business, according to the present ideas of the minister of the marine and of foreign affairs, who have observed the necessity of a new organization of the consulates and vice-consulates in America, has considered and resolved on the following, which shall serve as instructions to citizen Genet, for whatever may concern this part of his mission, and of which also a copy signed by the president of the council and counter-signed by the minister of the marine, shall be given him. Here follows the instruction concerning the general affairs of the consulates and vice-consulates of North America.\*

The executive council then took into consideration the particular mission of citizen Genet, minister plenipotentiary from the Republick of France to the Congress of the United States, on the subject of negotiation relative to the reimbursement of the sums due or that may become due of the debt due by the United States to the French Republick. An account was given of the different dispositions and steps already taken for this purpose. It was observed that considering the utility of applying the product of the reimbursements which may be effected through Congress, to the purchase of warlike stores and provisions, which it may be convenient to the Republick to procure in the different markets of the United States; that the citizen Genet, had concerted on this head with the ministers of the interior, of war, of the marine, and of foreign affairs, in order to determine the mass of the funds, confided to him for these purchases—but that several points occurred, which required to be definitively settled by the council, either as to the forms of *compatibility*, or the supplying of any deficiency in those funds, in case the American government should not realize its reimbursements in proportion to the purchases made on account of the Republick.

Whereupon the provisory executive council, after having heard and discussed the reports and measures presented by the minister of contributions, agree upon the following :

\* This instruction is deposited in the office of the minister for foreign affairs, and a certified copy thereof has been delivered to citizen Genet. G.

1st. The citizen Genet shall be authorized to employ, agreeably to the orders of the minister of the interior, of war, of the marine and foreign affairs, the sums which may be paid to him on account of the debt due by the United States, to France, or the whole reimbursement thereof.

2d. In order to facilitate these reimbursements, the citizen Genet, in case he shall not be able to obtain them in specie, may accept them in such state notes as shall be remitted to him by the American government, and received as ready money, by the persons to whom citizen Genet may have payments to make on account of the Republick.

3d. The orders which the citizen Genet shall furnish upon the treasury of the United States, in exchange for their value, shall indicate the department on account of which they may be drawn. The treasury of the United States, after discharging these orders, shall transmit them to the treasury of the French Republick, where they shall be considered as so much money, in discharge of the debt of the United States, and as making a part of the sums placed by the National Convention to the disposition of the ministerial departments designated in the orders.

4th. In case the reimbursements of the United States should not be effected in time, or a sum sufficient obtained—the citizen Genet shall be authorized to furnish on the general banker of the national treasury, bills of exchange, at two months' sight, to the amount of the sums directed to be employed by him in the payment of provisions, warlike stores and other expenses ordered by the said ministers. These *bills of exchange*, as well as the *orders*, shall be stamped with the name of the ministerial department, on account of which they shall have been furnished, in order that the national treasury may debit each, with the sum expended on its account.

5th. The citizen Genet shall furnish each minister with a proper statement, accompanied with vouchers in support of it, as well of the application of the funds, conformably to his orders, as of the manner in which he shall have obtained them.

6th. In case the citizen Genet shall have received from the American government, bills or state securities, (*bons d'etat*) in reimbursement of the debt of the United States, which he could not pass without some sacrifice, the loss

in that case shall be considered as part of the expenses of purchases, transportation or payments confided to him.

7th. A certified extract of this deliberation shall be given to the committee of the national treasury, to enable them to concur in expediting the above mentioned arrangements; and in order thereto, to furnish the citizen Genet with declarations and powers sufficient to ensure the success of the important operations with which he is charged.

Duplicate conformable to the register,

GROUVELLE, Secretary of the Council.

I hereby certify that the foregoing is a true copy from the original in my possession.

The Minister from the French Republick, to the United States of America, GENET.

#### TRANSLATION.

##### AMERICAN DEBT, SECOND REPORT.

*Report of the Minister of publick contributions, on the liquidation of the American Debt.*

THE approaching departure of the citizen Genet, on his embassy to the United States of America, requires that the provisory executive council should again take up the subject of the debt due by the United States to the Republick of France.

I have given information to citizen Genet of the offers made by Colonel Smith of New-York, to procure to the Republick not only the reimbursement of what remains due from the United States, although not yet payable, but for the application of it, either for supplies for the army, or wheat, flour and salted provisions in augmentation of our internal supplies.

Colonel Smith has gone to England, and has left no other accounts relative to the operations he proposed to enter upon; so that all is reduced to the preliminaries of the negotiation.

These preliminaries consist of a letter from the minister of publick contributions of the 7th of November last to Colonel Smith, after having been referred to the executive council.—It contains,

1st. An extract from the registers of the council, approving the offers of Colonel Smith.

2d. The account current of the United States with the French Republick, and that of the interest to the 1st of January next.

3d. Statement of the loss which the national treasury would sustain on the reimbursements which it has received from the United States of America, if they are not held accountable for the difference between the assignats which it received and the specie.

4th. An approbation of the reduction to sterling money of the sum due to the French Republick at the rate of 21s. or one guinea for 25 livres, 10 sous, French money, as Colonel Smith was to obtain it, which sum, consisting of the capital due, of the interest up to the 1st of January next, and the loss on payments already made, was to be paid at London.

5th. The approbation of the price, and conditions on which Colonel Smith offered to furnish firelocks, deliverable at Dunkirk, agreeably to samples to be sent there by him.

I have transmitted a copy of all these papers to citizen Genet, to whom the accounts will prove useful in negotiating the reimbursement of the debt of the United States, and the sums arising from the reimbursement for the necessities of the Republick.

The citizen Genet will observe that the amount will have been diminished on his arrival in the United States, if we calculate the advances made by the federal treasury, on the requisition of citizen Ternant, to satisfy the demands of cash and provisions made at Philadelphia, by the administrators of the French part of St. Domingo; advances which the federal treasury will of course count as so much of the balance due by the United States to the Republick of France.

The citizen Genet afterwards requested instructions as well with respect to the conditions on which he should accept the reimbursement he hopes to obtain from the American government, as to the employment of the sums which shall be delivered to him.

#### OBSERVATIONS.

There can be no doubt but that the American government will be liberal towards France, and not reap a benefit from acquitting itself with assignats. However as a

part of the debt yet unpaid, is not become due, and a law relative to the acquitment of this debt prescribes to the executive power of America, not to anticipate any payment unless upon *advantageous* terms for the United States; it appears that this ought to be fulfilled previous to the executive's entering into a negotiation.

This is at least the result of a letter written by Secretary Hamilton on the 7th of March last, to the citizen Ternant. He observes to that ambassador that the sums lent by France, were borrowed in Holland; that six months elapsed between the time of obtaining the money at Amsterdam, and its receipt at the treasury in America; and that the interest paid during that term was a dead loss. But this loss can have no relation to France. The interest is due to her, from the moment of the payment, and payment was made the instant that the money was lodged at Amsterdam to the disposal of the Americans.

This object does not appear then to give rise to any compensation, and without doubt the American treasury will think it proper to hold to the advantage the law requires for authorizing the anticipation of the payments, which the United States are obliged to make to France.

The law does not specify this advantage. What should it be? The employment of the money on account of the French Republick within the United States, is a very great advantage for them, and this employment arises from circumstances which probably would no longer exist, if the American treasury should refuse to anticipate reimbursements. The advantage here is real; it consists not only in a considerable exportation of American produce, which will be paid for with those anticipated reimbursements; but also in the arrangements which the American government may take by means of State notes, negotiable in America itself.—Arrangements which would relieve her from all financial operations in Europe, for the purpose of acquitting themselves even in France, where the United States are obliged to make payment.

And the employment of those sums in America, due to the French Republick, so convenient to the United States in the present circumstances, would suit the convenience of the Republick.

The minister for foreign affairs has already ordered a purchase of grain, flour, and salted provisions to the value



of three millions of livres on account of the American debt, and this purchase could not be paid for more advantageously than in this manner.

It would be convenient to the Republick to give further commissions for grain, even to the amount of the balance due by the United States; nor could this be blameable, as every circumstance concurs in inviting the provisory executive council to provide the republick with large supplies of provisions, and promptly, and whether in respect to the market or the payment, nothing could at this moment be more beneficial to America, and no money obtained easier than that with which the United States could pay us.

The sum to be disposed of will not perhaps prove so considerable as were to be wished, considering the wants of the French colonies, which undoubtedly will have occasioned new demands to be made at Philadelphia, since those acquitted by the citizen Ternant, of the moneys remitted to him by the Federal treasury, as is stated in his letter of the 9th of March.

It remains to speak of the conditions on which the American government would exonerate itself towards the Republick;—those proposed by secretary Hamilton, in his letter of the 23d of June, 1792, to the minister plenipotentiary of France.

He reminds us that it has already been agreed, between the French government and the United States, warlike stores (*munitions*) furnished, and the payments made and to be made in the United States, on account of the debt due to France, should be liquidated agreeably to the intrinsic value of the metals in the two countries.

This agreement is the most equitable that could possibly be entered into, when we consider that France should be paid at her own treasury, agreeably to the above method of calculation, the expense of transportation of the metals from America to France, and the insurance. But by anticipation of reimbursement, this *bonification*, would be abandoned.

In consequence of this convention, secretary Hamilton fixes the quantity of pure gold and pure silver contained in a *Louis* and French crown: he compares them with the quantity of the same matters contained agreeably to law in a dollar: and concludes (errours in information or cal-

ulation excepted) that a French livre is equal to eighteen 15-100 *cents* of money, equal to the hundredth part of a dollar.

It is upon this principle he proposes to convert our French livres into the dollars, which will be delivered in the United States to the French agents authorized to transact this business.

I think this reduction still more advantageous to the Republick, than the promise made by Colonel Smith, in case we should obtain anticipated reimbursements. Be it as it may, we cannot refuse it; and doubtless secretary Hamilton takes for granted, that all the articles of the account current, between the French Republick and the United States, will be turned into dollars agreeably to this standard. This account is in the possession of citizen Genet—it is necessary only to make it out in two columns on the debit and credit sides—to wit—an inner column for the French livres, and an outer column for the American dollars.

The account of interest should be made *without this*—fixing an epoch posterior to the 1st of January, 1793, for closing the same, after the arrival of citizen Genet, which cannot be so early as that date.

Thus the account current, of which he is the bearer, will serve him only as a note fixing the dates and sums by which another account of capital and interest may be made out, and the conversion of each article therein, into dollars, will do away the necessity of an account of losses by exchange. The reimbursements made and not comprised in this account are to be added to it.

This brings me to the observations which I was induced to make in reply to those of citizen Genet, relative to the liquidation and reimbursement of the American debt, and therefore propose to the council, the following

#### DECISION.

That the citizen Genet, minister plenipotentiary of the Republick to the United States of America, be charged by the provisory executive council, to solicit from the American government the reimbursement of the balance remaining due, capital and interest, by the United States to the French Republick.

That he assign as a reason for this, the pressing necessities of the Republick, occupied in the defence of its liberty

and independence, as the United States defended theirs when this sum was lent to them.

That, as a law of the United States authorizes the Federal government to make these reimbursements by anticipation only, in case of an advantage resulting to the United States, by so doing, the citizen Genet, promise to the government, that the whole sum delivered to him, shall be employed in the purchase of supplies the growth of the United States, purchased and paid for within the same.

That, as the United States wish to reimburse what they owe to France, without reaping advantage therefrom in any manner, from the present state of exchange, the citizen Genet be authorized to consent to a conversion of French livres into dollars, upon the rule fixed upon, viz.—the quantity of pure gold and pure silver, contained in a Louis, and in a French crown, and in the American dollars, agreeably to the laws of both countries, fixing the value of those coins.

That the citizen Genet employ the sums he shall receive from the American government, agreeably to the dispositions for that purpose made in concert between the ministers of war, of the marine, and of foreign affairs.

And that certified copies of this report, of the observations, and of the decision, shall be transmitted to the citizen Genet, for his instructions.

Read and approved, in the provisory executive council at Paris, the 4th of January, 1793—in the 2d year of the French Republick.

MONGE, President.

Le BRUN, Minister for Foreign Affairs.

#### TRANSLATION.

#### NATIONAL TREASURY.

*Copy of a Letter written by the Commissioners of the National Treasury, to the President of the Provisory Executive Council.*

Citizen President,

WE have received the extract which the provisory executive council have addressed to us of their deliberation of the 4th of the present month, by which the citizen Genet, minister from the Republick to the United States of America, is authorized to make use of the sums which the Congress may be able to pay of the debt due by the Unit-

ed States to France, or those which he may procure on his own notes, payable by the cashier of the National Treasury, in purchasing provisions and warlike stores agreeably to the orders which shall be given him by the ministers of the interior, of war, of the marine, and of foreign affairs.

To concur as far as is in our power, and according to the intentions of the executive council, in forwarding the measures pointed out in the deliberation, we have the honour to assure you, citizen president, that whatever sum shall be sent to us in the name of Congress, of the *acquittances* or *orders* furnished by the citizen Genet, to the Treasurer of the United States, and indicating the department of the French ministry, for which he shall have issued them, we shall immediately advise the executive council thereof, in order that we may be enabled to credit the American Congress, on account of their debt, for their amount.

Should the reimbursements which Congress may make, prove insufficient to answer the different purposes required by the ministers of the Republick, and citizen Genet, to fulfil his mission, be obliged to recur to his own notes payable at two months' sight, upon citizen Doyer, general cashier of the National Treasury, we shall examine when presented, and immediately refer them to the minister, to whose department they shall relate, in order that in the interval between their examination and time of payment, the ministers may have the proper and regular authorities expedited to authorize the payment.

As our functions are unconnected in a direct manner with the ministers sent by the Republick to the different governments, we conceive that this letter answers the intentions manifested by the executive council in article 7, of their deliberations, that we should concur in the dispositions contained therein. Authenticated copies of this letter, expedited in the name of the executive council to the minister Genet, will give him sufficient assurances, for his mission, citizen president, of all the facility which can be derived from our concurrence.

We are with respect, &c.

By the Commissioners of the National Treasury,  
 LERMINA, GAUDIN, DEVAINE, DE LA FONTAINE,  
 SAVELETE S. et DUTRAMBLAY.

Paris, 8 January, 1793, 2d year of the French Republick.

WE the undersigned ministers and members of the provisory executive council of the French Republick, certify that the above are the signatures of the Commissioners of the National Treasury of the Republick, and that the letter under which they are signed, was written in consequence of the mission given by us to citizen Genet, minister plenipotentiary from the Republick to the Congress of the United States, to endeavour the reimbursement of the debt due from the United States to France, and the purchase of provisions in the several markets of North America.

Done in the Provisory Executive Council at Paris, the 17th of January, 1793, in the 2d year of the French Republick.

The members composing the Provisory Executive Council, CLAVIERE, LE BRUN, PACHE, ROLAND, MONGE, GARAT.

I hereby certify, that the foregoing is a true copy from the original in my possession.

The Minister Plenipotentiary from the French Republick, to the United States of America.

GENET.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State for the United States. Philadelphia, May 23, 1793, 2d year of the Republick.*

SIR,—SINGLE, against innumerable hordes of tyrants and slaves, who menace her rising liberty, the French nation would have a right to reclaim the obligations imposed on the United States, by the treaties she has contracted with them, and which she has cemented with her blood; but strong in the greatness of her means, and of the power of her principles not less redoubtable to her enemies, than the victorious arm which she opposes to their rage, she comes, in the very time when the emissaries of our common enemies are making useless efforts to neutralize the gratitude,—to damp the zeal,—to weaken or cloud the view of your fellow citizens;—she comes, I say,—that generous nation;—that faithful friend, to labour still to increase the prosperity, and add to the happiness which she is pleased to see them enjoy.

The obstacles raised with intentions hostile to liberty.

by the perfidious ministers of despotism;—the obstacles whose object was to stop the rapid progress of the commerce of the Americans, and the extension of their principles, exist no more. The French Republick, seeing in them but brothers, has opened to them by the decrees now enclosed, all her ports in the two worlds;—has granted them all the favours which her own citizens enjoy in her vast possessions;—has invited them to participate the benefits of her navigation, in granting to their vessels the same rights as to her own;—and has charged me to propose to your government, to establish in a true family compact, that is in a national compact, the liberal and fraternal basis, on which she wishes to see raised the commercial and political system of two people, all whose interests are confounded.

I am invested, sir, with the powers necessary to undertake this important negotiation, of which the sad annals of humanity offer no example before the brilliant era at length opening on it.

GENET.

TRANSLATION.

*Decree of the National Convention, of 19th February, 1793, 2d year of the French Republick, relative to produce exported and imported in American vessels, to the colonies or to France.*

THE National Convention, after having heard the report of the committee of general defence—Decrees as follows:

ART. I. That all the ports of the French colonies be open to vessels of the United States of America.

ART. II. That all produce exported or imported in American vessels on going out or entering in the colonies or in France, pay the same duties as that borne by French vessels.

ART. III. That the executive council be authorized to take proper measures that the states with whom the Republick are at war, do not reap any benefit from the advantages granted to friendly powers.

ART. IV. That the executive power negotiate with the Congress of the United States, to obtain in favour of the French merchants, a like reduction of the duties granted by the present law to American merchants, and thereby more closely cement the benevolent ties which unite the two nations.

ART. V. That the law of the 20th of August, 1790, be suspended; and that vessels laden with merchandise of the East Indies, may be at liberty to land in any port of the Republick, during the war; and that those which shall be laden with the productions of the Isle of France, and of Bourbon, shall henceforward enjoy the same privilege.

The National Convention has suspended the law of the 15th of May, 1791, which inhibited the Americans from introducing, selling and arming their vessels in France, and from enjoying all the advantages allowed to those built in the ship yards of the Republick.

Certified to be conformable to the decree of the National Convention of France.

The Minister Plenipotentiary of the French Republick.  
GENET.

*Mr. Jefferson, Secretary of State, to M. Ternant, Minister Plenipotentiary of France. Philadelphia, May 15, 1793.*

SIR,—HAVING received several memorials from the British minister, on subjects arising out of the present war, I take the liberty of enclosing them to you, and shall add an explanation of the determinations of the government thereon. These will serve to vindicate the principles on which it is meant to proceed, and which are to be applied with impartiality to the proceedings of both parties. They will form, therefore, as far as they go, a rule of action for them and for us.

In one of these memorials it is stated, that arms and military accoutrements are now buying up by a French agent in this country, with an intent to export them to France. We have answered that our citizens have always been free to make, vend and export arms: that it is the constant occupation and livelihood of some of them. To suppress their callings, the only means perhaps of their subsistence, because a war exists in foreign and distant countries, in which we have no concern, would scarcely be expected. It would be hard in principle and impossible in practice. The law of nations, therefore, respecting the rights of those at peace, has not required from them such an internal derangement in their occupations. It is satisfied with the external penalty pronounced in the President's proclamation, that of confiscation of such portion of these arms as shall fall into the hands of any of the

belligerent powers, on their way to the ports of their enemies. To this penalty our citizens are warned that they will be abandoned, and that the purchases of arms here may work no inequality between the parties at war, the liberty to make them will be enjoyed equally by both.

Another of these memorials complains that the consul of France, at Charleston, has condemned, as legal prize, a British vessel captured by a French frigate, observing that this judicial act is not warranted by the usage of nations, nor by the stipulations existing between the United States and France. It is true that it is not so warranted, nor yet by any law of the land, and that therefore it is a mere nullity, can be respected in no court, make no part in the title to the vessel, nor give to the purchaser any other security than what he would have had without it; that consequently it ought to give no concern to any person interested in the fate of the vessel. While we have considered this to be the proper answer, as between us and Great Britain, between us and France, it is an act to which we cannot but be attentive. An assumption of jurisdiction by an officer of a foreign power, in cases which have not been permitted by the nation within whose limits it has been exercised, could not be deemed an act of indifference. We have not full evidence that the case has happened; but on such an hypothesis, while we should be disposed to view it in this instance, as an error in judgment in the particular officer, we should rely, sir, that you would interpose efficaciously to prevent a repetition of the error by him, or any other of the consuls of your nation.

Our information is not perfect on the subject matter of another of these memorials, which states that a vessel has been fitted out at Charleston, manned there, and partly too with citizens of the United States, received a commission there to cruise against nations at peace with us, and has taken and sent a British vessel into this port. Without taking all these facts for granted, we have not hesitated to express our highest disapprobation of the conduct of any of our citizens, who may personally engage in committing hostilities at sea against any of the nations, parties to the present war; to declare that if the case has happened, or that should it happen, we will exert all the means, with which the laws and constitution have armed us, to discover such offenders and bring them to condign punishment.



And that the like conduct shall be observed, should the like enterprises be attempted against your nation, I am authorized to give you the most unreserved assurances. Our friendship for all the parties at war; our desire to pursue ourselves the path of peace, as the only one leading surely to prosperity, and our wish to preserve the morals of our citizens from being vitiated by courses of lawless plunder and murder, are a security that our proceedings in this respect, will be with good faith, fervour, and vigilance. The arming of men and vessels within our territory, and without consent or consultation on our part, to wage war on nations with which we are in peace, are acts, which we will not gratuitously impute to the publick authority of France: they are stated indeed with positiveness in one of the memorials, but our unwillingness to believe that the French nation could be wanting in respect or friendship to us on any occasion, suspends our assent to, and conclusions upon these statements, till further evidence. There is still a further point in this memorial, to which no answer has yet been given.

The capture of the British ship *Grange*, by the French frigate, *P'Embuscade*, within the Delaware, has been the subject of a former letter to you. On full and mature consideration, the government deems the capture to have been unquestionably within its jurisdiction, and that according to the rules of neutrality, and the protection it owes to all persons while within its limits, it is bound to see that the crew be liberated, and the vessel and cargo restored to their former owners. The Attorney General of the United States has made a statement of the grounds of this determination, a copy of which I have the honour to enclose you. I am in consequence charged by the President of the United States to express to you his expectation, and at the same time, his confidence that you will be pleased to take immediate and effectual measures for having the ship *Grange* and her cargo restored to the British owners, and the persons taken on board her set at liberty.

I am persuaded, sir, you will be sensible on mature consideration, that in forming these determinations, the government of the United States has listened to nothing but the dictates of immutable justice: they consider the

rigorous exercise of that virtue as the surest means of preserving perfect harmony between the United States and the powers at war. I have the honour to be, &c.

THOMAS JEFFERSON.

*The Attorney General of the United States has the honour of submitting to the Secretary of State his opinion concerning the seizure of the ship Grange.*

THE ESSENTIAL FACTS ARE,

THAT the river Delaware takes its rise within the limits of the United States :

That in the whole of its descent to the Atlantic Ocean, it is covered on each side by the territory of the United States :

That from tide water, to the distance of about sixty miles from the Atlantic Ocean, it is called the *river Delaware* :

That at this distance from the sea, it widens and assumes the name of the *Bay of Delaware*, which it retains to the mouth :

That its mouth is formed by the capes Henlopen and May ; the former belonging to the state of Delaware in property and jurisdiction ; the latter to the state of New Jersey :

That the Delaware does not lead from the sea to the dominions of any foreign nation :

That from the establishment of the British provinces on the banks of the Delaware to the American revolution, it was deemed the peculiar navigation of the British empire :

That by the treaty of Paris on the 3d day of September, 1763, his Britannic Majesty relinquished, with the privy of France, the sovereignty of those provinces, as well as of the other provinces and colonies :

And that the *Grange* was arrested *in* the Delaware, *within the capes*, before she had reached the sea, after her departure from the port of Philadelphia.

It is a principle, firm in reason, supported by the civilians, and tacitly approved in the document, transmitted by the French minister, that to attack an enemy in a neutral territory is absolutely unlawful.

Hence the inquiry is reduced to this simple form, whether the place of seizure was in the territory of the United States ?

From a question originating under the foregoing circumstances is obviously and properly excluded every consideration of a dominion over the *sea*. The solidity of our neutral right does not depend, in this case, on any of the various distances, claimed on that element by different nations, possessing the neighbouring shore. But if it did, the field would probably be found more extensive, and more favourable to our demand, than is supposed by the document above referred to. For the *necessary* or *natural* law of nations, unchanged as it is, in this instance, by any compact or other obligation of the United States, will perhaps, when combined with the treaty of Paris in 1783, justify us in attaching to our coasts an extent into the sea, beyond the reach of cannon shot.

In like manner is excluded every consideration, how far the spot of seizure was capable of being defended by the United States. For, although it will not be conceded, that this could not be done; yet will it rather appear, that the mutual rights of the states of New Jersey and Delaware, up to the middle of the river, supersede the necessity of such an investigation.

No. The corner stone of our claim is, that the United States are proprietors of the lands on both sides of the Delaware, from its head to its entrance into the sea.

The high ocean, *in general*, it is true, is unsusceptible of becoming property. It is a gift of nature, manifestly destined for the use of all mankind—inexhaustible in its benefits—not admitting metes and bounds. But rivers may be appropriated; because the reverse is their situation. Were they open to all the world, they would prove the inlets of perpetual disturbance and discord; would soon be rendered barren by the number of those, who would share in their products; and moreover may be defined.

“A river, considered merely as such, is the property of the people, through whose lands it flows, or of him under whose jurisdiction that people is.” Grot. b. 2. c. 2. s. 12.

“Rivers might be held in property; though neither where they rise, nor where they discharge themselves be within our territory, but they join to both, or the sea. It is sufficient for us, that the larger part of water, that is, the sides, is shut up in our banks, and that the river, in respect of our land, is itself small and insignificant.” Grot.

b. 2. c. 3. s. 7, and Barbeyrac, in his note, subjoins, that neither of those is necessary.

“Rivers may be the property of whole states.” Puff. b. 3. c. 3. s. 4.

“To render a thing capable of being appropriated, it is not strictly necessary, that we should enclose it, or be able to enclose it within artificial bounds, or such as are different from its own substance; it is sufficient, if the compass and extent of it can be any way determined. And therefore Grotius hath given himself a needless trouble, when, to prove rivers capable of property, he useth this argument, that although they are bounded by the land at neither end, but united to the other rivers or the sea; yet it is enough, that the greater part of them, that is, their sides. are enclosed.” Puff. b. 4. c. 5. s. 3.

“When a nation takes possession of a country in order to settle there, it possesses every thing included in it, as lands, lakes, rivers,” &c. Vattel, b. 1. c. 22. s. 266.

To this list might be added Bynkershoek and Selden. But the dissertation of the former, *de dominio maris*, cannot be quoted with advantage in detachment; and the authority of the latter *on this* head may, in the judgment of some, partake too much of affection for the hypothesis of *mare clausum*. As Selden, however, sinks in influence on this question, so must Grotius rise, who contended for the *mare liberum*; and his accurate commentator, Rutherford, confirms his principles in the following passage, “A nation, by settling upon any tract of land, which at the time of such settlement had no other owner, acquires, in respect of all other nations, an exclusive right of full or absolute property, not only in the land, but in the waters likewise, that are included within the land, such as rivers, pools, creeks or bays. The absolute property of a nation, in what it has thus seized upon, is its right of territory.” 2 Ruth. b. 2. c. 9. s. 6.

Congress too have acted on these ideas, when, in their collection laws, they ascribe to a state the rivers, wholly within that state.

It would seem, however, that the spot of seizure is attempted to be withdrawn from the protection of these respectable authorities, as being in the *Bay* of Delaware, instead of the *River* Delaware.

Who can seriously doubt the identity of the *River* and

*Bay of Delaware?* How often are different portions of the same stream denominated differently? This is sometimes accidental; sometimes for no other purpose, than to assist the intercourse between man and man, by easy distinctions of space. Are not this river and this bay fed by the same springs from the land, and the same tides from the ocean? Are not both doubly flanked by the territory of the United States? Have any local laws at any time provided variable arrangements for the river and the bay? Has not the jurisdiction of the contiguous states been exercised equally on both?

But suppose that the *river* was dried up, and the *bay* alone remained, Grotius continues the argument of the 7th section, of the 3d chapter, of the 2d book above cited, in the following words:

“By this instance it seems to appear, that the property and dominion of the sea might belong to him, who is in possession of the lands on both sides, though it be open above, as a gulf, or above and below, as a strait; provided it is not so great a part of the sea, that, when compared with the lands on both sides, it cannot be supposed to be some part of them. And now, what is thus lawful to one king or people, may be also lawful to two or three, if they have a mind to take possession of a sea, thus enclosed within their lands; for it is in this manner, that a river, which separates two nations, has first been possessed by both, and then divided.”

“The gulfs and channels, or arms of the sea are, according to the regular course, supposed to belong to the people, with whose lands they are encompassed.” Puff. b. 4. c. 5. s. 8.

Valin, in b. 5. tit. 1. p. 685, of his commentary on the marine ordonnance of France, virtually acknowledges, that *particular* seas may be appropriated. After reviewing the contest between Grotius and Selden, he says, “S’il (Selden) s’en fût donc tenu là, ou plutôt, s’il eût distingué l’océan des mers particulières, et même dans l’océan, l’étendue de mer, qui doit être censée appartenir aux souverains des côtes, qui en sont baignées, sa victoire eût été complète.”

These remarks may be enforced by asking, what nation can be injured in its rights, by the Delaware being appropriated to the United States? And to what degree may

not the United States be injured, on the contrary ground? It communicates with no foreign dominion; no foreign nation has, ever before, exacted a community of right in it, as if it were a main sea: under the former and present governments, the exclusive jurisdiction has been asserted; by the very first collection law of the United States, passed in 1789, the county of Cape May, which includes Cape May itself, and all the waters thereof, theretofore within the jurisdiction of the state of New Jersey, are comprehended in the district of Bridgetown; the whole of the state of Delaware, reaching to Cape Henlopen, is made one district; nay, unless these positions can be maintained, the bay of Chesapeake, which, in the same law, is so fully assumed to be within the United States, and which, for the length of the Virginia territory, is subject to the process of several counties to any extent, will become a rendezvous to all the world, without any possible control from the United States. Nor will the evil stop here. It will require but another short link in the process of reasoning, to disappropriate the mouths of some of our most important rivers. If, as Vattel inclines to think in the 294th section of his first book, the Romans were free to appropriate the Mediterranean, merely because they secured, by one single stroke, the immense range of their coast; how much stronger must the vindication of the United States be, should they adopt maxims for prohibiting foreigners from gaining, without permission, access into the heart of their country.

This inquiry might be enlarged by a minute discussion of the practice of foreign nations in such circumstances. But I pass it by; because the United States, in the commencement of their career, ought not to be precipitate in declaring their approbation of any usages, (the precise facts concerning which we may not thoroughly understand) until those usages shall have grown into principles, and are incorporated into the law of nations; and because no usage has ever been accepted, which shakes the foregoing principles.

The conclusion then is, that the Grange has been seized on neutral ground. If this be admitted, the duty arising from the illegal act, is restitution.

EDMUND RANDOLPH.

May 14, 1793.

## TRANSLATION.

*Citizen Genet, Minister Plenipotentiary of the Republick of France, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, May 27, 1793, the 2d year of the Republick of France.*

SIR,—My predecessor has delivered to me the letter which you wrote to him the 15th of this month, communicating to him sundry memorials of the British minister, and the decisions which the American government has taken on the complaints of this minister.

The first of these complaints which you report in your letter, sir, is not founded in fact; I have no knowledge of the purchase of the arms in question, and at all events the reply you have made to Mr. Hammond would convince him of the nullity of his observations, if they had been dictated by good faith; but it is probable that this step has no other object but to prepare, diplomatically, pretext to the English ships of war to subject American vessels, even under the shadow of their modest neutrality, to arbitrary visits and detentions.

The second complaint of the Envoy of George III. sir, is founded on the sale of the prizes sent into the port of Charleston, by the *Embuscade* frigate, belonging to the Republick of France.

I shall call to my aid only facts and very plain reasoning in replying to Mr. Hammond's representations on this point.

The treaty of commerce of 1778, authorizes exclusively all the vessels of war French or American, armed by the two states or by individuals, to conduct freely, wherever they please the prizes they shall have made of their enemies, without being subjected either to admiralty or any other duties, without also the said vessels or the said prizes, entering the ports of France or of America. being stopped or seized, or the officers of the places being permitted to take cognizance of the validity of the said prizes.

This privilege is interdicted to the enemies of either of the two nations which shall be at war, the two contracting parties having expressly engaged not to permit any foreign privateer, having a commission from a prince or power at war with one of the two nations, to arm their vessels in the ports of one of the two parties, or to sell there the

prizes they shall have taken, or in any other manner to discharge the vessels, merchandises or any part of their cargoes. These privileges which the two nations have reserved to themselves exclusively, these severe and clearly defined restrictions against their common enemies, evidently prove that in virtue of the treaties which I have cited, we alone have at present the right of bringing our prizes into the American ports, and of there doing with them as we please, as property on the validity of which the civil or judiciary officers of the United States have nothing to do, as long as the laws of the United States are not infringed. It is in order to acquire information on this important subject that the publicity of the sale of prizes authorized by the consular officers of the Republick is necessary ; and if in the fulfilment of this duty prescribed by friendship, and our respect for the law of nations, the Consul of the French Republick at Charleston has made use of some formality or expression, from which it might be inferred that he arrogated to himself jurisdiction unceded by the treaties and laws of the United States, I shall take care, sir, that this error be avoided for the future, and that all proceedings relative to the sale of our prizes, conformably to the spirit of the treaty, bear the stamp of a particular national transaction, and of the plain and real alienation of a property acquired by the laws of war, acknowledged to be legal by the officers of the French nation.

The third complaint made to your government, sir, by the English minister, is relative to the armaments, which have taken place at Charleston, under the flag of the French Republick. The American government, sir, has given a new proof of its wisdom, and of its confidence in our sentiments, not blindly to admit the assertions of Mr. Hammond. In reply to this I shall still confine myself to facts. It is certain that several vessels have been armed at Charleston, that they have received from me commissions of the Republick, agreeable to the forms I have had the honour to communicate to you, and that these vessels, despatched to sea with great celerity, have made many prizes, have condemned to inaction, by the terror which they have spread among the English, almost all the sailors and vessels, of that nation, which were in the ports of the United States, and by their success have very sensibly



raised the freight of American vessels; I grant that this must be displeasing to Mr. Hammond, to his court and to his friends, but that is not the matter in question.

I ought by a sincere exposition of my conduct to put you in a capacity to judge whether I have encroached on the sovereignty of the American nation, its laws and its principles of government.

The vessels armed at Charleston belong to French houses; they are commanded and manned by French citizens, or by Americans, who, at the moment they entered the service of France, in order to defend their brothers and their friends, knew only the treaties and the laws of the United States, no article of which imposes on them the painful injunction of abandoning us in the midst of the dangers which surround us.

It is then evident, sir, that these armaments cannot be matter of offence in the citizens of the United States; and that those who are on board of our vessels have renounced the immediate protection of their country, on taking part with us.

It is necessary however to examine whether the French houses of Charleston might arm the vessels which belonged to them. I submitted this question to the Governour of South-Carolina, before the delivery of the letters of marque to our privateers. I reminded him that liberty consisted in doing what the laws did not prohibit, that I believed no law existed which could deprive the French citizens in the ports of the United States, of the privilege of putting their vessels in a state of defence, of taking in time of war new commissions, and of serving their country by causing them to cruise out of the United States, on the vessels of their enemy.—Nor indeed were there any which gave to the government the right of submitting the particular operations of merchants to a state inquisition, and that it appeared to me that it could neither authorize nor hinder the said armaments. His opinion appeared to correspond with mine, and our vessels put to sea in spite of all the intrigues which the partisans of England put into action to oppose it.

This is the truth, sir, this is the conduct, I dare to call it respectable, which I have followed, and I know too well the equitable sentiments of the federal government not to deliver myself to the pleasing hope of seeing it *return*

from the first impressions which the reports of the minister of England appear to have made on it.

The last point which remains to be spoken of, sir, is relative to the capture of the English ship *Grange*, by the *Embuscade* frigate.

The learned conclusions of the Attorney General of the United States, and the deliberations of the American government, have been on this subject the rule of my conduct. I have caused the prize to be given up; and although of considerable value, my brave brethren, the seamen of the *Embuscade*, have readily concurred in a measure, which I represented to them as a proper mean to convince the American government of our deference and of our friendship.

The French republicans, sir, know the duties which nations owe to one another: enlightened on the rights of man, they have just ideas of the general laws of society comprised under the common denomination of the *law of nations*, (*droit des gens*) informed with respect to the interests of their country, they know how to distinguish its enemies and its friends, and you may assure the American government, that collectively and individually, they will seize every occasion of showing to the sovereign people of the United States their respect for their laws, and their sincere desire to maintain with them the most perfect harmony.

GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, June 5, 1793.*

SIR,—In my letter of May 15th to M. de Ternant, your predecessor, after stating the answers which had been given to the several memorials of the British minister, of May 8th, it was observed that a part remained still unanswered, of that which respected the fitting out armed vessels in Charleston, to cruise against nations with whom we were at peace.

In a conversation which I had afterwards the honour of holding with you, I observed that one of those armed vessels, the *Citoyen Genet*, had come into this port with a prize, that the President had thereupon taken the case into further consideration; and after mature consultation and deliberation, was of opinion, that the arming and equip-

ping vessels in the ports of the United States, to cruise against nations with whom they are at peace, was incompatible with the territorial sovereignty of the United States; that it made them instrumental to the annoyance of those nations, and thereby tended to compromise their peace, and that he thought it necessary as an evidence of good faith to them, as well as a proper reparation to the sovereignty of the country, that the armed vessels of this description should depart from the ports of the United States.

The letter of the 27th instant, with which you have honoured me, has been laid before the President, and that part of it, which contains your observations on this subject, has been particularly attended to. The respect due to whatever comes from you, friendship for the French nation, and justice to all, have induced him to re-examine the subject, and particularly to give to your representations thereon, the consideration they deservedly claim. After fully weighing again, however, all the principles and circumstances of the case, the result appears still to be, that it is the *right* of every nation to prohibit acts of sovereignty from being exercised by any other within its limits, and the *duty* of a neutral nation to prohibit such as would injure one of the warring powers; that the granting military commissions, within the United States, by any other authority than their own, is an infringement on their sovereignty, and particularly so, when granted to their own citizens, to lead them to commit acts contrary to the duties they owe their own country; that the departure of vessels, thus illegally equipped, from the ports of the United States, will be but an acknowledgment of respect, analogous to the breach of it, while it is necessary on their part, as an evidence of their faithful neutrality. On these considerations, sir, the President thinks that the United States owe it to themselves, and to the nations in their friendship, to expect this act of reparation on the part of vessels, marked in their very equipment with offence to the laws of the land, of which the law of nations makes an integral part.

The expressions of very friendly sentiment, which we have already had the satisfaction of receiving from you, leave no room to doubt that the conclusion of the Presi-

dent, being thus made known to you, these vessels will be permitted to give no further umbrage by their presence in the ports of the United States. I have the honour to be, &c. TH: JEFFERSON.

## TRANSLATION.

*The Minister of the Republick of France, to the Secretary of State of the United States. Philadelphia, June 8, 1793, 2d year of the French Republick.*

SIR,—I HAVE seen with pain, by your letter of the 5th of this month, that the President of the United States persists in thinking that a nation at war had not the right of giving commissions of war to those of its vessels which may be in the ports of a neutral nation; this being, in his opinion, an act of sovereignty.

I confess to you, sir, that this opinion appears to me contrary to the principles of natural right; to the usages of nations; to the connections which unite us; and even to the President's proclamation.

The right of arming, sir, for the purpose of its defence, and repelling unjust aggressions, in my opinion, may be exercised by a nation at war, in a neutral state; unless by treaty, or particular laws of this state, that right be confined to a single nation, friend or ally, and expressly interdicted to others. This is exactly the case in which we are. The United States, friends of the French, their allies and guarantees of their possessions in America, have permitted them to enter armed, and remain in their ports, to bring there their prizes, to repair in them, to equip in them, whilst they have expressly refused this privilege to their enemies. The intention of the United States has been to facilitate to us the means of protecting, efficaciously, our commerce, and of defending our possessions in America, so useful to our mutual prosperity; and as long as the states, assembled in Congress, shall not have determined that this solemn engagement should not be performed, no one has a right to shackle our operations, and to annul their effect, by hindering those of our marines, who may be in the American ports, to take advantage of the commissions which the French government has charged me to give them, authorizing them to defend themselves, and fulfil, if they find an opportunity, all the duties of citi-

zens against the enemies of the state. Besides, sir, at all times, like commissions, during a war, have been delivered to our vessels. The officers of the marine transmit them to them, in France, and the consuls, in foreign countries; and it is in virtue of this usage, which no power has ever thought of regarding as an act of sovereignty, that the executive council has sent here such commissions.

However, sir, always animated with the desire of maintaining the good harmony which so happily subsists between our two countries, I have instructed the consuls not to grant *letters*, but to the captains, who shall obligate themselves, under oath and security, to respect the territory of the United States, and the political opinions of their President, until the representatives of the sovereign shall have confirmed or rejected them. This is all that the American government can expect from our deference; every thing that passes out of the waters of the United States, not coming within their cognizance.

It results from this note, sir, that the commissions transmitted in virtue of the orders of the executive council of the Republic of France, to the French vessels in the ports of the United States, are merely an authority to arm themselves, founded upon the natural right and constant usage of France; that these commissions have been expedited at all times, in the like circumstances; that their distribution cannot be considered but as an act of consular administration, and not of sovereignty; and that every obstruction by the government of the United States, to the arming of French vessels, must be an attempt on the rights of man, upon which repose the independence and laws of the United States; a violation of the ties which unite the people of France and of America; and even a manifest contradiction of the system of neutrality of the President: For, in fact, if our merchant vessels, or others, are not allowed to arm themselves, when the French alone are resisting the league of all the tyrants against the liberty of the people, they will be exposed to inevitable ruin in going out of the ports of the United States, which is certainly not the intention of the people of America. Their fraternal voice has resounded from every quarter around me, and their accents are not equivocal—they are pure as the hearts of those by whom they are expressed, and the

more they have touched my sensibility, the more they must interest in the happiness of America the nation I represent;—the more I wish, sir, that the federal government should observe, as far as in their power, the publick engagements contracted by both nations; and that by this generous and prudent conduct they will give at least to the world the example of a true neutrality, which does not consist in the cowardly abandonment of their friends in the moment when danger menaces them, but in adhering strictly, if they can do no better, to the obligations they have contracted with them. It is by such proceedings, that they will render themselves respectable to all powers; that they will preserve their friends, and deserve to augment their number.

GENET.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the Republick of France, with the United States, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, June 1, 1793, 2d year of the Republick of France.*

SIR,—I HAVE this moment been informed, that two officers in the service of the Republick of France, citizen Gideon Henfield and John Singletary, have been arrested on board the privateer of the French Republick, the citizen Genet, and conducted to prison. The crime laid to their charge, the crime which my mind cannot conceive, and which my pen almost refuses to state, is the serving of France, and defending with her children the common and glorious cause of liberty.

Being ignorant of any positive law, or treaty, which deprives Americans of this privilege, and authorizes officers of police arbitrarily to take mariners, in the service of France, from on board their vessels, I call upon your intervention, sir, and that of the President of the United States, in order to obtain the immediate releasement of the above mentioned officers, who have acquired by the sentiments animating them, and by the act of their engagement, anterior to every act to the contrary, the right of French citizens, if they have lost that of American citizens. I renew at the same time, sir, the requisition which I made in favour of another French officer detained for the same cause, and for the same object.

GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, June 1, 1793.*

SIR,—I HAVE to acknowledge the receipt of your note of the 27th of May, on the subject of Gideon Henfield, a citizen of the United States, engaged on board an armed vessel in the service of France. It has been laid before the President, and referred to the Attorney General of the United States for his opinion on the matter of law, and I have now the honour of enclosing you a copy of that opinion. Mr. Henfield appears to be in the custody of the civil magistrate, over whose proceedings the executive has no control. The act with which he is charged will be examined by a jury of his countrymen, in the presence of judges of learning and integrity; and if it is not contrary to the laws of the land, no doubt need be entertained that his case will issue accordingly. The forms of the law involve certain necessary delays, of which, however, he will assuredly experience none but what are necessary. I have the honour to be, &c.

TH: JEFFERSON.

P. S. After writing the above, I was honoured with your note on the subject of Singletary, on which it is in my power to say nothing more than in that of Henfield.

*The Attorney General of the United States has the honour of submitting to the Secretary of State the following opinion on the case of Gideon Henfield, as represented by the Minister of France.*

1st. IT may well be doubted how far the minister of France has a right to interfere. Henfield is a citizen of the United States; and it is unusual at least, that a foreign power should interfere in a question, whether, as a citizen, a man has been guilty of a crime? Nor can an authority be derived from Henfield being under the protection of the French Republick; because being still a citizen, he is amenable to the laws, which operate on citizens, and the very act, by which he is said to have been taken under such protection, is a violation of the sovereignty of the United States. If he be innocent, he will be safe in the hands of his countrymen: if guilty, the respect due by one

nation to the decrees of another demands that they be acquiesced in.

2d. But Henfield is punishable, because treaties are the supreme law of the land; and by treaties with three of the powers at war with France it is stipulated, that there shall be a peace between their subjects and the citizens of the United States.

3d. He is indictable at the common law, because his conduct comes within the description of disturbing the peace of the United States.

EDM: RANDOLPH.

May 30, 1793.

TRANSLATION.

*The Citizen Genet, Minister of the Republick of France, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, June 14, 1793, 2d year of the Republick.*

SIR,—You will see by the papers hereto annexed, that in contempt of the treaties which unite the French and Americans, that in contempt of the law of nations, civil and judiciary officers of the United States have permitted themselves to stop at Philadelphia the sale of vessels taken by an armed French galliot, and at New York, have opposed the sailing of a French vessel commissioned by the executive council of the Republick of France. I request you, sir, to inform the President of the United States of these facts, to let him know that they have used his name in committing those infractions of the laws and treaties of the United States; and engage him to develop, in the present circumstances, all the authority which the people of the United States have confided to him to enforce the execution of the laws and treaties.

Not doubting, sir, the purity of the President's sentiments, I hope to obtain immediately, from the aid of his good offices and energy, restitution, with damages and interest, of the French prizes arrested and seized at Philadelphia, by an incompetent judge, under an order which I ought to believe not genuine; and the like restitution, with damages and interest, of the vessels stopped and seized at New York.

It is through the intervention of the publick ministers, that affairs, of the nature which produce my present complaints and reclamations, ought to be treated. As the



representative of a people, generous and confident in their friends, I have already given proofs of the sentiments with which they are animated, in causing to be restored, without examination, on the requisition of the federal government, the English ship *Grange*, taken by a vessel of the Republick. I shall in all my conduct show an equal deference; but at the same time, sir, I should expect from your government all the support, which I at present stand in need of, to defend in the bosom of the United States the interests, the rights and the dignity of the French nation, which persons, on whom time will do us justice, are labouring secretly to misrepresent. GENET.

## TRANSLATION.

THIS day, the 7th June, 1793, in the 2d year of the Republick of France, before us Francis Dupont, consul of the said Republick, at Philadelphia, appeared the citizen Pierre Barriere, agent ad hoc of the ship *William*, and of the brigantine *Active*, taken by the galliot the citizen Genet, captain Johauen, who has declared, that this day, at 11 o'clock, A. M. being occupied in the sale of the cargo of the ship *William*, a deputy marshal of the Court of Admiralty of the United States, for the district of Pennsylvania, presented himself to him, where he was making the said sales on *Warder's Wharf*, pretending that the said ship *William*, and her cargo, were seized by the said court of admiralty, wishing, in consequence, to stop the sale, which was nevertheless continued, the appearer having conceived that the admiralty could not, in any manner whatever, meddle in this business, agreeably to the 17th article of the treaty of commerce between France and the United States. Notwithstanding, to the great prejudice of the interested in the sales, the said deputy marshal of the admiralty discouraged the bidders, and even suspended their bidding, leading them to believe that the sale of the said vessels was not valid; whence it resulted that they sold below their value. However, the sale of the cargo being made, the said agent proceeded to that of the brigantine; but as soon as he commenced, the said deputy marshal again forbid the continuance, which led several persons present into an error, supposing that the seizure extended to the brig *Active*, as well as the ship *William*; whence it resulted, that the said brigantine did not sell for

more than a third of her real value, having been estimated worth 600*l.* The appearer, having afterwards proceeded to the sale of the ship *William*, the said deputy marshal again, in the name of the aforesaid court of admiralty, forbid it; whence has also resulted a considerable loss to the interested in the said prize, which was struck off at only 500*l.* which does not amount to one fourth of her value.—In consequence of which, the said appearer protests for all damages and interests accrued, and to accrue, against the said court of admiralty—those who have set on foot this prosecution, and generally against all those whom it may concern, being therein fully justified by the tenour of the treaties:—Of all which the said appearer has requested of us an act, and has signed with us, the day and year above written.

FROIS. DUPONT.

PIERRE BARRIERE.

Compared by us, chancellor of the consulate of the Republick of France, with the original deposited in the chancery, the 8 June, 1793, 2d year of the French Republick.

J. BRE. LEMAIRE.

We, Consul of the Republick of France, at Philadelphia, certify and attest, to whom it may concern, that citizen J. Bre. Lemaire, who has signed the above extract, is our chancellor, to whose signature faith should be given, as well in as out of judgment.

In testimony whereof, we have signed the present, and have caused to be affixed thereto the seal of [L. s.] the Consulate, at Philadelphia, the 8 June, 1793, 2d year of the Republick of France.

FROIS. DUPONT.

*New York, June 9, 1793, 2d year of the French Republick.*

SIR,—I have just been informed, that last night a French vessel, armed for war, and ready to hoist sail, has been arrested by authority, and that even the captain has not been permitted to go on board. This strange use of publick force, against the citizens of a friendly nation, who assemble here to go and defend their brethren, is a signal violation of the laws of neutrality, which I cannot impute but to a misconception, which your attention, and

your equity, will not fail to rectify, as soon as you shall be informed of it.

I require, sir, the authority with which you are clothed, to cause to be rendered to Frenchmen, and allies, and I must add to freemen, of whatever nation they may be, the liberty of flying to the succour of their country. It is not in a country where Frenchmen have spilt their blood, in the cause of humanity, that they ought to find in the laws obstacles to their following yet again the most pleasing of their propensities, and to fulfil the most sacred of their duties.

HAUTERIVE,

Consul of the French Republick, New York.

To the Governour of the state of New York.

#### Consulate of New York.

WE Alexander Hauterive, Consul of the Republick of France to the United States, at New York, certify that in consequence of a requisition made by us to the mayor of New York, and to the governour of the state of the same name, dated 9th June current, to obtain a replevy of the detention, made by authority in this port, of a French vessel called the Republican, belonging to Louis Alexis Hochquet Caritat, and commanded by the citizen Orset, the governour of the said state replied to us by a letter under his signature, that it was in conformity to the injunction of the President of the United States, that he had ordered a detachment of militia of this state to detain the said vessel, until the President of the United States should be informed of the circumstances of the facts, upon which we have delivered to him an act certified and signed by us.

Done at New York, the 10th June, 1793, 2d year of the Republick of France.

HAUTERIVE,

Consul of the Republick of France at New York.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, June 17, 1793.*

SIR,—I shall now have the honour of answering your letter of the 8th instant, and so much of that of the 14th, (both of which have been laid before the President) as relates to a vessel armed in the port of New York, and about to depart from thence, but stopped by order of the government; and here I beg leave to premise, that the

ease supposed in your letter, of a vessel arming merely for her own defence, and to repel unjust aggressions, is not that in question, nor that on which I mean to answer; because, not having yet happened, as far as is known to the government, I have no instructions on the subject. The case in question, is that of a vessel armed, equipped and manned, in a port of the United States, for the purpose of committing hostilities on nations at peace with the United States.

As soon as it was perceived, that such enterprises would be attempted, orders to prevent them were despatched to all the states and ports of the Union. In consequence of these the governour of New York, receiving information that a sloop, heretofore called the Polly, now the Republican, was fitting out, arming and manning, in the port of New York, for the express and sole purpose of cruising against certain nations with whom we are at peace, that she had taken her guns and ammunition aboard, and was on the point of departure, seized the vessel. That the governour was not mistaken in the previous indications of her object, appears by the subsequent avowal of the citizen Hauterive, consul of France at that port, who, in a letter to the governour, reclaims her, as\* “Un vaisseau armé en guerre et pret à mettre à la voile,” and describes her object in these expressions,† “Cet usage étrange de la force publique, contre les citoyens d’une nation amie qui se réunissent-ici pour aller défendre leurs freres,” and again,‡ “Je requiers, monsieur, l’autorité dont vous êtes revêtu, pour faire rendre à des François, à des alliés, &c. la liberté de voler au secours de leur patrie.” This transaction being reported to the President, orders were immediately sent to deliver over the vessel, and the persons concerned in the enterprize, to the tribunals of the country; that if the act was of those forbidden by the law, it might be punished, if it was not forbidden, it might be so declared, and all persons apprized of what they might or might not do.

*Translation of passages in letter to Mr. Genet, June 17, 1793.*

\* “A vessel armed for war, and ready to put to sea.”

† “This strange use of publick force against the citizens of a friendly nation who are united here, in order to go in defence of their brothers.”

‡ “I require, sir, the authority with which you are vested, to cause to be rendered to Frenchmen, to allies, &c. the liberty of flying to the succour of their country.”

This we have reason to believe is the true state of the case, and it is a repetition of that which was the subject of my letter of the 5th instant, which animadverted not merely on the single fact of the granting commissions of war by one nation within the territory of another, but on the aggregate of the facts; for it states the opinion of the President to be, that "The arming and equipping vessels in the ports of the United States, to cruise against nations with whom they are at peace, was incompatible with the sovereignty of the United States; that it made them instrumental to the annoyance of those nations, and thereby tended to commit their peace."—And this opinion is still conceived to be not contrary to the principles of natural law; the usage of nations; the engagements which unite the two people; nor the proclamation of the President, as you seem to think.

Surely not a syllable can be found in the last mentioned instrument, permitting the preparation of hostilities in the ports of the United States. Its object was to enjoin on our citizens "a friendly conduct towards all the belligerent powers;" but a preparation of hostilities, is the reverse of this.

None of the engagements in our treaties stipulate this permission. The xvii article of that of commerce permits the armed vessels of either party to enter the ports of the other, and to depart with their prizes freely: but the entry of an armed vessel into a port, is one act; the equipping a vessel in that port, arming her, manning her, is a different one, and not engaged by any article of the treaty.

You think, sir, that this opinion is also contrary to the law of nature, and usage of nations. We are of opinion it is dictated by that law and usage; and this had been very maturely inquired into before it was adopted as a principle of conduct. But we will not assume the exclusive right of saying what that law and usage is. Let us appeal to enlightened and disinterested judges. None is more so than Vattel. He says, l. 3, s. 104,\* "Tant qu'un

\* "As long as a neuter nation wishes to enjoy this situation with certainty, it ought to show, in every thing, an exact impartiality between those who are at war. For if it favour the one to the prejudice of the other, it cannot complain when that other shall treat it as an adherent and associate of its enemy. Its neutrality would be a fraudulent one, of which none

peuple neutre veut jouir surment de cet état, il doit montrer en toutes choses une exacte impartialité entre ceux qui se font la guerre. Car s'il favorise l'un au préjudice de l'autre, il ne pourra pas se plaindre, quand celui-ci le traitera comme adhérent et associé de son ennemi. Sa neutralité seroit une neutralité frauduleuse, dont personne ne veut être la dupe.—Voyons donc en quoi consiste cette impartialité qu'un peuple neutre doit garder.

“Elle se rapporte uniquement à la guerre, et comprend deux choses. 1, Ne point donner de secours quand on n'y est pas obligé; ne fournir librement ni troupes ni armes, ni munitions, ni rien de se qui sert directement à la guerre. Je dis *ne point donner de secours* et non pas *en donner également*; car il seroit absurde qu'un état secourut en même tems deux ennemis. Et puis il seroit impossible de le faire avec égalité, les mêmes choses, le même nombre de troupes, la même quantité d'armes de munitions, &c. fournies en des circonstances différentes; ne forment plus des secours équivalens, &c.” If the neutral power may not, consistent with its neutrality, furnish men to either party, for their aid in war, as little can either enrol them in the neutral territory, by the law of nations. Wolf, s. 1174, says\* “Puisque le droit de lever des soldats est un droit de majesté qui ne peut être violé par une nation étrangère, il n'est pas permis de lever des soldats sur le territoire d'autrui sans le consentement du maître du territoire.” And Vattel, before cited, l. 3, s. 15,† “Le

would be the dupe. Let us see then wherein consists that impartiality which a neutral people ought to observe.

“It regards war only, and comprehends two things. 1st. To give no succour when not obliged thereto; not to furnish freely, either troops, arms, ammunition or any thing which directly serves for war. I say, *to give no succour and not to give it equally*: for it would be absurd in a state to succour two enemies at the same time. And besides it would be impossible to do it with equality, the same things, the same number of troops, the same quantity of arms, ammunition, &c. furnished in different circumstances, are no longer equivalent succours.”

\* “Since a right of raising soldiers is a right of majesty, which cannot be violated by a foreign nation, it is not permitted to raise soldiers on the territory of another, without the consent of its sovereign.”

† “The right of raising soldiers belonging only to the nation or its sovereign, no one can enrol them in a foreign country without the permission of the sovereign. Those who undertake to engage soldiers in a foreign country, without permission of the sovereign—and in general whomsoever corrupts the subjects of others, violates one of the most sacred rights of the prince and of the nation. It is the crime which is called *plagiat* or *man-théit*. There is no policed state which does not severely punish it.”

droit de lever des soldats appartenant uniquement à la nation ou au souverain, personne ne peut en enrôler en pays étranger sans la permission du souverain ceux qui entreprennent d'engager des soldats en pays étranger sans la permission du souverain et en general quiconque debauche les sujets d'autrui, viole un des droits les plus sacrés du prince et de la nation. C'est le crime qu'on appelle *plaigiat* ou vol d'homme. Il n'est aucun état policé qui ne le punisse très sévèrement, &c." For I choose to refer you to the passage, rather than follow it through all its developments. The testimony of these and other writers on the law and usage of nations, with your own just reflections on them, will satisfy you that the United States, in prohibiting all the belligerent powers from equipping, arming and manning vessels of war in their ports, have exercised a right and a duty with justice, and with great moderation. By our treaties with several of the belligerent powers, which are a part of the laws of our land, we have established a style of peace with them. But without appealing to treaties, we are at peace with them all by the laws of nature; for, by nature's law, man is at peace with man, till some aggression is committed, which, by the same law, authorizes one to destroy another, as his enemy. For our citizens then to commit murders and depredations on the members of nations at peace with us, or to combine to do it, appeared to the executive, and to those whom they consulted, as much against the laws of the land as to murder or rob, or combine to murder or rob, its own citizens; and as much to require punishment, if done within their limits, where they have a territorial jurisdiction, or on the high seas, where they have a personal jurisdiction, that is to say, one which reaches their own citizens only; this being an appropriate part of each nation on an element where all have a common jurisdiction. So say our laws, as we understand them ourselves. To them the appeal is made—and whether we have construed them well or ill, the constitutional judges will decide. Till that decision shall be obtained, the government of the United States must pursue what they think right, with firmness, as is their duty. On the first attempt that was made, the President was desirous of involving in the censures of the law, as few as might be. Such of the individuals only therefore, as were citizens of the United States, were sin-

gled out for prosecution. But this second attempt being, after full knowledge of what had been done on the first, and indicating a disposition to go on in opposition to the laws, they are to take their course against all persons concerned, whether citizens or aliens; the latter, while within our jurisdiction, and enjoying the protection of the laws, being bound to obedience to them, and to avoid disturbances of our peace within, or acts which would commit it without, equally as citizens are. I have the honour to be, &c.

THOMAS JEFFERSON.

*The Citizen Genet, Minister Plenipotentiary of the Republic of France, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, June 22, 1793, 2d year of the Republic.*

SIR,—Discussions are short, when matters are taken upon their true principles. Let us explain ourselves as republicans. Let us not lower ourselves to the level of ancient politicks by diplomatic subtleties. Let us be as frank in our overtures—in our declarations, as our two nations are in their affections; and by this plain and sincere conduct, arrive at the object by the shortest way.

All the reasonings, sir, contained in the letter, which you did me the honour to write to me the 17th of this month, are extremely ingenious; but I do not hesitate to tell you, that they rest on a basis which I cannot admit. You oppose to my complaints, to my just reclamations, upon the footing of right, the private or publick opinions of the President of the United States; and this Egis not appearing to you sufficient, you bring forward aphorisms of Vattel, to justify or excuse infractions committed on positive treaties. Sir, this conduct is not like ours. In arriving among you, I have, with candour, said that the French nation, cherishing the interests of the United States more than their own, occupied themselves but on their happiness, in the midst of surrounding dangers, and instead of pressing them to fulfil, towards them, all the obligations imposed on them by our treaties, by gratitude, and by provident policy; they have just granted new favours to their commerce, to partake with them the benefits of its navigation, opening to them all the ports in the two worlds; in a word, assimilating them to her own citizens.



Such amicable and disinterested proceedings should render the federal government, sir, industrious in seeking at least all the means of serving us as far as circumstances would permit them; but instead of waiting till Congress had taken into consideration the important subjects which should already have occupied them, until they have determined whether the war of liberty, whether the fate of France and her colonies were indifferent objects for America, until they had decided whether it was the interest of the United States to profit, or not, of the situation in which French magnanimity places them, they have been forward, urged on by I know not what influence, to pursue another conduct. They have multiplied difficulties and embarrassments in my way. Our treaties have been unfavourably interpreted: Arbitrary orders have directed against us the action of the tribunals; indeed, my diplomatic reception excepted, I have met with nothing but disgust and obstacles in the negotiations I have been charged with.

It is not thus that the American people wish we should be treated. I cannot even suppose, and I wish to believe, that measures of this nature were not conceived in the heart of General Washington,—of that celebrated hero of liberty. I can attribute them only to extraneous impressions, over which time and truth will triumph. I request you therefore, sir, to lay before this first magistrate of your Republick the two enclosed protests, which have been just transmitted to me by the consuls of the Republick of France at New York and Philadelphia. You will see therein that these officers complain, that French prizes, the jurisdiction of which belongs exclusively to the consular tribunals, have been seized in these two ports, by orders of the President. I expect from the equity of the federal government, sir, the immediate redress of these irregularities; and I venture to hope, also, that the President would be pleased to examine again the affair of the ship Republican, of New York, and consider whether (independent of the right which we have to fit out privateers) any of the expressions used by consul Hauterive, to reclaim the giving up of the seizure made of that vessel, proves that she has been armed for this purpose. The citizen Hauterive has clearly shown, on the contrary, that she was armed by Frenchmen, at a time when the most religious of all duties prompted them to fly from all parts of the world to the

succour of their country, and to fulfil towards her those duties to which the Americans would be equally bound, if we had not the desire to leave to their wisdom and their honour the umpirage of their conduct. It is incontestable, that the treaty of commerce (art. XXI) expressly authorizes our arming in the ports of the United States, and interdicts that privilege to every enemy nation. Besides this act forms but a part of our conventional compacts, and it is in them, collectively, that we ought to seek contracts of alliance and of commerce simultaneously made, if we wish to take their sense, and interpret faithfully the intentions of the people who cemented them, and of the men of genius who dictated them. If you cannot protect our commerce, and our colonies, which will, in future, contribute much more to your prosperity than to our own, at least do not arrest the civism of our own citizens, do not expose them to a certain loss, by obliging them to go out of your ports unarmed. Do not punish the brave individuals of your nation, who arrange themselves under our banner, knowing perfectly well, that no law of the United States gives to the government the sad power of arresting their zeal by acts of rigour. The Americans are free; they are not attached to the glebe like the slaves of Russia; they may change their situation when they please, and by accepting, at this moment, the succour of their arms in the habit of trampling on tyrants, we do not commit the plagiat of which you speak. The true robbery, the true crime, would be to enchain the courage of these good citizens, of these sincere friends to the best of causes.

I am ignorant, sir, of the constitutional judges to whom the federal government appear to have it in contemplation to refer the different questions of publick right, which have arisen between us; but it appears to me, that these judges can be looked upon only as counsellors, since no particular tribunal has the right or power to interpose between two nations, whose only arbiters, when they have a sincere desire to live fraternally and amicably together, must be, in the present state of human societies, good faith and reason.

Accept, sir, the expression of my esteem, and my respectful sentiments.

GENET.

## TRANSLATION.

## CONSULATE OF NEW YORK.

*Protest of Citizen Hauterive, Consul of the Republick of France, at New York, against the process and seizure of the Catherine of Halifax.*

CONSIDERING that tribunals are instituted to render justice between individuals, and not to judge of the differences that may arise between governments, and still less to decide on the political relations which exist between nation and nation; That their sphere is circumscribed within the territorial limits of the state to which they belong; That there cannot be any relation of dependence between the tribunals which therein belong to two different nations;

That the consular jurisdiction is an extension, and a first degree of jurisdiction of the tribunals of commerce and of admiralty, instituted in foreign countries by the nation to which the political conventions have given the right of consulate as well as the right of recurring to the publick force, to ensure the execution of the consular discussions;

That the limits of this jurisdiction depend only on the foreign government which has established it, and that this government may extend or contract it at pleasure, provided it does not attribute to it any action against the persons, the property, the police and the local jurisdiction;

That in attributing to these tribunals dependent upon it, that which belongs to another equally dependent upon it, a government does not go beyond the limits of this power;

That recently the French government hath given to the consulates of the Republick the jurisdiction of sea-prizes, and has thus completely constituted them courts of admiralty;

That by that it only displaces one of the branches of the judiciary power; That the geographical position of a legally established tribunal neither alters the force, nor extent, nor independence of its jurisdiction;

That all intervention direct or indirect, as to the French prizes, being formally interdicted the tribunals of the country, the admiralties of the two nations, however they may locally approach each other, are not the less separated from one another by the insurmountable barrier of political right;

That thus a French prize, remaining in a neutral port in virtue of treaties, is submitted to the consular admiralty in virtue of the right which nations have of organizing at pleasure their judicatures, is as much sheltered from the action of any other local tribunal, as if it were in a French road ;

For all these reasons, we, Alexander Hauterive, consul of the Republick of France, considering that the New York district court has extended its jurisdiction to a French prize, the decision of which was pending in our tribunal :

That this intervention, prescribed by the treaties, not only tends to establish a clashing of jurisdiction between two tribunals, which cannot have communication together, but also to the annihilation of the consular tribunal, which is reduced to nothing as soon as the publick force, which the treaties have given it the right of demanding to support its judgments, is employed against it ;

That if this error of the judiciary power could be authorized by the government, we must suppose that the government has the right of interpreting, modifying or destroying the political compacts which unite the two nations, by the information and decision of the tribunals of one of these two nations ;

We protest against the violation done to the rights of the nation we represent ; we declare formally, that whatever may be the decisions of the tribunal, which has arrogated to itself the judgment of the prize *Catherine of Halifax*, to the injury of the consulate jurisdiction, the parties interested, who are amenable only to our tribunal, are not bound to conform to it. We declare this judgment to be null, and of no effect whatever ; 1st, By the notoriety of the incompetency of the tribunal. 2d, Because it would be given in contempt of our protest. 3d, Because it would be formed on insufficient information, the principal papers to elucidate the discussion being in our hands, never to go out of them. 4th, Because the French Republick being one of the parties, it would be necessary, in order to proceed regularly, that the judges should find in the American laws, that the French nation is amenable, in its political rights, to a private tribunal, and that they may be condemned by default.

We declare, in fine, that these rights shall remain entire, saving the requisition of damages and interest to the parties interested, and the demand of reparation for that of

the two nations, who, in the diplomatic judgment, (the only competent arbiter between friendly nations) will be acknowledged injured in its rights.

Further we declare, that the judgment of the fact is still pending in the consular tribunal of the Republick at New York.

New York, June 21, 1793, 2d year of the French Republick. Certified to be conformable to the original.

*Protest of the Consul of the Republick of France against the seizure of the ship William.*

CONSIDERING that no authority on earth has either the right or the power of interposing between the French nation and her enemies; That she alone is the arbiter and judge of the offensive acts which the support of her independence obliges her to commit against the despotic governments coalesced to replunge her into a state of servitude, from which, abandoned by her friends, and assailed by so many enemies, she alone has been able to liberate herself; That the Court of Admiralty at Philadelphia, yielding at first to illfoundd reclamations, since recalling herself to the principles of the law of nations, has acknowledged its incompetency to the decision on the legality of French prizes;

That hence it evidently results, that no local authority can take upon itself the information of a discussion which arises, or may arise, between nation and nation;

That nevertheless the federal government has placed a guard on the ship *William*, taken by the French galliot the Citizen Genet, and by this matter of fact seems to declare, that previous to all discussion, it meant to interfere in the examination of the right, and in the decision of the facts;

That if the government interferes as local authority in the judgment of the facts, they deny and violate the principle expressly declared in the 17th article of the treaty between America and France;

That if, as a power invested by the nation to communicate with foreign governments, they interfere in the examination of the right, they proceed previously by a method till this day unknown, in preceding a diplomatic discussion by an arbitrary and violent act, and by an execution purely military;

For all these reasons, we, Francis Dupont, consul of

the French Republick at Philadelphia, formally protest against the infringement committed on the rights of the French nation by the local government of Philadelphia.

We declare, that having proceeded in a judiciary manner to the sale of the said ship, and that being accountable, in the name of the French nation, to the purchasers of the property acquired by them, we throw upon the government, who has created these obstacles to acquiring the possession, all the damages and interest.

We declare further, that in informing the minister of the French Republick of the violence opposed to the exercise of our functions, we, in his name, reserve by the present protest, the pursuit in reparation for the violation of the conventional compacts, and the outrage against the French nation in the ministry of its agents.

Done in our consulate, Philadelphia, 22d June, 1793.  
2d year of the French Republick.

FROIS. DUPONT.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France. Philadelphia, June 11, 1793.*

SIR,—I had the honour of laying before the President your memorial of the 22d of May, proposing that the United States should now pay up all the future instalments of their debt to France, on condition that the sum should be invested in produce. The President having fully deliberated on the subject, I have now the honour of enclosing you a report from the treasury department, made in consequence thereof, and explaining the circumstances which prevent the United States from acceding to that proposition.

In fact, the instalments as they are settled by the convention between the two nations far exceed the ordinary resources of the United States. To accomplish them completely and punctually, we are obliged to anticipate the revenues of future times, by loans to as great an extent as we can prudently attempt. As they are arranged however by the convention, they give us time for successive and gradual efforts. But to crowd these anticipations all into a single one, and that to be executed in the present instant, would more than hazard that state of credit, the preservation of which can alone enable us to meet the different payments at the times agreed on. To do even this, hitherto, has required, in the operations of borrowing,

time, prudence and patience; and these operations are still going on in all the extent they will bear. To press them beyond this, would be to defeat them both now and hereafter. We beg you to be assured, and through you to assure your nation, that among the important reasons which lead us to economise and foster our publick credit, a strong one is, the desire of preserving to ourselves the means of discharging our debt to them with punctuality and good faith, in the times and sums which have been stipulated between us. Referring to the enclosed report for a more particular development of the obstacles of the proposition, I have the honour to assure you of the sentiments of particular esteem and respect with which I am, sir, your obedient and humble servant,

TH: JEFFERSON.

*The Secretary of the Treasury, to whom was referred a communication from the Minister Plenipotentiary of the Republick of France, on the subject of the debts of the United States to France, respectfully makes thereupon the following Report :*

THE object of this communication is to engage the United States to enter into an arrangement for discharging the residue of the debt which they owe to France, by an anticipated payment of the instalments not yet due, either in specie or bank bills of equal currency with specie, or in government bonds, bearing interest and payable at certain specified periods, upon condition that the sum advanced shall be invested in productions of the United States, for the supply of the French dominions.

With regard to the first expedient, namely, a payment in specie or bank bills, the resources of the treasury of the United States do not admit of its being adopted. The government has relied, for the means of reimbursing its foreign debt, on new loans to be made abroad. The late events in Europe have thrown a temporary obstacle in the way of these loans, producing, consequently, an inability, to make payment by anticipation of the residue of the debt hereafter to grow due.

With regard to the second expedient, that of government bonds payable at certain specified periods; this in substance, though in other forms, has repeatedly come under consideration, and has as often been declined as ineligible. Great inconveniences to the credit of the

government, tending to derange its general operations of finance, have been and must continue to be perceived in every plan which is calculated to throw suddenly upon the market a large additional sum of its bonds. The present state of things for obvious reasons would serve to augment the evil of such a circumstance, while the existing and possible exigencies of the United States admonish them to be particularly cautious, at this juncture, of any measure which may tend to hazard or impair their credit.

These considerations greatly outweigh the advantage which is suggested as an inducement to the measure (the condition respecting which is the principal circumstance of the difference between the present and former propositions) to arise from an investment of the sum to be advanced in the products of the country; an advantage on which perhaps little stress can be laid in the present and probable state of foreign demand for these products.

The motives, which dissuade from the adoption of the proposed measure, may, it is conceived, be the more readily yielded to, from the probability that the utility of it to France might not, on experiment, prove an equivalent for the sacrifices which she might have to make in the disposition of the bonds. All which is humbly submitted.

ALEXANDER HAMILTON, Sec'y of the Treasury.  
Treasury Department, June 8, 1793.

A true copy, TOBIAS LEAR,  
Secretary to the President of the United States.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the Republick of France, to Mr. Jefferson, Secretary of State of the United States. Philudelpia, June 14, 1793, 2d year of the French Republick.*

SIR,—It is the character of elevated minds, of freemen, not to expose themselves twice to a refusal. I have requested you to make known to the President of the United States the urgent necessities of the French Republick. I have not hidden from you, that, having armed near a million of soldiers, they have experienced a considerable deficiency in their produce; and that they, with their colonies, would be consigned to the horrors of famine, if the United States should not furnish them, on account of their debt, a part of the subsistence, which they want. I have



offered you, in virtue of my powers, to take in payment, in default of money, bills, or obligations of the state, bearing interest till the epoch fixed by our convention, for the reimbursement of your debt. I have endeavoured to convince you of the advantages which would result from this operation for the two countries, and more particularly for America, at a time when they have a superabundance of grain and flour; but observing, sir, by the letter which you wrote to me on the 11th June, and by the report of the Secretary of the Treasury, that none of our propositions have been accepted; without entering into the financial reasons which operate this refusal, without endeavouring to prove to you that it tends to accomplish the infernal system of the king of England, and of the other kings, his accomplices, to destroy by famine the French republicans and liberty, I attend, on the present occasion, only to the calls of my country, and as its necessities and those of the colonies become daily more pressing, as it has charged me to provide for them at whatever price it might be, I request you, sir, to inform the President of the United States, that, being authorized in the name of the French Republick to give assignments to the American merchants or farmers, in payment of the provisions they may furnish, from the want of new advances on the part of the United States, I request, in order to place me in a situation to use this power, that he prescribe to the Secretary of the Treasury to adjust with me immediately the amount of the debt of the United States to France.

The expedient to which I am about to have recourse, will, probably, be onerous to the French nation, but as the federal government thinks it may take on itself to place us under the necessity of employing it, without consulting Congress upon so important a matter, I am obliged to follow my instructions.

GENET.

*Mr. Jefferson, Secretary of State, to Citizen Genet, Minister of France. Philadelphia, June 19, 1793.*

SIR,—According to the desire expressed in your letter of the 14th instant, the President will give the instructions necessary for the settlement of the instalments of principal and interest still due from the United States to France. This is an act equally just and desirable for both parties: and although it had not been imagined that the materials

for doing it were to be had here at this moment, yet we shall be pleased to find that they may. In the mean time, what is further to be done will doubtless be the subject of further reflection and inquiry with you; and particularly the operation proposed in your letter will be viewed under all its aspects. Among these, we think it will present itself as a measure too questionable both in principle and practicability, too deeply interesting to the credit of the United States, and too unpromising in its result to France, to be found eligible to yourself. Finally we rest secure that what is of mutual concern will not be done but with mutual concert. I have the honour to be, &c.

THOMAS JEFFERSON.

TRANSLATION.

*The Citizen Genet, Minister of the Republic of France, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, June 15, 1793, 2d year of the Republick.*

SIR,—The citizen Hauterive, consul of the Republick at New York, has this moment informed me, that a discussion has arisen between him and the government of the state in which he resides, respecting the *Embuscade* frigate, upon a point of right. The question is, whether in a neutral port, an armed vessel ought to allow a truce of twenty-four hours to enemy vessels to go out of it? The citizen Hauterive received a formal requisition on this subject, from the governour, relative to the departure of the English packet, who, without saying positively, that the local government had a right to hinder the frigate's going out before the expiration of the truce of twenty-four hours, and that he would use such right, gave him to understand, and appeared to believe that it was universal.

The citizen Hauterive, sir, has confined himself to a reference of this matter to me, requesting instructions on the subject for himself and the captain of the frigate. I enclose herein a copy of those which I have just transmitted to him. They have been drawn up on mature examination of the question; and though my opinion differs essentially from that of the governour of New York, I am persuaded that the President of the United States, after having taken into consideration the authorities and reasonings which have guided me in tracing to the consul of

the Republick the conduct he ought to pursue, will transmit to the governour of New York orders worthy of his justice and impartiality.

GENET.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the Republick of France, to the Citizen Hauterive, Consul at New York. Philadelphia, June 15, 1793, 2d year of the Republick of France.*

I HAVE read with great attention, citizen, the report you transmitted to me on the 13th of this month, and in which, after having given an account of the discussion which has arisen between you and the governour of New York, relative to the frigate of the Republick, the *Embuscade*, you present for my solution, in order to guide your future conduct, the following question, which gave rise to it, to wit: "Whether, in a neutral port, an armed vessel belonging to a belligerent power should allow a truce of twenty-four hours to enemy vessels, desiring to go out." If it were necessary, citizen, to commence a polemick on this question, I should observe to you first, that it has been badly stated, and that not only the duration of the truce, but also the time at which it shall commence should have been defined; but this investigation is superfluous. The question which you propose to me, citizen, is long since decided by the European powers, who have regulated with each other the principles of neutrality. These principles may be found in the maritime convention of the northern powers, in the different treaties of commerce which these same powers have mutually entered into; in fine, in those which Russia has concluded with France, Austria, Portugal and the two Sicilies, and none of these, entered into with the view to favour the navigation of neutral nations, have had the awkwardness to make mention of a truce to be given by the armed vessels of the powers at war to the enemy vessels of those powers which may be found in neutral ports.

The first of the four maxims of neutrals which almost every nation, England excepted, regards as the palladium of commerce, is that every vessel may navigate freely from port to port, on the coasts of nations at war. This right, derived from the right of nature, is necessarily reciprocal; the powers who have acceded to the principles

of the neutrality, have never contested it; and I cannot tell you, citizen, how much I am surprised that the governor of the state of New York should take the advantage of the political opinions promulgated by the United States, to subject our vessels of war to an indefinite truce, which would be a dangerous restraint, contrary to the letter, to the spirit of our treaties, and which at most could be required from a vessel of an indifferent state, with whom neither obligation nor engagement has been contracted.

In the present state of things, citizen, all that the government of the United States can require, is that we commit no hostility against our enemies, on the territory and in the waters of the United States, and in renewing to you the order, attentively to observe that our vessels attend to this reservation, I recommend that you oppose with energy, analogous to the sentiments of friendship which we have avowed to the United States, every act or every step, which would deprive our vessels, armed or unarmed, of the liberty they ought to enjoy in the ports of the United States, in virtue of our treaties, and in virtue of the only principles which have been diplomatically established on the rights of neutral nations, which as I have already said being founded on the right of nature, the basis of the rights of man, implicitly comprehend reciprocity, an elementary condition of all the acts dictated by equal and impartial justice.

Let those who have another code and other titles to present to us, produce them; and in the mean while, the English of New York, instead of unreasonably putting themselves under the protection of principles which their government has always disdained to acknowledge, and which it has violated in all wars, keep themselves quiet or run the chance of sailing in the presence of our forces.

Certified conformable to the original. GENET.

TRANSLATION.

*The Citizen Genet, Minister of the French Republic, to Mr. Jefferson, Secretary of State for the United States. Philadelphia, June 18, 1793, 2d year of the Republic.*

SIR,—I have examined the correspondence which has taken place between you and my predecessor, relative to the requisition of funds which he has made on the federal government, to pay off certain draughts of the administra-

tors of Saint Domingo, and to procure provisions for that colony. I pay due respect, sir, to the justness of the observations which you transmitted to the citizen Ternant, on the subject of this request. Forced from his circumspection by the pressing instances of the administrators of Saint Domingo, I conceive that this requisition must have embarrassed your government infinitely, and under this view, I feel all the obligations we owe you, for having, as you yourself expressed it, less consulted prudence than friendship, in yielding to it. You have with propriety remarked, sir, that the decree which appropriated for the necessities of the colonies four millions from the debt of the United States to France, not being yet transmitted to the federal government, in the usual official form, should not have an application so positive, so determined as that which the commissioners of the administration of Saint Domingo had given it; and that it was probable the ministers of France had had recourse, in order to supply the wants of this colony, to operations of another nature than those which took place. In fact, sir, the draughts for the payment of which the commissioners of Saint Domingo, pressed by imperious circumstances, have, in some degree, obliged the citizen Ternant to demand funds of you, have neither been authorized by the National Convention, nor by the Executive Council; and I must even inform you, that I am forbidden to pay, out of the funds placed at my disposal, any other than those draughts which shall have been accepted by the consul La Forest, in virtue of orders from my predecessor. But, on my arrival here, I was informed that this consul had received orders from the minister plenipotentiary to register all draughts issued by the administration of Saint Domingo, and to pay them out of the new funds which the federal government had provisionally granted, on the basis of the decree of the 26th June, although it was not officially notified. I have not thought proper, sir, to stop suddenly the payment of these draughts, in the hope that the mode of reimbursing your debt, which you at my request have laid before the President of the United States, would be adopted by him, and give me the means, 1st, to honour the draughts registered by my predecessor, the payment of which had been ordered by him—2dly, to provide at the same time for the urgent necessities of France and her colonies: but having been deceived in my expectation by motives which are

not for me to examine, I find myself deprived of the advantage of conciliating all interests, and constrained to obey only the empire of circumstances, which prescribe me to suspend the payment of the colonial draughts, and to employ the funds destined for their acquittal to the purchase of provisions for France and her colonies. This arrangement, sir, need not alarm either the bearers of the registered draughts, or those of the other draughts issued and not registered of the administration of Saint Domingo and other colonies of the French Republick. The nation will certainly fulfil towards them the engagements contracted by its agents. I know that they have destined particular funds for this purpose. I also know that the colonies have made contributions in kind, to fulfil their obligations, and provide themselves for a part of their wants, and it is according to these ideas that I have determined to have inserted, in the publick papers, the enclosed information, the intention of which is to calm inquietudes of the bearers of the draughts which I am obliged to set aside, and to encourage the citizens of the United States to continue to carry succour to their brothers the French republicans of the Antilles, whose fate depends on this generous act; without which the French colonies will be reduced by famine to put themselves under a government whose commercial principles would not assuredly be so advantageous to the United States, as those which an enlightened policy and unlimited attachment for the American people have led us to embrace.

GENET.

*Citizen Genet, Minister Plenipotentiary of the French Republick, to the Citizens of the United States.*

WHEREAS several American citizens who have furnished provisions to the colonies of the French Republick in the West-Indies, have received bills drawn by the administrators of the respective colonies on citizen La Forest, late Consul General of the Republick in the United States, and lately on myself, in payment for such supplies, I inform them that these draughts will certainly be paid, the National Convention having appropriated large sums for that object. But as I am not yet authorized to discharge them, I can only in the mean while advise the holders of such bills as have not yet been registered by citizen La Forest, to have them recorded in the office of citizen Du-

port, Consul of the French Republick at Philadelphia, in order to ascertain the dates of their presentation; at the same time I cannot too much encourage the citizens of the United States to continue to assist, with unremitting exertions, their republican brethren of the French West-Indies, whose existence, from the liberal principles adopted by the National Convention with regard to the colonies of the French Republick, must essentially contribute to the prosperity of the United States. The American citizens may rest assured, that the most efficacious measures have been taken, as well in France as in the colonies, to protect their property in all the ports of the Republick, and to ensure to them a prompt payment for their supplies in cash or in merchandise, and at the same time to secure to them the enjoyment of those favours which the National Convention has lately granted to the citizens of the United States, which assimilate them, in respect to commercial advantages, to the citizens of France.

Philadelphia, June 17, 1793, 2d year of the French Republick.

*Mr. Jefferson, Secretary of State, to Citizen Genet, Minister Plenipotentiary of France. Philadelphia, June 23, 1793.*

SIR,—In answer to your letter of the 13th instant, on the subject of the bills drawn by the administration of St. Domingo, in favour of certain citizens of the United States, I am instructed to inform you, that the funds therein mentioned have been so clearly understood on all hands to be specially appropriated for the payment of the bills, which were recognised by the former agents of France here, as to be incapable of being diverted, without disappointing the just expectations of our citizens, holders of those bills.

Indeed the government has been so much a party in countenancing those expectations, as, in such an event, to lie under an obligation, in point of propriety, to satisfy the parties themselves to the extent of the balance, which yet remains to be advanced. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Citizen Genet, Minister Plenipotentiary of France. Philadelphia, June 23, 1793.*

SIR,—I have the honour to inform you, that in consequence of the general orders given by the President, a

privateer, fitted out by English subjects within the State of Georgia, to cruise against the citizens of France, has been seized by the governour of Georgia, and such legal prosecutions are ordered, as the case will justify. I beg you to be assured, that the government will use the utmost vigilance to see, that the laws, which forbid these enterprises, are carried into execution. I have the honour to be, &c.

TH. JEFFERSON.

TRANSLATION.

*Philadelphia, \*January 25, 1793, 2d Year of the Republick of France.*

SIR,—I learn with infinite pleasure, by your letter of the 23d of this month, that the government of Georgia have caused to be stopped a vessel armed in that state. for the purpose of cruising against the French, and that the persons interested in this vessel will be prosecuted.

It is to be wished, sir, that the same watchfulness and firmness may be employed in all the states of the Union; for you will observe by the enclosed reports of the consuls of the Republick at Charleston, at Baltimore, at Philadelphia, and at New York, that many enemy-vessels have been armed there, have entered armed, remained there, and have gone out from thence armed, in contempt of our treaties; whilst in virtue of instructions from the President of the United States, the French adventurers; who have been able to put themselves in a state of defence, in the ports of their allies, in order to go out without danger, and to fulfil otherwise, according to circumstances, the duties of a citizen against the enemies of the state, are pursued with rigour. Accept, sir, my esteem and respect,

GENET.

*Extracts from the reports of the Consuls and Vice-Consuls of the French Republick at Charleston, Baltimore, Philadelphia, and New York, to Citizen Genet. Philadelphia, June 25, 1793, 2d year of the French Republick.*

Charleston, from the 24th May, to the 6th June.

A BERMUDIAN vessel has purchased 4 cannon in this port, to protect her in returning.—A Dutch vessel which entered this port without guns, has sailed with 14.—English vessels have been in like manner armed here.

\* An error for June.



*Baltimore, June 21.*

AN English vessel called the *Trusty*, captain Hale, has been publickly armed as a privateer in this port, by Mr. \*Hirland of this city. The vice-consul has complained of it to the governour and attorney general of the state of Maryland.

*Philadelphia, June 21, 1793.*

A BERMUDIAN vessel belonging to the subjects of the king of England, mounting twelve cannon, purchased in this city, sailed on the 2d instant. There had sailed some days before, an English armed vessel of four guns. The consul had not been informed of them before the date of this report.

*New York, June 18, 1793.*

THE *Swallow*, an English letter of Marque, commanded by captain Sion, armed with eight cannon and twenty men at least, and appearing to be about 150 tons burden, has anchored so long in this port, as to exclude the idea of her having entered in distress, though the 17th article of the treaty of commerce between France and America formally excludes from the ports of both the enemy vessels who shall have made prizes, and every English privateer which enters is authorized by the English government to take, burn and destroy our vessels.

It has always remained a question, whether an armed vessel of that nation on entering, has executed those orders or not. The consul Hauterive has transmitted those observations to the governour of the state of New York, giving him to understand, that every vessel armed for war, and belonging to our enemies, being subject to the exclusion contained in our conventional laws, should be obliged to go out of the port of New York.

Other reports have come to the knowledge of citizen Genet, by indirect channels, that several other armaments have been made by the enemies of the Republick in American ports, and that those vessels have taken on board, without opposition, a great number of tories, citizens of the United States, while some good whigs, friends of France, who have taken part in her cause on board her vessels, have been arrested and thrown into prison, whence

\* Supposed Ireland.

the citizen Genet has not yet been able to liberate them without security.

Certified conformable to the Reports which have been made to me the minister plenipotentiary of the Republick of France.

*Mr. Jefferson, Secretary of State, to Citizen Genet, Minister Plenipotentiary of France. Philadelphia, June 30, 1793.*

SIR,—I have to acknowledge the receipt of your favour of the 25th instant, on the subject of vessels belonging to the enemies of France, which have procured arms within our ports for their defence. Those from Charleston and Philadelphia have gone off before it was known to the government, and the former, indeed, in the first moments of the war, and before preventive measures could be taken in so distant a port. The day after my receipt of your letter, the communications now enclosed from the governour of Maryland came to hand, and prevented our interference on the subject of the Trusty, captain Hale, a vessel loaded with flour and lumber, and bound to Barbadoes. You will perceive by the papers that the governour of Maryland had got information that she was buying guns, and had given orders for the examination of the fact, but that she got off before the officer could get on board, having cleared out three or four days before. It appears that she was of 300 tons burden, and had mounted four small guns. The case of the Swallow is different from any thing which has yet been presented to the President, which shall be submitted to him on his return, and no doubt will meet his earliest attention and decision. I have the honour to be, &c.

TH: JEFFERSON.

*Extract of a letter from the Governour of Maryland to the Secretary at War. "Maryland, Annapolis, June 22, 1793. In Council.*

“SIR,—The enclosed copies of a letter written by this board to the collector of the customs at the port of Baltimore, and of the answer thereto which we have just received from his deputy, will sufficiently explain the first case which has seemed to call for our interference since the receipt of your communications respecting the fitting out of fighting vessels within our jurisdiction.

“ You will see, sir, that most probably, through a step not contemplated by us, that of the officers applying to Mr. Ireland himself for the information we desired, the ship has got out of our reach. We can therefore only endeavour to be better prepared for future occurrences of this kind, which we are told may be expected at the same place.”

*In Council, June 20, 1793.*

SIR,—A report has reached this board, that a British ship, consigned to Mr. Ireland, is preparing for sea in the port of Baltimore, and is to mount twelve pieces of ordnance, which she did not bring into the country, and which as it appears to us cannot be carried from hence to any of the ports of any of the European powers at war, without a deviation from the neutrality professed by the United States, even supposing that no use is intended to be made of them by the way; but as those guns are not taken as an article of merchandise, but are according to our information mounted professedly for the defence of the vessel, we can by no means be certain that they are not also designed for offensive measures; on which supposition it would become our duty to interfere effectually, so as to prevent the departure of the ship, until the President could be made acquainted with the circumstances. Our information is at present too vague to form a sufficient ground for an immediate interference. We therefore make it our request, that you would, immediately on the receipt of this letter, collect all the facts you can, with regard to the arming, loading, manning and destination of this vessel, and without loss of time transmit to this board the result of your inquiries, in order that we may then determine whether this comes within the description of cases in which we are instructed by the executive power of the United States to interfere. We are, &c.

THOMAS S. LEE.

To the Collector of the Customs at the port of Baltimore.

*Baltimore, June 21, 1793.*

His Excellency Thomas S. Lee, Esq.

THE Collector of the customs being absent in the country for the benefit of his health, I have the honour of receiving your excellency's communications respecting a British ship said to be preparing for sea. in an offensive

situation, inconsistent with the tenour of the President's proclamation, and the neutrality of the United States.

I presume that the ship *Trusty*, John A. Hale, master, is the vessel alluded to; she arrived at this port from Barbadoes, on the first day of March, and cleared for the same island, on the 17th of the present month, her cargo consisting of flour and lumber.

Mr. Ireland informed me that she mounts four small guns, that her crew consisted of twenty men when she arrived, and that she had not more than seventeen on board when she cleared. She is upwards of 300 tons burden.

Vague report, however, differing from the preceding account, I determined to go on board the ship for the purpose of obtaining accurate information, but was prevented by her getting under way and proceeding down the river, on her intended voyage. I have the honour to be, &c.

D. DELOSIER, Deputy Collector.

His Excellency Thomas S. Lee, Esq. Governour of Maryland.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary from the Republick of France to the United States.—Philadelphia, June 25, 1793.*

SIR,—In the absence of the President of the United States, I have consulted with the secretaries of the treasury and war, on the subject of the ship *William*, and generally of vessels suggested to be taken within the limits of the protection of the United States, by the armed vessels of your nation, concerning which I had the honour of a conversation with you yesterday, and we are so well assured of the President's way of thinking in these cases, that we undertake to say, it will be more agreeable to him, that such vessels should be detained under the orders of yourself, or of the consuls of France in the several ports, until the government of the United States shall be able to inquire into, and decide on the fact. If this arrangement should be agreeable to you, and you will be pleased to give the proper orders to the several consuls of your nation, the governours of the several states will be immediately instructed to desire the consul of the port to detain vessels on whose behalf such suggestions shall be made, until the government shall decide on their case. It may sometimes, perhaps, happen, that such vessels are brought

into ports where there is no consul of your nation resident, nor within any convenient distance. In that case, the governours would have to proceed to the act of detention themselves, at least until a consul may be called in.

I have the honour to be, &c. TH: JEFFERSON.

## TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the Republic of France, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, June 26, 1793, 2d year of the French Republic.*

SIR,—The letter which you have done me the honour to write since the departure of the President of the United States, contains dispositions worthy of your wisdom, and of the sentiments which characterize you. The arrangement which you propose, sir, suits us in every respect: I shall communicate them to the consuls and vice-consuls of the Republick, and in recommending them to conform to them, I shall add to the instructions already given on the subject of prizes, new regulations, the rigid execution of which will prove to the federal government, that we regard it as the first of our duties to respect all the rights of sovereignty of the United States, to undertake nothing that may be disagreeable to them, and to unite all our efforts to perpetuate and to cement more and more the connections which so happily unite our two republicks.

GENET.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France. Philadelphia, June 29, 1793.*

SIR,—The persons who reclaimed the ship William as taken within the limits of the protection of the United States, having thought proper to carry their claim first into the courts of admiralty, there was no power in this country which could take the vessel out of the custody of that court, till it should decide itself whether it had jurisdiction or not of the cause; having now decided that it has not jurisdiction, the same complaint is lodged with the Executive.

I have the honour to enclose you the testimony whereon the complaint is founded. Should this satisfy you that it is just, you will be so good as to give orders to the consul of France at this port, to take the vessel into his custody

and deliver her to the owners. Should it be over-weighed in your judgment, by any contradictory evidence, which you have, or may acquire, I will ask the favour of a communication of that evidence, and that the consul retain the vessel in his custody until the Executive of the United States consider and decide finally on the subject. I have the honour to be, &c. TH: JEFFERSON.

*Maryland, Saint Mary's County, ss.*

BENEDICT WHEATLEY, of Saint Mary's, regularly admitted and qualified as a branch pilot for the Chesapeake bay, and Potowmac river, being duly sworn, deposes and sayeth, that on Friday the third day of May last past, being on the look-out for inward bound vessels, fell in with the ship William, James Legget, master, from Germany, bound to Potowmac, about nine miles to the eastward of Cape Henry, he immediately took charge of the ship as pilot, and after being on board for one hour, and running into the mouth of the bay, with a leading wind, a small schooner hove in sight, coming out from the capes; she run up along side, fired one gun, and hailed the ship; captain Legget hoisted his English ensign, on which he was ordered from the schooner to strike; the colours after some time were hauled down, and a boat from the schooner, with a lieutenant and six or seven men, came on board and took possession of the ship, as a prize to the schooner Cincinnatus; a prize master was ordered on board, and all the hands of the ship were put on board the schooner, except the carpenter and two or three hands.

After the capture, an inquiry was made of the deponent what course would clear the middle ground. The necessary information was given, and he the deponent, after being offered a considerable reward to carry the ship to Philadelphia, declined it, and was put on board a pilot boat that came along side at the time.

The deponent further sayeth, that he understood from the captors, that the schooner was from Charleston, South Carolina, and commissioned at that place by the French ambassador, lately arrived from France; that the captain, whom the deponent did not see, was said to be a Frenchman, but all the men that boarded the ship appeared to be Americans or English. She mounted four guns and carried about fifty men; he further sayeth, that at the time the ship was boarded, the distance from the ship to the

lighthouse on Cape Henry, did not exceed five miles at the utmost. The deponent inquired what distance from the land they were authorized to take prizes; he was answered, not less than nine miles; on which he replied, that the ship at the time of capture was not half that distance from the lighthouse on Cape Henry.

BENEDICT <sup>his</sup> ✕ WHEATLEY.  
mark.

Sworn before me the subscriber, one of the justices of the peace for the county and state aforesaid, this 18th day of May, 1793.  
M. JONES.

*State of Maryland, St. Mary's County, to wit:*

THESE are to certify that Mordecai Jones, Esq. before whom the within deposition was made, and who in witness thereto appears to have subscribed his name, was at the taking and subscribing the same, and now is one of the justices of the peace of the state, and for the county aforesaid, thereunto duly authorized, commissioned and sworn, and that to all certificates of probates before him made, and by him signed, due faith and credit is and ought to be given, as well in justice court as thereout.

In testimony whereof I have hereunto set my hand and affixed the publick seal of office for St. Mary's county court, this 20th day of May, annoque domini, 1793.

TIMOTHY BOWES,  
Clerk of St. Mary's County Court.

By this publick instrument of protest be it made known and manifest unto all who shall see these presents, or hear the same read, that on the 18th day of May, in the year of our Lord, 1793, before me, Assheton Humphreys, notary and tabellion publick, in and for the commonwealth of Pennsylvania, by lawful authority duly admitted and sworn, dwelling in the city of Philadelphia, in the said commonwealth, personally appeared James Legget, late master of the ship William, now in this port of Philadelphia, John Whiteside, late chief mate of the said ship, James Ramsay, second mate, and James Manson, boatswain, belonging to the said ship, and being severally sworn on the Holy Evangelists of Almighty God, did respectively depose, testify, declare, and say in manner following, that is to say. that on or about the 16th day of

February last, they sailed in and with the said ship from Bremen, upon the river Weser, with the wind at north-east, bound on a voyage to Maryland, in North America, and on the 22d day of the same month, came to an anchor at Stromness, in the Orcades, with a contrary wind; that on the 27th day of March last, they sailed from Stromness aforesaid, with the wind at south-east; and on the 21st day of April last, the wind blowing very hard, split the foresail, which obliged them to lay the ship to, with the reefed mainsail, the wind being at west and by south; that on the 29th day of April aforesaid, being then in the latitude 36 degrees 36 minutes north, a heavy gale of wind blowing from the southeast, split the main-top-sail; and on the 3d day of May instant, at two o'clock, P. M. they got a pilot on board, and at four o'clock, P. M. of the same day, the said ship being then about two miles off the lighthouse at Cape Henry, in five fathom water, and as near the shore as the pilot on board judged it proper to go, the privateer schooner Genet, commanded by Peter Joanna, from Charleston, fired one gun at the said ship William, and desired them to haul down their colours and heave the ship's head to the eastward, the said lighthouse then bearing west-northwest; that the commander of the said privateer then took out of the said ship, the said master, chief mate, second mate, boatswain, four of the seamen belonging to the said ship, and one passenger, all of whom were put on board the said privateer, and a prize master and seven people were put on board the said ship, and the said ship sent up to this port of Philadelphia, where she now lies; and these appearers, with the said privateer, arrived at this port of Philadelphia, the 14th day of May instant, at about four o'clock in the morning; since which they have been let one by one, alternately on shore, until this day, when all of them being on shore, they took the opportunity, it being the first they have had, of protesting against the capture of the said ship William. Wherefore the said James Legget, John Whiteside, James Ramsay, and James Manson, for themselves, their owners, freighters, merchants, mariners, and all others interested or concerned in the said ship, or her cargo, have protested, and by these presents do solemnly protest against the capture of the said ship William, by the said privateer schooner Genet, and against all losses, costs, charges, damages, breaches of bills of lading, contracts, covenants, and agree-



ments whatsoever, already suffered, sustained, or occasioned, or which shall or may hereafter be suffered, sustained or occasioned, by reason or means of the premises, and against all incidents and consequence thereof; and persisting in the said protest, they the said master and other appearers have set ther hands hereunto, the day and year first within written. Thus done and protested at Philadelphia aforesaid, the day and year aforesaid.

JAMES LEGGET,  
JOHN WHITESIDE,  
JAMES RAMSAY,  
JAMES MANSON.

[L. s.] *Quod attestor manu et sigillo rogatus.*  
ASSHETON HUMPHREYS, Notarius Publicus, 1793.

I the within named notary do hereby certify and attest unto all whom it doth or may concern, that the foregoing writing doth contain a just and true copy of an original protest taken and made before me the said notary, and remaining of record in my notarial office, in the city of Philadelphia, and that I have carefully compared the said copy with its original, so remaining of record in my said office, and find it exactly to agree therewith.

In testimony whereof, I have hereunto set my hand and affixed my seal of office of notary, at Philadelphia aforesaid, this 23d day of May, in the year of our Lord, 1793.

ASSHETON HUMPHREYS, Notarius Publicus, 1793.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France. Philadelphia, June 29, 1793.*

SIR,—A complaint is lodged with the Executive of the United States, that the Sans Culottes, an armed privateer of France, did, on the 8th of May last, capture the British brigantine Fanny, within the limits of the protection of the United States, and sent the said brig as a prize into this port, where she is now lying.

I have the honour to enclose you the testimony whereon the complaint is founded. Should this satisfy you that it is just, you will be so good as to give orders to the consul of France at this port, to take the vessel into his custody, and deliver her to the owners. Should it be overweighed in your judgment, by any contradictory evidence which you have, or may acquire, I will ask the favour of a communication of that evidence, and that the consul retain

the vessel in his custody, until the Executive of the United States shall consider and decide finally on the subject.

I have the honour to be, &c.

THOMAS JEFFERSON.

*Virginia, to wit :*

To all persons whom it may concern, I, John Nivison, notary publick for the district of Norfolk, by lawful authority duly admitted and qualified, do hereby certify and make known, that captain Michael Pile, late master of the brig Fanny, David Mac Intosh, mate, and John Mac Cattie, one of the sailors, personally appeared before me, and being duly sworn on the Holy Evangelists of Almighty God, deposed and said, that they sailed from Lucia in the island of Jamaica, on the fourteenth day of April last, having on board a cargo of rum and sugar, and bound on a voyage to Baltimore, she being in good order for the voyage; that on the seventh day of May, at ten P. M. being off the mouth of the Chesapeake bay, Cape Henry bearing, by computation, N. W. by W. distant about seven leagues, they were hailed by a schooner, and were informed that there was a pilot on board for the Chesapeake—they answered that they should not stay for a pilot till the morning—that the wind being at N. E. they steered N. N. W. sailing at the rate of four miles per hour, until half past four A. M. on the eighth, when being in eight fathom of water, Cape Henry bearing N. W. by W. or N. W. distant as above, by computation, four or five miles, they were captured by the boat aforesaid, which to their great surprise, proved to be a French privateer, called the Sans Culottes, I. B. A. Ferry, commander, mounting four guns and two swivels, manned with forty-five men—that they were deprived of the vessel and cargo aforesaid, and were detained on board the privateer until the eleventh of the same month, when they were set on shore in Lynn Haven Bay, in the state aforesaid, and that on the same day they arrived at Norfolk.

MICHAEL PILE, master;

DAVID MAC INTOSH, mate;

JOHN MAC CATTIE, seaman.

Wherefore, I the said notary publick, at the request of the said deponents, did and do now hereby solemnly protest against the privateer and her crew, for all the losses, costs, charges, damages and expenses, suffered or to be

suffered by any person or persons whomsoever interested or concerned in the said brig or her cargo, or any part thereof, on her voyage aforesaid, by reason of the capture by the privateer aforesaid.

In testimony whereof, I have hereto set my hand, and caused to be affixed the seal of my office, this 18th day of May, 1793.

[L. s.]

JOHN NIVISON, Not. Pub.

*British Consul's office, State of Virginia.*

THESE are to certify, that John Nivison, Esq. before whom the foregoing protest was made, is notary publick for the district of Norfolk, in the state aforesaid, and that full faith and credit is justly due to such his attestation.

Given under my hand and seal of office at Norfolk, this 14th of May, 1793.

[L. s.]

JOHN HAMILTON, Consul.

*City of Philadelphia, ss.*

MICHAEL PILE, master of the brigantine Fanny, of London, being duly sworn on the Holy Evangelists of Almighty God, deposeth and sayeth: That he sailed from Lucia, in the island of Jamaica, on the fourteenth day of April last, bound to Baltimore, in Maryland, having a cargo of rum and sugar on board, the said brigantine being then in good condition; that on the 7th of May, at ten o'clock, P. M. he, this deponent, being then in the said brigantine, off the mouth of the Chesapeake bay, Cape Henry then bearing, by computation, N. W. by W. distant about seven leagues, he was hailed by a schooner and informed there was a pilot for the Chesapeake on board, to which this deponent answered that he should not stay for a pilot till the morning; that this deponent hailed the schooner, and asked how Cape Henry bore, and what distance? and was answered from the schooner, that Cape Henry bore N. W. and by W. twenty miles distant. That the wind being at N. E. this deponent steered N. N. W. going at the rate of about four miles an hour, until half past four o'clock, or thereabouts, A. M. on the eighth of May, when being in eight fathom water, Cape Henry, at that time, bearing N. W. by W. or N. W. distant about four or five miles, the said brigantine Fanny was captured by the said schooner, which, to the great surprise of this deponent, proved to be a privateer, having on board a commission said to have

been granted by the French consul at Charleston, in South Carolina; the said privateer, called the *Sans Culottes*, was commanded by J. B. A. Terry, mounted four guns and two swivels, and manned with forty-five men; that this deponent, the officers and crew of the said brigantine were all put on shore, on the eleventh of May, in Lynn Haven Bay, in Virginia; that the said brigantine was sent to Philadelphia, whither this deponent came to claim the vessel and cargo; but the officers and crew of the said brigantine being destitute of friends and money, engaged themselves on board other vessels in Virginia, for the purpose of supporting themselves, and being thus dispersed, and separated from the said brigantine, he, this deponent is thereby deprived of their testimony, which he could have obtained, if they had been sent into the port of Philadelphia, with the said brigantine; and further this deponent saith not.

Taken and sworn, at the city of Philadelphia, this 24th day of June, 1793, before me,

JOHN BARCLAY, Alderman.  
MICHAEL PILE.

TRANSLATION.

*The Minister of the French Republick with the United States, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, July 3, 1793, 2d year of the French Republick.*

SIR,—The French armed vessel *le Vainqueur de la Bastille*, of American construction, and heretofore bearing the name of Hector, has sailed from Charleston, furnished with a French commission, and her old American register, which the commander, Hervieux, sent to the customhouse, after having cleared the bar of that port.

This conduct, condemnable only for its timidity, has led the customhouse of Charleston to require the government of South Carolina to cause him to be arrested; and in consequence *le Vainqueur de la Bastille* has been seized at Wilmington, together with a prize which she took in there. The laws of the United States inflict no punishment in the present case, only where there has been an intention of avoiding the duties imposed by the United States; and as it is proved by the war-commission and by the instructions in captain Hervieux's possession, that he went out of the port of Charleston only to resist, as much as possible, the

unjust attacks of our enemies, a duty which all the treaties authorize him to fulfil, and which no law of the United States, and consequently no order of the Executive of these states, can forbid him to fulfil, I request you, sir, to desire of the federal government the liberation of captain Hervieux, and of his crew of the *Vainqueur de la Bastille*, heretofore the *Hector*, and of her prize, now detained in the port of Wilmington, North Carolina.

GENET.

*The Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State. Philadelphia, July 9, 1793, 2d year of the French Republick.*

SIR,—You required of me details relative to the brigantine *la Petite Democrat*, heretofore *la Petite Sarah*, at present armed, and ready to go out of the Delaware. They are as follow:—This vessel, sir, of English property, armed by our enemies with four cannon and other arms, was taken by the *Embuscade* frigate, belonging to the Republick of France, and sent into Philadelphia. Her construction being elegant and solid, her bottom coppered, and a swift sailer, her masts and rigging being in a good condition, I have thought on the report of the captain of the *Embuscade*, and other enlightened mariners, that the acquisition of this vessel would be advantageous to the marine of the Republick; and this consideration, joined to the desire I had of finding employment for a great number of French marines, who were here exposed to the dangers which often attend idleness, and to misery, determined me to take her on account of the state.

I have had her repaired. I have completed her armament, with cannon which I found on board of four French vessels, and given the command of her to citizen Amiot, ensign of the Republick, and when ready, I shall despatch her with a commission of the Executive Council, and with my particular instructions. I should confine myself, sir, to represent to you these facts, which require no discussion on my part, and which cannot create any difficulty on that of your government. When treaties speak, the agents of nations have but to obey. Accept, sir, my esteem and respect.

GENET.

*The Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, July 9, 1793, 2d year of the French Republick.*

SIR,—The consul of the French Republick, in this state, four days ago requested the governour of Pennsylvania to order out of the port of Philadelphia the Jane, an English privateer, armed with sixteen cannon, which vessel came in the fourth of this month, without any appearance of distress.

The governour replied to him, that he could not take any measures, in this respect, during the absence of the President of the United States. Although this reply, sir, is accompanied with very obliging and amicable expressions, I think it my duty to observe, that according to the tenour of the XXII article of our treaty of amity and commerce, it is not necessary to await the decision of the President to cause this privateer to depart, not having come in here in distress, and having had time to take in more provisions than is necessary to go to the nearest port of the power under which she holds her commission, and according to different reports which I have just received, is augmenting her armament.

The treaties being considered by the American people as the most sacred laws, the local governments of the United States are bound to acknowledgē them, and all the magistrates obliged to execute them without delay. I therefore request you, sir, to present these considerations to the governour of Pennsylvania, and induce him to fulfil, against the privateer Jane, the duties which our treaties impose on him.

GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, July 12, 1793.*

SIR,—The President of the United States, desirous of having done what shall be strictly conformable to the treaties of the United States and laws, respecting the several representations received from yourself and the minister plenipotentiary of Great Britain, on the subject of vessels arming or arriving within our ports, and of prizes, has determined to refer the questions arising thereon to persons learned in the laws. As this reference will occasion some delay, he will expect from both parties, that in the

mean time the Little Sarah, or Little Democrat, the ships Jane and William, in the Delaware, the Citoyen Genet and her two prizes, the Lovely Lass and Prince William Henry, and the brig Fanny, in the Chesapeake, do not depart until his ultimate determination shall be made known. You may be assured, sir, that the delay will be as short as possible, and the object of it being to obtain the best advice possible on the sense of the laws and treaties respecting the several cases, I am persuaded you will think the delay well compensated. I have the honour to be, &c.

TII: JEFFERSON.

*The Citizen Genet, Minister from the French Republick to the United States, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, July 9, 1793, 2d year of the Republick.*

SIR,—I have already frequently had the honour of conversing with you on the revolting treatment, which the English vessels of war use on the high seas towards American vessels. I have informed you of the severe visits to which they subject them, and of the seizures they make on board of them, and under the protection of the flag of the United States, of the persons and property of the French citizens.

The reports of all the navigators attest the truth of these facts, and the complaints enclosed present new proofs. I request you, sir, to communicate them to the President of the United States, and to be so obliging as to inform me of the measures he has taken, or those he proposes to take, to cause our enemies to respect the flag of the United States as much as we ourselves do, and to have delivered to our fellow citizens the property of which they have unjustly been deprived.

I must observe to you, sir, that, as the English will probably continue to carry off with impunity our citizens, and their property, on board of American vessels, without embarrassing themselves with the philosophical principles proclaimed by the President of the United States, the engagements we have contracted with you, placing us in the most disadvantageous position, with respect to our enemies, in depriving us of the privilege of using at every point, with regard to them, the right of reprisals, it is as necessary for your as for our interest, that we should agree quickly to take other measures. I expect immediately,

sir, a positive answer from the federal government on this subject; and I hope, that it will comport with the dignity and justice of the American people, who ought not to require, if they are not at present in a situation to compel the English to justice, whom they have formerly conquered, that we should expose ourselves and them longer, by a misplaced complaisance, to the insults of that nation, towards whom generous proceedings generally lead only to new outrages.

GENET.

COPY OF A DECLARATION AND PROTEST. JUNE 27, 1793.

*This day, the 27th of June, 1793, 2d year of the French Republick, past 12 o'clock, Afternoon.*

BEFORE us, John Baptist Lemaire, Chancellor of the Consulate of the said Republick, established at Philadelphia, in the state of Pennsylvania, one of the United States of America, the undersigned, and in the presence of the witnesses hereafter named, appeared the citizen Silvat Du Camp, *de la Bastille Clairance*, department of ———, for the purpose of saying and declaring,

That having departed from the island of St. Lucie, on the 9th of May, 1793, as passenger on board the American brigantine Columbia, captain John Green, of this city of Philadelphia, for this port, an English privateer, the brigantine Fanny, captain Bloomsbury, of St. Vincent, captured the said brigantine *Columbia*, without any regard to her flag, on the 13th of the said month of May last, and conducted her into the port of Basseterre, Saint Christophers, where he arrived the same day, and where he found six or seven other American vessels, which had also been carried in there by force.

That the merchandises that he had on board the said brigantine Columbia consisted of three barrels of raw sugar, seven bales of cotton, eight casks and eight bags of coffee, twelve pieces of handkerchief of Bearn, and about 4500 livres currency of the islands, of French and Spanish coins, the whole amounting to 21,909l. 10s. 6 deniers, money of the islands, as appears by an invoice, dated the ———, of the appearer, and a bill of lading, of the same month of May, signed John Green, jun., exhibited to us by the appearer, and which, at his request, shall be annexed to these presents, after having been certified by him to be authentick, and by us compared with the original.



That the above sugar, cotton and coffee, was shipped partly on account and risk of citizen John Mercié, of Bordeaux, owner of the ship Titus of Bordeaux, and partly on account and risk of sundry other persons interested.

That the intention of the appearer had been, to dispose of the said sugar, cotton and coffee, on account of the above mentioned John Mercié, and of all those concerned in it, on his arrival at Philadelphia.

That on his arrival at Saint Christophers, all the merchandise already mentioned were debarked and seized by the admiralty of that place, as is proved by the certificate of E. Moore, secretary of the said admiralty, placed underneath the deposition which the said appearer had made before the English judge, Archibald Esdale, at the said island of Saint Christophers, and which he presented to us, and at his request, is hereunto annexed, to recur to, duly certified and compared according to the ordinance.

That of the whole of the above, the said appearer having required a certificate, we, the Chancellor above mentioned, have, by these presents, granted the same, to avail him as it may of right.

The said appearer expressly declaring and protesting, for all losses, and for all expenses of damages and interests, against the said English privateer the brigantine Fanny, captain Bloomsbury, against the said admiralty of Saint Christophers, and against all others whom it may concern, for the carrying off and seizure made by them of all the said merchandises from on board the said American brigantine Columbia, captain Green, in contempt of the dignity of the American nation.

Done at Philadelphia, in the Chancery of the Consulate of the French Republick, the said day, month, and year above mentioned, in the presence of the citizens Martin, Oster and Peter Barriere, residents in this city, who have signed the same with us and the said appearer, after having read the same.

The minutes of the present remaining in the Chancery.

J. BE. LEMAIRE.

Examined by us, consul of the French Republick, at Philadelphia, this 18th July, 1793, 2d year of the Republick.

FROIS. DUPONT.

Certified conformable to the original. GENET.

*We the undersigned passengers on board the galliot, the Regulator, captain White, bound from Jeremie to Baltimore, in the state of Maryland.*

Declare—

THAT having sailed on the night of the 21st May, 1793, we on the 23d, at three in the morning, met four French frigates, that one of them having fired a cannon, ordered us to hoist out our boat, that one of the officers came on board, examined the papers of the captain of the galliot, examined one of our passports, and then retired, testifying his regret at having detained us.

That on the 25th, about six in the morning, being under the great Inague, and very close to the land, we saw a sloop who weighed anchor to the windward, bearing down upon us, fired a cannon at us and hoisted an English flag, sent five armed men on board of us, who rendered an account by a trumpet, that the vessel was laden with coffee and cotton, and that there were some negro slaves on board. But at the moment there appeared two other vessels, towards which the privateer immediately steered, ordering us to anchor. These two vessels were found also to be American, and were in like manner obliged to come to anchor. A third appeared some time after, and was likewise ordered to anchor.

The privateer was employed in visiting these three vessels until four in the afternoon, during which time we were under the guard of five men, who presented themselves to us more like pirates coming to seize their prey, than as privateers who have an intention to respect a neutral flag. These men whose countenances led us to believe them capable of realizing the most sinister things, prepared us for an event which would at the same time have injured us, in making us fail in the object of our voyage. They informed us that we were to be carried into Jamaica.

At four in the afternoon, the captain of the privateer came on board of us with ten armed men, they drove all the passengers out of their state rooms, with a naked sword in one hand and a pistol in the other, appearing disposed to proceed to violence, without the least effort on the part of their captain to check them. In an instant all the effects of the passengers were ransacked. In vain did captain White present to them his papers, and endeavour to stop them, they paid no attention and scarcely looked at them.

The representations of these hostile acts, rendering them still more violent, they threatened those who endeavoured to reason with them. They broke the locks of the trunks without waiting till the keys were found, they raised a part of the plank of the cabin, they rummaged the captain's trunk, they found money there, seized it and gave it to one of their people to take care of. At the same time they went to the fore-castle, they broke open every thing that was locked up. They forced the partitions which separate the births. They cut open a great quantity of coffee bags.

Having however found nothing in this search, made with the greatest brutality, which falsified the assertion of captain White as to the property of the cargo, they appeared much embarrassed at the part they should take with respect to us. They in particular made offers to some of the seamen to depose against the declarations of our captain, they sent three of them on board the privateer, whom they endeavoured equally, but as unsuccessfully, to seduce.

This vexatious conduct was interrupted by night coming on. It may be conceived how we passed it, it did not to us appear probable that men who appeared to breathe nothing but pillage and robbery, would allow this opportunity to escape.

On the 26th, as soon as day appeared, captain White was called on board the privateer, where several disputes arose, in which some wished to have the vessel carried into Jamaica, others that the passengers with their effects should be put on board as prisoners, and others that the captain's trunk containing money should be seized. others in fine, that they should seize the negro slaves, or send captain White back with a new detachment, who should continue to search the effects and vessel.

We observed among this brutal and greedy horde, a man who not only disapproved the conduct of the others, but also appeared very much opposed to the attempt which he saw them determined to commit in one way or another on neutral property. This was the surgeon of the privateer, perhaps he might have had sufficient ascendancy to hinder them from taking the vessel, but he could not doubtless obtain every thing: at eight o'clock the privateer gave orders to the detachment which guarded us, to bring off the negroes and return on board. They at the same time permitted captain White to hoist sail. He set sail in

order to go and reconnoitre two vessels which were making for the entrance.

Under these circumstances, captain White, as well as the passengers, having no means of reclamation, the former against the hostile proceedings of the privateer, the latter against the carrying off the negroes, could do no otherwise than follow their destination, reserving to themselves the privileges of their respective rights against this piracy.

Several men belonging to the privateer have given us information relative to this vessel, and the captain by the particular information of the surgeon. The vessel is called the *Joseph and Mary*, of Kingston, island of Jamaica, commanded by David Harris, owners M. M. Allen and White. Captain Harris appeared to us to be a weak, indecisive man, without character, having no authority over his crew, and we cannot help thinking that in this encounter, at the mercy of a crew of fifty or sixty men, the most of whom eager for plunder, without any subordination, the vessel, our persons and our property, have been in the greatest danger.

Done on board the galliot called the *Regulator*, captain White, the 7th June, 1793.

SIMON WHITE, Captain.

LEWIS JEWELL, Master.

PETER NOUVEL,	} Passengers.
CHOUQUET DE SAVAREAU,	
GASTIN DE NOGERE,	
G. BENTIER,	

Certified to be conformable to the original. GENET.

*The Citizen Genet, Minister of the Republick of France, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, July 25, 1793, 2d year of the Republick of France.*

SIR,—I receive daily new complaints on the insults which the English are pleased to commit against the flag of the United States, the papers here enclosed will prove to you that the sovereignty of your country is violated with impunity, not by the legitimate exercise which we have thought proper to make of some rights granted to us by treaty, but by the spoliation, the pillage, the bad treatment exercised by our enemies in contempt of your laws,

and even under shadow of the signs of your sovereignty. On all the seas an audacious piracy pursues even in your vessels French property, and also that of the Americans when destined for our ports—your political rights are counted for nothing: in vain do the principles of neutrality establish, that friendly vessels make friendly goods: in vain, sir, does the President of the United States endeavour, by his proclamation, to reclaim the observation of this maxim; in vain does the desire of preserving peace lead to sacrifice the interests of France to that of the moment; in vain does the thirst of riches preponderate over honour in the political balance of America: all this management, all this condescension, all this humility, end in nothing; our enemies laugh at it; and the French, too confident, are punished for having believed that the American nation had a flag, that they had some respect for their laws, some conviction of their strength, and entertained some sentiment of their dignity. It is not possible for me, sir, to paint to you all my sensibility at this scandal, which tends to the diminution of your commerce, to the oppression of ours, and to the debasement and vilification of republicks. It is for the Americans to make known their generous indignation at this outrage, and I must confine myself to demand of you, a second time, to inform me of the measures which you have taken in order to obtain restitution of the property plundered from my fellow citizens under the protection of your flag. It is from our government they have learned that the Americans were our allies, that the American nation was sovereign, and that they knew how to make themselves respected. It is then under the very sanction of the French nation that they have confided their property and persons to the safeguard of the American flag, and on her they submit the care of causing those rights to be respected. But if our fellow citizens have been deceived, if you are not in a condition to maintain the sovereignty of your people, speak; we have guaranteed it when slaves, we shall be able to render it formidable, having become freemen.

Accept, sir, &c.

GENET.

*This day the 18th July, 1793, 2d year of the French Republick,*

APPEARED before us, Francis Dupont, consul of the French Republick, at Philadelphia, in the state of Pennsyl-

vania, the undersigned citizen la Roussie, merchant of Bordeaux, now in this city of Philadelphia, who declared to us that having departed from St. Mark the 12th June last, in the American brigantine, the Governour Pinckney, of Charleston, captain D. Jenkins, belonging to Mr. Therick of the said place, the said vessel was stopped before the Mole on the 14th of said month, by a privateer of the colony of Saint Vincent, who after having visited them and finding nothing which could lead them to doubt the vessel's being really American property, carried them in under the sole pretext, that they had on board said vessel some French passengers; the declarer complaining that they plundered his trunk of two watches, a chain, and a medal, a golden key and thirty-two half johannes, and other effects in linen, which places him in a cruel position, that they were carried into Providence where they remained only eleven days, at a fourth of a dollar per day, at the end of which time they were set at liberty, because the island began to want provisions, and that they were there in too great numbers. The declarer had put on board on account of sundry persons, and to the bearer of the bill of lading, seven hogsheads, twelve tierces and fifty-three sacks of coffee; eight large and four small bales of cotton, and twelve quarters of sugar, which the American captain, whom he supposes to have been gained over, as well as some others of those who were carried into the said port, declared to be French property.

In testimony whereof, the said appearer has signed the present with us, in presence of the two undersigned witnesses.

LA ROUSSIE, BINET, OSTER, and  
FROIS. DUPONT.

Certified conformable to the original. GENET.

THE undersigned citizens declare, That having departed from *Cayemite, department de la Grande Ance*. the 2d June last, in the American brig Ranger, captain Perkins, bound for New York, they were visited, in clearing the entrance of Inague, by an English privateer, armed by Monsieur Moz, merchant, of Nassau, Providence, who made them prisoners, and carried them into said place. The undersigned would have avoided exposing their fortunes in time of war, had they not counted on the invio-

lability of treaties of neutrality, which should naturally guarantee all property on board of a neutral vessel; notwithstanding this consideration was frequently urged to the privateer, he plundered us of 230,000 pounds of coffee, belonging as well to us as four other passengers of the said brig, observing that we were a good prize, according to a paper called a proclamation of General Washington, conveying, in substance, that the property of subjects of the belligerent powers might be taken on board American vessels.

In testimony whereof we have deposited the present declaration in the Chancery of the Consulate of the French Republick, in order to establish our right at a proper time and place.

*New York, July 30, 1793, 2d year of the French Republick.*

Signed in original, Morles and M. Sarrazin Guel Ve. le Sieur, Boithon, and Lamarque, *par main d'emprunt.*

Certified to be conformable to the original deposited in the Chancery of the Consulate at New York.

GENET.

*Copy of a letter to Citizen Genet, from Conyngham Nesbitt and Co. Philadelphia, July 26, 1793.*

SIR,—We have just received advice, that the ship Sally, captain Griffith, loaded by us with flour, from Baltimore for Havre, is just returned to said place, after having been captured by a privateer, and carried into Guernsey or Jersey. The protests and papers will be sent us by the next post. The captain further informs, that they had also captured the ship Columbia, of Baltimore, having on board the French minister drove from Portugal.

Whenever we receive further intelligence, we shall communicate it to you.

Being, with respect, sir, yours, &c.

Certifié conforme à la lettre de M. M. Conyngham Nesbitt et Co. qui est restée entre mes mains à Philadelphie, le 26 Juillet. 1793, Pan 2d. GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, July 24, 1793.*

SIR,—Your favour of the 9th instant covered the information of Silvat Ducamp, Pierre Nouvel, Chouquet de Savarence, Gaston de Nogere, and G. Beustier, that being on their passage from the French West Indies to the United States, on board merchant vessels of the United States, with slaves and merchandise of their property, these vessels were stopped by British armed vessels, and their property taken out as lawful prize.

I believe it cannot be doubted, but that, by the general law of nations, the goods of a friend found in the vessel of an enemy are free, and the goods of an enemy found in the vessel of a friend are lawful prize. Upon this principle, I presume, the British armed vessels have taken the property of French citizens found in our vessels, in the cases above mentioned, and I confess I should be at a loss on what principle to reclaim it. It is true, that sundry nations, desirous of avoiding the inconveniences of having their vessels stopped at sea, ransacked, carried into port, and detained, under pretence of having enemy goods on board, have, in many instances, introduced, by their special treaties, another principle between them, that enemy bottoms shall make enemy goods, and friendly bottoms friendly goods; a principle much less embarrassing to commerce, and equal to all parties in point of gain and loss; but this is altogether the effect of particular treaty, controlling, in special cases, the general principle of the law of nations, and therefore taking effect between such nations only as have so agreed to control it. England has generally determined to adhere to the rigorous principle, having in no instance, as far as I recollect, agreed to the modification of letting the property of the goods follow that of the vessel, except in the single one of her treaty with France. We have adopted this modification in our treaties with France, the United Netherlands and Prussia, and therefore, as to them, our vessels cover the goods of their enemies, and we lose our goods when in the vessels of their enemies. Accordingly, you will be pleased to recollect, that in the late case of Holland and Mackie, citizens of the United States, who had laden a cargo of flour on board a British vessel, which was taken by the French frigate *Ambuscade*, and brought into this port; when I



reclaimed the cargo, it was only on the ground that they were ignorant of the declaration of war when it was shipped. You observed however, that the 14th article of our treaty had provided that ignorance should not be pleaded beyond two months after the declaration of war, which term had elapsed, in this case, by some few days; and finding that to be the truth, though their real ignorance was equally true, I declined the reclamation, as it never was in my view to reclaim the cargo, nor in yours to offer to restore it, by questioning the rule established in our treaty, that enemy bottoms make enemy goods. With England, Spain, Portugal and Austria, we have no treaties, therefore we have nothing to oppose to their acting according to the general law of nations, that enemy goods are lawful prize, though found in the bottoms of a friend. Nor do I see that France can suffer on the whole, for though she loses her goods in our vessels, when found therein by England, Spain, Portugal, or Austria, yet she gains our goods, when found in the vessels of England, Spain, Portugal, Austria, the United Netherlands or Prussia; and I believe I may safely affirm, that we have more goods afloat in the vessels of these six nations, than France has afloat in our vessels, and consequently, that France is the gainer, and we the loser, by the principle of our treaty; indeed we are losers in every direction of that principle; for when it works in our favour, it is to save the goods of our friends, when it works against us, it is to lose our own, and we shall continue to lose while the rule is only partially established. When we shall have established it with all nations, we shall be in a condition neither to gain nor lose, but shall be less exposed to vexatious searches at sea. To this condition we are endeavouring to advance; but as it depends on the will of other nations, as well as our own, we can only obtain it when they shall be ready to concur.

I cannot therefore but flatter myself, that, on revising the cases of Ducamp and others, you will perceive, that their losses result from the state of war, which has permitted their enemies to take their goods, though found in our vessels, and consequently, from circumstances over which we have no control.

The rudeness to their persons practised by their enemies, is certainly not favourable to the character of the latter. We feel for it as much as for the extension of it to our own citizens, their companions, and find in it a motive for re-

quiring measures to be taken, which may prevent repetitions of it. I have the honour to be, &c.

TH : JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, Aug. 7, 1793.*

SIR,—In a letter of June 5th, I had the honour to inform you, that the President, after reconsidering, at your request, the case of vessels armed within our ports to commit hostilities on nations at peace with the United States, had finally determined, that it could not be admitted, and desired, that all those, which had been so armed, should depart from our ports. It being understood afterwards that these vessels either still remained in our ports, or had only left them to cruise on our coasts, and return again with their prizes, and that another vessel, the *Little Democrat*, had been since armed at Philadelphia, it was desired in my letter of the 12th of July, that such vessels with their prizes should be detained, till a determination should be had of what was to be done under these circumstances. In disregard, however, of this desire, the *Little Democrat* went out immediately on a cruise.

I have it now in charge to inform you, that the President considers the United States, as bound, pursuant to positive assurances, given in conformity to the laws of neutrality, to effectuate the restoration of, or to make compensation for, prizes, which shall have been made, of any of the parties at war with France, subsequent to the 5th day of June last, by privateers fitted out of our ports.

That it is consequently expected, that you will cause restitution to be made of all prizes taken and brought into our ports, subsequent to the above mentioned day, by such privateers; in defect of which, the President considers it as incumbent upon the United States, to indemnify the owners of those prizes. The indemnification to be reimbursed by the French nation.

That, besides taking efficacious measures to prevent the future fitting out privateers in the ports of the United States, they will not give asylum therein, to any which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall be hereafter brought within their ports, by any of the said privateers.

It would have been but proper respect to the authority

of the country, had that been consulted before these armaments were undertaken. It would have been satisfactory, however, if their sense of them, when declared, had been duly acquiesced in. Reparation of the injury, to which the United States have been made so involuntarily instrumental, is all which now remains, and in this your compliance cannot but be expected.

In consequence of the information given in your letter of the 4th instant, that certain citizens of St. Domingo, lately arrived in the United States, were associating for the purpose of undertaking a military expedition, from the territory of the United States, against that island, the governour of Maryland, within which state the expedition is understood to be preparing, is instructed to take effectual measures to prevent the same. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Morris, Minister Plenipotentiary of the United States with the Republick of France. Philadelphia, Aug. 16, 1793.*

SIR.—In my letter of June 13th, I enclosed to you the copies of several letters, which had passed between Mr. Ternant, Mr. Genet, and myself, on the occurrences to which the present war had given rise within our ports. The object of this communication was to enable you to explain the principles on which our government was conducting itself towards the belligerent parties; principles which might not in all cases be satisfactory to all, but were meant to be just and impartial to all. Mr. Genet had been then but a little time with us; and but a little more was necessary to develop in him a character and conduct, so unexpected, and so extraordinary, as to place us in the most distressing dilemma, between our regard for his nation, which is constant and sincere, and a regard for our laws, the authority of which must be maintained; for the peace of our country, which the executive magistrate is charged to preserve; for its honour, offended in the person of that magistrate; and for its character, grossly traduced in the conversations and letters of this gentleman. In the course of these transactions, it has been a great comfort to us to believe, that none of them were within the intentions or expectations of his employers. These had been too recently expressed in acts which nothing could discolour, in

the letters of the executive council, in the letters and decrees of the national assembly, and in the general demeanour of the nation towards us, to ascribe to them things of so contrary a character. Our first duty, therefore, was to draw a strong line between their intentions, and the proceedings of their minister; our second, to lay those proceedings faithfully before them.

On the declaration of war between France and England, the United States being at peace with both, their situation was so new and unexperienced by themselves, that their citizens were not, in the first instant, sensible of the new duties resulting therefrom, and of the restraints it would impose even on *their dispositions* towards the belligerent powers. Some of them imagined (and chiefly their transient seafaring citizens) that they were free to indulge those dispositions, to take side with either party, and enrich themselves by depredations on the commerce of the other, and were meditating enterprises of this nature, as there was reason to believe. In this state of the publick mind, and before it should take an erroneous direction, difficult to be set right, and dangerous to themselves and their country, the President thought it expedient, through the channel of a proclamation, to remind our fellow citizens, that we were in a state of peace with all the belligerent powers; that in that state it was our duty neither to aid nor injure any; to exhort and warn them against acts which might contravene this duty, and particularly those of positive hostility, for the punishment of which the laws would be appealed to; and to put them on their guard also as to the risks they would run, if they should attempt to carry articles of contraband to any. This proclamation, ordered on the 19th, and signed the 22d day of April, was sent to you in my letter of the 26th of the same month.

On the day of its publication, we received through the channel of the newspapers, the first intimation that Mr. Genet had arrived on the 8th of the month at Charleston, in character of minister plenipotentiary from his nation to the United States, and soon after, that he had sent on to Philadelphia the vessel in which he came, and would himself perform the journey by land. His landing at one of the most distant ports of the Union from his points both of departure and destination, was calculated to excite attention; and very soon afterwards we learnt that he was undertaking to authorize the fitting and arming of vessels in

that port, enlisting men, foreigners and citizens, and giving them commissions to cruise and commit hostilities on nations at peace with us; that these vessels were taking and bringing prizes into our ports; that the consuls of France were assuming to hold courts of admiralty on them, to try, condemn, and authorize their sale as legal prize, and all this before Mr. Genet had presented himself or his credentials to the President, before he was received by him, without his consent or consultation, and directly in contravention of the state of peace existing, and declared to exist in the President's proclamation, and incumbent on him to preserve till the constitutional authority should otherwise declare. These proceedings became immediately, as was naturally to be expected, the subject of complaint by the representative here of that power against whom they would chiefly operate. The British minister presented several memorials thereon, to which we gave the answer of May 15th, heretofore enclosed to you, corresponding in substance with a letter of the same date, written to Mr. Ternant, the minister of France then residing here, a copy of which I send herewith. On the next day Mr. Genet reached this place, about five or six weeks after he had arrived at Charleston, and might have been at Philadelphia, if he had steered for it directly. He was immediately presented to the President, and received by him as the minister of the Republic; and as the conduct before stated seemed to bespeak a design of forcing us into the war, without allowing us the exercise of any free will in the case, nothing could be more assuaging than his assurances to the President at his reception, which he repeated to me afterwards in conversation, and in publick to the citizens of Philadelphia, in answer to an address from them, that, on account of our remote situation and other circumstances, France did not expect that we should become a party to the war, but wished to see us pursue our prosperity and happiness in peace. In a conversation a few days after, Mr. Genet told me that M. de Ternant had delivered him my letter of May 15; he spoke something of the case of the Grange, and then of the armament at Charleston; explained the circumstances which had led him to it before he had been received by the government and consulted its will; expressed a hope that the President had not so absolutely decided against the measure but that he would hear what was to be said in support of

it; that he would write me a letter on the subject, in which he thought he could justify it under our treaty; but that if the President should finally determine otherwise, he must submit: for that assuredly his instructions were to do what would be agreeable to us. He accordingly wrote the letter of May 27. The President took the case again into consideration, and found nothing in that letter which could shake the grounds of his former decision. My letter of June 5th, notifying this to him, his of June 8 and 14, mine of the 17th, and his again of the 22d, will show what further passed on this subject, and that he was far from retaining his disposition to acquiesce in the ultimate will of the President.

It would be tedious to pursue this and our subsequent correspondences through all their details. Referring therefore for these to the letters themselves, which shall accompany this, I will present a summary view only of the points of difference which have arisen, and the grounds on which they rest.

1st. Mr. Genet asserts his right of arming in our ports, and of enlisting our citizens, and that we have no right to restrain him or punish them. Examining this question under the law of nations, founded on the general sense and usage of mankind, we have produced proofs from the most enlightened and approved writers on the subject, that a neutral nation must, in all things relating to the war, observe an exact impartiality towards the parties; that favours to one to the prejudice of the other, would import a fraudulent neutrality, of which no nation would be the dupe; that no succour should be given to either unless stipulated by treaty, in men, arms or any thing else directly serving for war; that the right of raising troops, being one of the rights of sovereignty, and consequently appertaining exclusively to the nation itself, no foreign power or person can levy men, within its territory, without its consent; and he who does, may be rightfully and severely punished: that if the United States have a right to refuse the permission to arm vessels and raise men within their ports and territories, they are bound by the laws of neutrality to exercise that right, and to prohibit such armaments and enlistments. To these principles of the law of nations, Mr. Genet an-

Letters, June 8.  
22. 1. May 27.

June 27.  
Vattel l. 3. s. 104.

Wolf, 1174.  
Vattel, 3, s. 15.

June 22. swers by calling them 'diplomatic subtleties' and 'aphorisms of Vattel and others.' But something more than this, is necessary to disprove them: and till they are disproved, we hold it certain that the law of nations and the rules of neutrality forbid our permitting either party to arm in our ports.

June 22. s. But Mr. Genet says, that the 22d article of our treaty allows him *expressly* to arm in our ports.

Why has he not quoted the very words of that article, *expressly* allowing it? For that would have put an end to all further question. The words of the article are, "It shall not be lawful for any foreign privateers, not belonging to subjects of the Most Christian King, nor citizens of the said United States, who have commissions from any prince or state in enmity with either nation, to fit their ships in the ports of either the one or the other of the aforesaid parties." Translate this from the general terms in which it here stands, into the special case produced by the present war. "Privateers not belonging to France or the United States, and having commissions from the enemies of one of them" are, in the present state of things, "British, Dutch and Spanish privateers." Substituting these then for the equivalent terms, it will stand thus, "It shall not be lawful for British, Dutch or Spanish privateers, to fit their ships in the ports of the United States." Is this an *express* permission to France to do it? Does the negative to the enemies of France, and silence as to France herself, imply an affirmative to France? Certainly not: It leaves the question, as to France, open and free to be decided according to circumstances; and if the parties had meant an affirmative stipulation, they would have provided for it expressly; they would never have left so important a point to be inferred from mere silence, or implication. Suppose they had desired to stipulate a refusal to their enemies, but nothing as to themselves; what form of expression would they have used? Certainly the one they have used; an express stipulation as to their enemies, and silence as to themselves. And such an intention corresponds not only with the words, but with the circumstances of the times. It was of value to each party to exclude its enemies from arming in the ports of the other, and could, in no case, embarrass them. They therefore stipulated so far mutually. But each might be embarrassed by permitting the other to arm in its ports. They therefore

would not stipulate to permit that. Let us go back to the state of things in France when this treaty was made, and we shall find several cases, wherein France could not have permitted us to arm in her ports. Suppose a war between these states and Spain. We know, that by the treaties between France and Spain, the former could not permit the enemies of the latter to arm in her ports. It was honest in her therefore, not to deceive us by such a stipulation. Suppose a war between these states and Great Britain. By the treaties between France and Great Britain, in force at the signature of ours, we could not have been permitted to arm in the ports of France. She could not then have meant, in this article, to give us such a right. She has manifested the same sense of it again, in her subsequent treaty with England, made eight years after the date of ours, stipulating, in the 16th article of it, as in our 22d, that foreign privateers, *not being subjects of either crown*, should not arm against either in the ports of the other. If this had amounted to an affirmative stipulation, that the subjects of the other crown might arm in her ports *against us*, it would have been in direct contradiction to her 22d article with us. So that, to give to these negative stipulations an affirmative effect, is to render them inconsistent with each other, and with good faith: To give them only their negative and natural effect, is to reconcile them to one another, and to good faith, and is clearly to adopt the sense in which France herself has expounded them. We may justly conclude then, that the article only obliges us to refuse this right, in the present case, to Great Britain and the other enemies of France. It does not go on to give it to France, either expressly or by implication. We may then refuse it. And since we are bound by treaty to refuse it to the one party, and are free to refuse it to the other, we are bound by the laws of neutrality, to refuse it to that other. The aiding either party then, with vessels, arms or men, being unlawful by the law of nations, and not rendered lawful by the treaty, it is made a question, Whether our citizens, joining in these unlawful enterprises, may be punished? The United States, being in a state of peace with most of the belligerent powers by treaty, and with all of them by the laws of nature, murders and robberies, committed by our citizens, within our territory, or on the high seas, on those with whom we are so at peace, are punishable, equally as if committed on our own inhabitants. If I might venture to



reason a little formally, without being charged with running into "subtleties and aphorisms," I would say, that if one citizen has a right to go to war of his own authority, every citizen has the same. If every citizen has that right, then the nation (which is composed of all its citizens) has a right to go to war, by the authority of its individual citizens. But this is not true, either on the general principles of society, or by our constitution, which gives that power to Congress alone, and not to the citizens individually. Then the first position was not true; and no citizen has a right to go to war of his own authority; and for what he does without right, he ought to be punished. Indeed nothing can be more obviously absurd, than to say, that all the citizens may be at war, and yet the nation at peace. It has been pretended, indeed, that the engagement of a citizen, in an enterprise of this nature, was a divestment of the character of a citizen, and a transfer of jurisdiction over him to another sovereign. Our citizens are certainly free to divest themselves of that character, by emigration, and other acts manifesting their intention, and may then become the subjects of another power, and free to do whatever the subjects of that power may do. But the laws do not admit, that the bare commission of a crime amounts of itself to a divestment of the character of citizen, and withdraws the criminal from their coercion. They would never prescribe an illegal act among the legal modes by which a citizen might disfranchise himself; nor render treason, for instance, innocent, by giving it the force of a dissolution of the obligations of the criminal to his country. Accordingly, in the case of Henfield, a citizen of these states, charged with having engaged, in the port of Charleston, in an enterprise against nations at peace with us, and with having joined in the actual commission of hostilities, the attorney general of the United States, in an official opinion, declared, that the act, with which he was charged, was punishable by law. The same thing has been unanimously declared by two of the circuit courts of the United States, as you will see in the charges of chief justice Jay, delivered at Richmond, and judge Wilson, delivered at Philadelphia, both of which are herewith sent. Yet Mr. Genet, in the moment he lands at Charleston, is able to tell the governour, and continues to affirm in his correspondence here, that no law of the United States authorizes their government to restrain

either its own citizens, or the foreigners inhabiting its territory, from warring against the enemies of France. It is true, indeed, that in the case of Henfield, the jury which tried, absolved him. But it appeared, on the trial, that the crime was not knowingly and wilfully committed; that Henfield was ignorant of the unlawfulness of his undertaking; that in the moment he was apprized of it, he showed real contrition; that he had rendered meritorious services during the late war, and declared he would live and die an American. The jury therefore, in absolving him, did no more than the constitutional authority might have done, had they found him guilty; the constitution having provided for the pardon of offences in certain cases, and there being no case where it could have been more proper than where no offence was contemplated. Henfield therefore was still an American citizen, and Mr. Genet's reclamation of him, was as unauthorized as the first enlistment of him.

2d. Another doctrine advanced by Mr. Genet is, That our courts can take no cognizance of questions, Whether vessels *held by theirs* as prizes, are lawful prizes or not: That this jurisdiction belongs exclusively to their consulates here, which have been lately erected by the National Assembly, into complete courts of admiralty.

Let us consider, first, What is the extent of the jurisdiction which the consulates of France may rightfully exercise here. Every nation has of natural right, entirely and exclusively, all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend on the instrument of cession. The United States and France have, by their consular convention, given mutually to their consuls, jurisdiction in certain cases specially enumerated. But that convention gives to neither the power of establishing complete courts of admiralty within the territory of the other, nor even of deciding the particular question of prize or not prize. The consulates of France then cannot take judicial cognizance of those questions here. Of this opinion Mr. Genet was, when he wrote his letter of May 27th, wherein he promises to correct the error of the consul at Charleston, of whom, in my letter of the 15th, I had complained, as arrogating to himself that jurisdiction, though, in his subsequent letters, he has thought proper

June 14, 22.

to embark in the errors of his consuls.

But the United States, at the same time, do not pretend any right to try the validity of captures made *on the high seas* by France, or any other nation, over its enemies. These questions belong, of common usage, to the sovereign of the captor, and whenever it is necessary to determine them, resort must be had to his courts. This is the case provided for in the 17th article of the treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation much insisted on by Mr. Genet and the consuls, and which we never thought of infringing or questioning. As the validity of captures then, made *on the high seas*, by France over its enemies, cannot be tried within the United States by their consuls, so neither can it by our courts. Nor is this the question between us, though we have been misled into it.

The real question is, Whether the United States have not a right to protect vessels within their waters, and on their coasts? The Grange was taken within the Delaware, between the shores of Jersey and of the Delaware state, and several miles above its mouth. The seizing her, was a flagrant violation of the jurisdiction of the United States. Mr. Genet, however, instead of apologizing, takes great merit, in his letters, for giving her up. The William is said to have been taken within two miles of the shores of the United States. When the admiralty declined cognizance of the case, she was delivered to the French consul, according to my letter of June 25th, to be kept till the Executive of the United States should examine into the case; and Mr. Genet was desired, by my letter of June 29th, to have them furnished with the evidence, on behalf of the captors, as to the place of capture. Yet, to this day, it has never been done. The brig Fanny was alleged to be taken within five miles from our shore. The Catharine within two miles and a half. It is an essential attribute of the jurisdiction of every country, to preserve peace, to punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessel of any nation, to cut away one of our own from the wharves of Philadelphia, and to choose to call it a prize, would this exclude us from the right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it, while within our limits? Were it seized in any other waters, or on the shores of the United States. the right of redressing is still the same: And humble in-

deed would be our condition, were we obliged to depend, for that, on the will of a foreign consul, or on negotiation with diplomatic agents. Accordingly, this right of protection, within its waters, and to a reasonable distance on its coasts, has been acknowledged by every nation, and denied to none; and if the property seized, be yet within their power, it is their right and duty to redress the wrong themselves.—France herself has asserted the right in herself, and recognised it in us, in the 6th article of our treaty; where we mutually stipulate, that we will, *by all the means in our power*, (not by negotiation) protect and defend each other's vessels and effects, in our ports or roads, or on the seas near our countries, and recover and restore the same to the right owners. The United Netherlands, Prussia and Sweden, have recognised it also, in treaties with us; and indeed it is a standing formule, inserted in almost all the treaties of all nations, and proving the principle to be acknowledged by all nations.

How, and by what organ of the government, whether judiciary or executive, it shall be redressed, is not yet perfectly settled with us. One of the subordinate courts of admiralty, has been of opinion, in the first instance, in the case of the ship *William*, that it does not belong to the judiciary. Another, perhaps, may be of a contrary opinion. The question is still subjudice, and an appeal to the court, of last resort, will decide it finally. If, finally, the judiciary shall declare, that it does not belong to the *civil* authority, it then results to the Executive, charged with the direction of the *military* force of the Union, and the conduct of its affairs with foreign nations. But this is a mere question of internal arrangement, between the different departments of the government, depending on the particular diction of the laws and constitution; and it can in no wise concern a foreign nation, to which department these have delegated it.

3d. Mr. Genet, in his letter of July 9th, requires that the ship *Jane*, which he calls an English privateer, shall be immediately ordered to depart; and to justify this, he appeals to the 22d article of our treaty, which provides, that it shall not be lawful for any foreign *privateer* to fit their ships in our ports, to sell *what they have taken*, or purchase victuals, &c. The ship *Jane* is an English merchant vessel, which has been many years employed in the commerce between Jamaica and these states. She

brought here a cargo of produce from that island, and was to take away a cargo of flour. Knowing of the war when she left Jamaica, and that our coast was lined with small French privateers, she armed for her defence, and took one of those commissions usually called Letters of Marque. She arrived here safely, without having had any rencounter of any sort. Can it be necessary to say, that a merchant vessel is not a privateer? That though she has arms to defend herself in time of war, in the course of her regular commerce, this no more makes her a privateer, than a husbandman following his plough, in time of war, with a knife or pistol in his pocket, is thereby made a soldier? The occupation of a privateer is to attack and plunder, that of a merchant vessel is commerce and self-preservation. The article excludes the former from our ports, and from selling *what she has taken*, that is, what she has acquired by war, to show it did not mean the merchant vessel, and what she had acquired by commerce. Were the merchant vessels, coming for our produce, forbidden to have any arms for their defence, every adventurer who has a boat, or money enough to buy one, would make her a privateer, our coasts would swarm with them, foreign vessels must cease to come, our commerce must be suppressed, our produce remain on our hands, or at least that great portion of it which we have not vessels to carry away, our ploughs must be laid aside, and agriculture suspended. This is a sacrifice no treaty could ever contemplate, and which we are not disposed to make out of mere complaisance to a false definition of the term *privateer*. Finding that the Jane had purchased new carriages to mount two or three additional guns, which she had brought in her hold, and that she had opened additional port-holes for them, the carriages were ordered to be relanded, the additional port holes stopped, and her means of defence reduced to be exactly the same at her departure, as at her arrival. This was done on the general principle of allowing no party to arm within our ports.

4th. The 17th article of our treaty leaves armed vessels free to *conduct*, whithersoever they please, the ships and goods taken from their enemies, without paying any duty. and to depart and be conducted freely to the places expressed in their commissions, which the captain shall be obliged to show. It is evident, that this article does not contemplate a freedom to *sell their prizes here*; but, on the

contrary, *a departure* to some other place, always to be expressed in their commission, where their validity is to be finally adjudged. In such case, it would be as unreasonable to demand duties on the goods they had taken from an enemy, as it would be on the cargo of a merchant vessel touching in our ports for refreshment or advices. And against this the article provides. But the armed vessels of France have been also admitted to land and sell their prize goods here for consumption; in which case, it is as reasonable they should pay duties, as the goods of a merchantman, landed and sold for consumption. They have, however, demanded, and as a matter of right, to sell them free of duty; a right, they say, given by this article of the treaty, though the article does not give the right to sell at all. Where a treaty does not give the principal right of selling, the additional one of selling duty free, cannot be given; and the laws, in admitting the principal right of selling, may withhold the additional one of selling duty free. It must be observed, that our revenues are raised almost wholly on imported goods. Suppose prize goods enough should be brought in to supply our whole consumption. According to their construction, we are to lose our whole revenue. I put the extreme case, to evince more extremely the unreasonableness of the claim. Partial supplies would affect the revenue but partially. They would lessen the evil, but not the error, of the construction. And I believe we may say with truth, that neither party had it in contemplation, when penning this article, to abandon any part of its revenue, for the encouragement of the sea robbers of the other.

5th. Another source of complaint with Mr. Genet, has been, that the English take French goods out of American vessels, which he says is against the law of nations, and ought to be prevented by us. On the contrary, we suppose it to have been long an established principle of the law of nations, that the goods of a friend are free in an enemy's vessel, and an enemy's goods lawful prize in the vessel of a friend. The inconvenience of this principle, which subjects merchant vessels to be stopped at sea, searched, ransacked, led out of their course, has induced several nations latterly to stipulate against it by treaty, and to substitute another in its stead, that free bottoms shall make free goods, and enemy bottoms enemy goods; a rule equal to the other in point of loss and gain, but less

oppressive to commerce. As far as it has been introduced, it depends on the treaties stipulating it, and forms exceptions in special cases to the general operation of the law of nations. We have introduced it into our treaties with France, Holland and Prussia; and French goods found by the two latter nations in American bottoms, are not made prize of. It is our wish to establish it with other nations. But this requires their consent also, is a work of time, and in the mean while they have a right to act on the general principle, without giving to us, or to France, cause of complaint. Nor do I see that France can lose by it on the whole. For though she loses *her* goods when found in our vessels, by the nations with whom we have no treaties, yet she gains *our* goods, when found in the vessels of the same, and all other nations: and we believe the latter mass to be greater than the former. It is to be lamented, indeed, that the general principle has operated so cruelly in the dreadful calamity which has lately happened in St. Domingo. The miserable fugitives, who to save their lives, had taken asylum in our vessels, with such valuable and portable things as could be gathered in the moment, out of the ashes of their houses, and wrecks of their fortunes, have been plundered of these remains by the licensed sea rovers of their enemies. This has swelled, on this occasion, the disadvantages of the general principle that 'an enemy's goods are free prize in the vessel of a friend.' But it is one of those deplorable and unforeseen calamities to which they expose themselves who enter into a state of war, furnishing to us an awful lesson to avoid it by justice and moderation, and not a cause or encouragement to expose our towns to the same burnings and butcheries, nor of complaint because we do not.

6th. In a case like the present, where the missionary of one government construes differently from that to which he is sent, the treaties and laws which are to form a common rule of action for both, it would be unjust in either to claim an exclusive right of construction. Each nation has an equal right to expound the meaning of their common rules; and reason and usage have established, in such cases, a convenient and well understood train of proceeding. It is the right and duty of the foreign missionary to urge his own constructions, to support them with reasons which may convince, and in terms of decency

and respect which may reconcile, the government of the country to a concurrence. It is the duty of that government to listen to his reasonings with attention and candour, and to yield to them when just. But if it shall still appear to them that reason and right are on their side, it follows of necessity that, exercising the sovereign powers of the country, they have a right to proceed on their own constructions and conclusions as to whatever is to be done within their limits. The minister then refers the case to his own government, asks new instructions, and in the mean time acquiesces in the authority of the country. His government examines his constructions, abandons them, if wrong, insists on them, if right, and the case then becomes a matter of negotiation between the two nations. Mr. Genet, however, assumes a new and a bolder line of conduct. After deciding for himself ultimately, and without respect to the authority of the country, he proceeds to do, what even his sovereign could not authorize; to put himself, within the country, on a line with its government, act as co-sovereign of the territory, arms vessels, levies men, gives commissions of war independently of them, and in direct opposition to their orders and efforts. When the government forbids their citizens to arm and engage in the war, he undertakes to arm and engage them. When they forbid vessels to be fitted in their ports for cruising on nations with whom they are at peace, he commissions them to fit and cruise. When they forbid an unceded jurisdiction to be exercised within their territory by foreign agents, he undertakes to uphold that exercise, and to avow it openly. The privateers Citizen Genet and Sans Culottes, having been fitted out at Charleston (though without permission of the government, yet before it was forbidden) the President only required they might leave our ports, and did not interfere with their prizes. Instead, however, of their quitting our ports, the Sans Culottes remains still, strengthening and equipping herself, and the Citizen Genet went out only to cruise on our coast, and to brave the authority of the country by returning into port again with her prizes. Though in the letter of June 5th, the final determination of the President was communicated, that no future armaments in our ports should be permitted, the *Vainqueur de la Bastille*, was afterwards equipped and commissioned in Charleston, the *Anti-George*, in Savannah, the *Caramagnole*, in Delaware,



a schooner, and a sloop, in Boston, and the Polly or Republican was attempted to be equipped in New York, and was the subject of reclamation by Mr. Genet, in a style which certainly did not look like relinquishing the practice. The Little Sarah or Little Democrat was armed, equipped and manned, in the port of Philadelphia, under the very eye of the government, and as if meant to insult it. Having fallen down the river, and being evidently on the point of departure for a cruise, Mr. Genet was desired, in my letter of July 12th, on the part of the President, to detain her till some inquiry and determination on the case should be had. Yet within three or four days after, she was sent out by orders from Mr. Genet himself, and is at this time cruising on our coasts, as appears by the protest of the master of one of our vessels maltreated by her.

The government thus insulted and set at defiance by Mr. Genet, committed in its duties and engagements to others, determined still to see in these proceedings but the character of the individual; and not to believe, and it does not believe, that they are by instructions from his employers. They had assured the British minister here that the vessels already armed in their ports should be obliged to leave them, and that no more should be armed in them. Yet more had been armed, and those before armed, had either not gone away, or gone only to return with new prizes. They now informed him that the order for departure should be enforced, and the prizes made contrary to it should be restored or compensated. The same thing was notified to Mr. Genet, in my letter of August 7th; and, that he might not conclude the promise of compensation to be of no concern to him, and go on in his courses, he was reminded that it would be a fair article of account against his nation.

Mr. Genet, not content with using our force, whether we will or not, in the military line, against nations with whom we are at peace, undertakes also to direct the civil government; and particularly for the executive and legislative bodies, to pronounce what powers may, or may not be exercised by the one or the other. Thus in his letter of June 8th, he promises to respect the political opinions of the President, *till the Representatives shall have confirmed or rejected them*, as if the President had undertaken to decide what belonged to the decision of Congress. In his letter of June 14th, he says more openly that the Presi-

dent ought not to have taken on himself to decide on the subject of the letter, but that it was of importance enough to have consulted Congress thereon; and in that of June 22d, he tells the President, in direct terms, that Congress ought already to have been occupied on certain questions which he had been too hasty in deciding: Thus making himself, and not the President, the judge of the powers ascribed by the constitution to the Executive, and dictating to him the occasion when he should exercise the power of convening Congress, at an earlier day than their own act had prescribed.

On the following expressions no commentary shall be made.

July 9. 'Les principes philosophiques proclameés par le President.'<sup>\*</sup>

June 22. 'Les opinions privées ou publiques de M. le President, et cette egide ne paroissant pas suffisante.'<sup>†</sup>

June 22. 'Le gouvernement federal s'est empressé, poussé par je ne sçais quelle influence.'<sup>‡</sup>

June 22. 'Je ne puis attribuer des demarches de cette nature qu'à des impressions etrangeres dont le tems et le verité triompheront.'<sup>§</sup>

June 25. 'On poursuit avec acharnement, en vertu des instructions de M. le President, les armateurs Français.'<sup>¶</sup>

June 14. 'Ce refus tend à accomplir le systeme infernal du roi d'Angleterre, et des autres rois ses accomplices, pour faire perir par la famine les republicains Français avec la liberté.'<sup>\*\*</sup>

June 8. 'La lache abandon de ses amis.'<sup>††</sup>

July 25. En vain le desir de conserver la paix fait-il sacrifier les interets de la France à cet interet du moment; en vain le soif des richesses l'emportet-elle sur l'honneur dans la balance politique de l'Amérique, tous

#### TRANSLATIONS OF THE FRENCH PASSAGES.

\* 'The philosophical principles proclaimed by the President.'

† 'The opinions private or publick of the President, and this Egis not appearing to you sufficient.'

‡ 'The federal government has been eager, urged by I know not what influence.'

§ 'I cannot ascribe measures of this nature, but to extraneous impressions, over which time and truth will triumph.'

¶ 'They pursue with rage the French privateers by the orders of the President.'

\*\* 'This refusal tends to accomplish the infernal system of the king of England and of the other kings, his accomplices, to destroy by famine French freemen and freedom.'

†† 'The cowardly abandonment of their friends.'

ces menagemens, toute cette condescendance, toute cette humilité n'aboutissent à rien ; nos ennemis en rient, et les Français trop confians sont punis pour avoir cru que la nation Americaine, avoit un pavillon, qu'elle avoit quelque egard pour ses loix, quelque conviction de ses forces, et qu'elle tenoit au sentiment de sa dignité. Il ne m'est pas possible de peindre toute ma sensibilité sur ce scandale qui tend à la diminution de votre commerce, à l'oppression du notre, et à l'abaissement, à l'avilissement des republicques.—Si nos concitoyens ont été trompés, si vous n'etes point en etat de soutenir la souveraineté de votre peuple, parlez ; nous l'avons garantie quand nous etions esclaves, nous saurons la rendre redoutable etant devenus libres.‡

We draw a veil over the sensations which these expressions excite. No words can render them ; but they will not escape the sensibility of a friendly and magnanimous nation, who will do us justice. We see in them neither the portrait of ourselves, nor the pencil of our friends ; but an attempt to embroil both ; to add still another nation to the enemies of his country, and to draw on both a reproach, which it is hoped will never stain the history of either. The written proofs, of which Mr. Genet was himself the bearer, were too unequivocal to leave a doubt that the French nation are constant in their friendship to us. The resolves of their national convention, the letters of their executive council, attest this truth in terms which render it necessary to seek, in some other hypothesis, the solution of Mr. Genet's machinations against our peace and friendship.

Conscious, on our part, of the same friendly and sincere dispositions, we can with truth affirm, both for our nation

‡ ' In vain the desire to preserve peace leads you to sacrifice the interests of France to this interest of the moment ; in vain the thirst of riches preponderates against honour in the political balance of America ; all this management, all these condescensions, all this humiliation, end in nothing. Our enemies laugh at it, and the French, too confident, are punished for having believed that the American nation had a flag ; that it had some respect for its laws ; some conviction of its force ; and that it had some sentiment of its dignity. It is not possible for me to paint to you all my sensibility at this scandal, which tends to the diminution of your commerce, to the oppression of ours, and to the debasement and vilification of republicques.

' If our fellow-citizens have been deceived, if you are not in a condition to maintain the sovereignty of your people, speak : we have guaranteed it when we were slaves, we know how to render it respectable being become free.'

and government, that we have never omitted a reasonable occasion of manifesting them. For I will not consider as of that character opportunities of sallying forth from our ports to waylay, rob, and murder defenceless merchants and others, who have done us no injury, and who were coming to trade with us in the confidence of our peace and amity. The violation of all the laws of order and morality which bind mankind together, would be an unacceptable offering to a just nation. Recurring then only to recent things, after so afflicting a libel, we recollect with satisfaction that in the course of two years, by unceasing exertions, we paid up seven years arrearages and instalments of our debt to France, which the inefficacy of our first form of government had suffered to be accumulating; that pressing on still to the entire fulfilment of our engagements, we have facilitated to Mr. Genet the effect of the instalments of the present year, to enable him to send relief to his fellow citizens in France, threatened with famine; that in the first moment of the insurrection which threatened the colony of St. Domingo, we stepped forward to their relief with arms and money, taking freely on ourselves the risk of an unauthorized aid, when delay would have been denial; that we have received, according to our best abilities, the wretched fugitives from the catastrophe of the principal town of that colony, who, escaping from the swords and flames of civil war, threw themselves on us naked and houseless, without food or friends, money or other means, their faculties lost and absorbed in the depth of their distresses; that the exclusive admission to sell here the prizes made by France on her enemies, in the present war, though unstipulated in our treaties, and unfounded in her own practice, or in that of other nations, as we believe; the spirit manifested by the late grand jury in their proceedings against those who had aided the enemies of France with arms and implements of war; the expression of attachment to his nation, with which Mr. Genet was welcomed, on his arrival and journey from south to north, and our long forbearance under his gross usurpations and outrages of the laws and authority of our country, do not bespeak the partialities intimated in his letters. And for these things he rewards us by endeavours to excite discord and distrust between our citizens and those whom they have intrusted with their government; between the different branches of our government; be-

tween our nation and his. But none of these things, we hope, will be found in his power. That friendship, which dictates to us to bear with his conduct yet awhile, lest the interest of his nation here should suffer injury, will hasten them to replace an agent, whose dispositions are such a misrepresentation of theirs, and whose continuance here is inconsistent with order, peace, respect, and that friendly correspondence which we hope will ever subsist between the two nations. His government will see too that the case is pressing. That it is impossible for two sovereign and independent authorities to be going on within our territory, at the same time, without collision. They will foresee that if Mr. Genet perseveres in his proceedings, the consequences would be so hazardous to us, the example so humiliating and pernicious, that we may be forced even to suspend his functions before a successor can arrive to continue them. If our citizens have not already been shedding each others blood, it is not owing to the moderation of Mr. Genet, but to the forbearance of the government. It is well known that if the authority of the laws had been resorted to, to stop the Little Democrat, its officers and agents were to have been resisted by the crew of the vessel, consisting partly of American citizens. Such events are too serious, too possible, to be left to hazard, or to what is worse than hazard, the will of an agent whose designs are so mysterious. Lay the case then immediately before his government; accompany it with assurances, which cannot be stronger than true, that our friendship for the nation is constant and unabating; that, faithful to our treaties, we have fulfilled them in every point to the best of our understanding; that if in any thing, however, we have construed them amiss, we are ready to enter into candid explanations, and to do whatever we can be convinced is right; that in opposing the extravagances of an agent, whose character they seem not sufficiently to have known, we have been urged by motives of duty to ourselves, and justice to others, which cannot but be approved by those who are just themselves; and, finally, that, after independence and self-government, there is nothing we more sincerely wish than perpetual friendship with them. I have the honour to be, &c.

TH: JEFFERSON.

Note. A copy of the preceding letter was sent enclosed by the secretary of state to Mr. Genet.

*Mr. Jefferson, Secretary of State, to Mr. Morris, Minister Plenipotentiary from the United States to France. Philadelphia, Aug. 23, 1793.*

DEAR SIR,—The letter of the 16th instant, with its documents accompanying this, will sufficiently inform you of the transactions, which have taken place between Mr. Genet, the minister of France, and the government here, and of the painful necessity they have brought on, of desiring his recall. The letter has been prepared, in the view of being itself, with its documents, laid before the executive of the French government. You will, therefore, be pleased to lay it before them, doing every thing which can be done on your part, to procure it a friendly and dispassionate reception and consideration. The President would indeed think it greatly unfortunate, were they to take it in any other light; and, therefore, charges you, very particularly, with the care of presenting this proceeding in the most soothing view, and as the result of an unavoidable necessity on his part.

Mr. Genet, soon after his arrival, communicated the decree of the National Convention of February 15, 1793, authorizing their executive to propose a treaty with us, on liberal principles, such as might strengthen the bonds of good will, which unite the two nations; and informed us in a letter of May 23, that he was authorized to treat accordingly. The Senate being then in recess, and not to meet again till the fall, I apprized Mr. Genet that the participation in matters of treaty, given by the constitution to that branch of our government, would, of course, delay any definitive answer to his friendly proposition. As he was sensible of this circumstance, the matter has been understood to lie over, till the meeting of Senate. You will be pleased, therefore, to explain to the executive of France this delay, which has prevented, as yet, our formal accession to their proposition to treat; to assure them, that the President will meet them, with the most friendly dispositions, on the grounds of treaty proposed by the National Convention, as soon as he can do it in the forms of the constitution; and you will, of course, suggest for this purpose, that the powers of Mr. Genet be renewed to his successor.

Since my last, which was of the 13th of June, your Nos. 25, 26, 27 of March 26th, April 4th and 5th have been

received. The publick papers sent herewith, will give you the current news of the country. I have the honour to be, &c.

TH: JEFFERSON.

*Citizen Genet, Minister Plenipotentiary of the French Republic with the United States, to Mr. Jefferson, Secretary of State of the United States. New York, Sept. 18, 1793, 2d year of the French Republic, one and indivisible.*

SIR,—Persuaded that the sovereignty of the United States resides essentially in the people, and its representation in the Congress; persuaded that the executive power is the only one which has been confided to the President of the United States;—persuaded that this magistrate has not the right to decide questions, the discussion of which, the constitution reserves particularly to the Congress;—persuaded that he has not the power to bend existing treaties to circumstances, and to change their sense;—persuaded that the league formed by all the tyrants to annihilate republican principles, founded on the rights of man, will be the object of the most serious deliberations of Congress, I had deferred, in the sole view of maintaining good harmony between the free people of America and France, communicating to my government, before the epoch at which the representatives of the people were to assemble, the original correspondence which has taken place, in writing, between you and myself, on the political rights of France in particular;—on the interests of general liberty; and on the acts, proclamations, and decisions of the President of the United States, relative to objects which require, from their nature, the sanction of the legislative body: however, informed that the gentlemen who have been painted to me so often, as aristocrats, partisans of monarchy, partisans of England, of her constitution, and consequently enemies of the principles which all good Frenchmen have embraced, with a religious enthusiasm, alarmed at the popularity which was reflected on the minister of France, by the affection of the American people for the French Republic, and for the glorious cause which it defends, equally alarmed at my unshaken and incorruptible attachment to the severe maxims of democracy, were labouring to ruin me in my country, after having re-united all the efforts to calumniate me in the view of their fellow citizens, I was going to begin

to collect these afflicting materials, and I was taking measures to transmit them to France with my reports, when the denunciation which these same men have excited the President to exhibit against me, through Mr. Morris, came to my hands. Strong in the principles which have directed my conduct, sheltered from every well founded reproach, I expected, nevertheless, to have found in it some serious allegations; but what has been my astonishment on finding, that the American people were more outraged in it than myself, that it was supposed that I exercised over them a *sovereign* influence, that it was pretended that I was making them take a part in the war of liberty, for the defence of their brethren, of their allies, against the intention of their government; that judgments favourable to our interests, rendered in the midst of the acclamations of the citizens of Philadelphia, by juries and by independent tribunals, have not been the expression of a severe justice; in short, that I was a power within another power. Such strange accusations, proving only that the American people loves and supports our principles and our cause, in spite of its numerous enemies, and that the power which they do me the honour to attribute to me, is only that of gratitude struggling against ingratitude, of truth combating error, I will send no other justification of my conduct. I will join only in support of the opinions which I meant to profess, some writings which have been published here, such as those of *Veritas* and of *Helvidius*, &c. As to the personal outrages, as to the doubts which you insinuate on my devotion to the union of the people, I have reason to believe they will not make a great impression, when the answers shall be recurred to, which I made to the numerous addresses which your fellow citizens deigned to present me: when it shall be recollected that placed at the age of twelve years in the bureau of foreign affairs, it was I who had the advantage of contributing to penetrate the French with the spirit of 1776 and 1777, by translating into our tongue, under the direction of my father, then head of the bureau, the greater part of your laws and of the writings of your politicians; that since that epoch, always faithful to the cause of liberty, I have rendered to the Americans, in the different employments I have had, all the services which depended on me; and that, in fine, charged to represent the French people, with the first people who have proclaimed the rights of



man, knowing how far our ancient government had put liberticide shackles on the commerce and on the intimacy of our two nations, I have neglected nothing to obtain, on the one hand, the liberal basis on which the new bands which the French people desire to contract with the United States were to be negotiated, in order that on the other, the federal government might be sensible how urgent it was to occupy themselves promptly on the conclusion of this true family compact, which was for ever to unite the political and commercial interests of two people equally objects of the hatred of all tyrants; besides, sir, whatever may be the result of the achievement of which you have rendered yourself the generous instrument, after having made me believe that you were my friend, after having initiated me into mysteries which have inflamed my hatred against all those who aspire to an absolute power, there is an act of justice, which the American people, which the French people, which all free people are interested to reclaim; that is, that there be made a particular inquiry, in the next Congress, of the motives on which the head of the executive power of the United States has taken on himself to demand the recall of a publick minister, whom the sovereign people of the United States had received fraternally and recognised, before the diplomatic forms had been fulfilled with respect to him, at Philadelphia.

It is in the name of the French people, that I am sent to their brethren—to free and sovereign men: it is then for the representatives of the American people, and not for a single man, to exhibit against me an act of accusation, if I have merited it. A despot may singly permit himself to demand from another despot the recall of his representative, and to order his expulsion in case of refusal. This is what the empress of Russia did with respect to myself, from Louis xvi. But in a free state it cannot be so, unless order be entirely subverted; unless the people in a moment of blindness, chooses to rivet their fetters, in making to a single individual the abandonment of their most precious rights. I pray you, then, sir, to place under the eyes of the President of the United States, the demand which I make in the name of equity, to lay before Congress for their discussion at the epoch when they shall be assembled by the law, if the great events which occupy the universe do not appear yet sufficient to hasten their convocation.—1st. All the questions relative to the politi-

cal rights of France and the United States.—2d. The different cases resulting from our state of war with the powers of whose acts of aggression I have informed you.—3d. The heads of accusation which the minister of the United States with the French Republick is charged to exhibit against me, and against the consuls whose character is compromised and outraged, in the most scandalous manner, for having obeyed superior orders, which it was neither in their power nor in mine to revoke. In this expectation, sir, I do not consider the dignity of the French nation as compromised by the extraordinary position in which I find myself, as well as the consuls, and I have to complain only of the forms you have employed.

The executive council of the French Republick had also complaints of a very different nature from those alleged against me, to exhibit against Mr. Morris, your ambassador at Paris; but penetrated with a just sentiment of respect for the sovereignty of the American people, it recommended to me only to make confidential observations to you on the necessity of recalling this minister plenipotentiary accused by the publick voice of facts established, but not by the representatives of the people, after a regular inquiry, of having favoured as much as he could, the counter revolutionary projects of Louis XVI., of communicating to him memoirs, in which he advised him not to accept the constitution; of having had no connections but with suspected persons; of having affected the greatest contempt for all those who served faithfully the cause of the people; of having been the channel of the counsels which conducted La Fayette into the prisons of Prussia; of having abused the respect of the French people for the envoy of the American people, to facilitate more surely the correspondence and the conspiracies of all its enemies; of having shown nothing but ill humour in his relations with the ministers of the French Republick; of having affected, in writing to them, to employ, in speaking of the Executive of the United States, only the words "in the name of my court," so shocking to republican ears; of having demanded a passport the 10th August, 1792, to go into England with the ambassador of George III.; and of having said publickly, with a confidence which the present event justifies, that if the embassy of the Republick should be received at Philadelphia, its existence and that of the

republican consuls in America would not be of long duration there.

I have already mentioned to you, sir, some of these imputations; but, as I have already told you, out of respect for the sovereignty of the United States, I thought I should leave to their wisdom the care of taking measures, the most suitable to reconcile their dignity with what their prudence might require.

Not doubting, sir, that the justice which I require will be done me, as well as my co-operators, I ought to inform you, that I am about to have printed all my correspondence with you, all my instructions, and all those of the consuls, in order that the American people, whose esteem is dearer to me than life, may judge if I have been worthy or not of the fraternal reception which it deigned to give me; if in all my official papers I have not expressed my respect for that virtuous nation and my confidence in the purity of their sentiments; if I have insisted on a single principle, which has not been supported since, by decisions of the juries or tribunals of the country; if in acting and in expressing myself with the frankness and the energy of a republican, I have attacked the constitution; if I have refused respect to a single law: in fine, if, in reclaiming with all the firmness which was prescribed to me, the faithful execution of our treaties, I have not endeavoured to encourage the federal government to employ the only means, worthy of a great people, to preserve peace and to enjoy the advantages of neutrality—an useful object, not to be obtained by timid and uncertain measures, by premature proclamations, which seem extorted by fear, by a partial impartiality, which sours your friends without satisfying your enemies, but by an attitude firm and pronounced, which apprizes all the powers that the very legitimate desire of enjoying the sweets of peace has not made you forget what is due to justice, to gratitude, and that without ceasing to be neutral, you may fulfil publick engagements, contracted with your friends in a moment when you were yourselves in danger.

I will answer more in detail, sir, at a proper time, to your violent diatribe; but it contains one fact on which I must now give you explanations. You are made to reproach me with having indiscreetly given to my official proceedings a tone of colour, which has induced a belief, that they did not know, in France, either my character or

my manners. I will tell you the reason, sir : it is that a pure and warm blood runs with rapidity in my veins ; that I love passionately my country ; that I adore the cause of liberty ; that I am always ready to sacrifice my life to it ; that to me, it appears inconceivable, that all the enemies of tyranny, that all virtuous men, do not march with us to the combat ; and that when I find an injustice is done to my fellow citizens, that their interests are not espoused with the zeal which they merit, no considerations in the world would hinder either my pen or my tongue from tracing, [from expressing my pain. I will tell you then without ceremony, that I have been extremely wounded, sir, 1st, that the President of the United States was in a hurry, before knowing what I had to transmit to him, on the part of the French Republick, to proclaim sentiments, on which decency and friendship should at least have drawn a veil. 2d. That he did not speak to me at my first audience but of the friendship of the United States towards France, without saying a word to me, without announcing a single sentiment on our revolution ; while all the towns from Charleston to Philadelphia, had made the air resound with their most ardent wishes for the French Republick. 3d. That he had received and admitted to a private audience, before my arrival, Noailles and Talon, known agents of the French counter-revolutionists, who have since had intimate relations with two members of the federal government. 4th. That this first magistrate of a free people decorated his parlour with certain medallions of Capet and his family, which served at Paris as signals of rallying. 5th. That the first complaints which were made to my predecessor on the armaments and prizes which took place at Charleston on my arrival, were in fact, but a paraphrase of the notes of the English minister. 6th. That the Secretary of War, to whom I communicated the wish of our governments of the Windward Islands, to receive promptly some fire-arms and some cannon, which might put into a state of defence possessions guarantied by the United States, had the front to answer me with an ironical carelesness, that the principles established by the President, did not permit him to lend us so much as a pistol. 7th. That the Secretary of the Treasury, with whom I had a conversation on the proposition which I had made to convert almost the whole American debt, by means of an operation of finance authorized by

law, into flour, rice, grain, salted provisions, and other objects of which France had the most pressing need, added to the refusal which he had already made officially of favouring this arrangement, the positive declaration, that even if it were practicable, the United States could not consent to it, because England would not fail to consider this extraordinary reimbursement furnished to a nation with which she is at war, as an act of hostility. 8th. That by instructions from the President of the United States, the American citizens who ranged themselves under the banners of France, have been prosecuted and arrested; a crime against liberty unheard of, of which a virtuous and popular jury avenged with eclat the defenders of the best of causes. 9th. That incompetent tribunals were suffered to take cognizance of facts relative to prizes which treaties interdict them expressly from doing; that on the acknowledgment of their incompetence, this property, acquired by the right of war, was taken from us, that it was thought ill of, that our consuls protested against these arbitrary acts, and that as a reward for his devotion to his duty, the one at Boston was imprisoned as a malefactor. 10th. That the President of the United States took on himself to give to our treaties arbitrary interpretations, absolutely contrary to their true sense, and that by a series of decisions which they would have us receive as laws, he left no other indemnification to France for the blood she spilt, for the treasure she dissipated in fighting for the independence of the United States, but the illusory advantage of bringing into their ports the prizes made on their enemies, without being able to sell them. 11th. That no answer is yet given to the notification of the decree of the National Convention for opening our ports in the two worlds to the American citizens, and granting the same favours to them, as to the French citizens; advantages which will cease if there be a continuance to treat us with the same injustice. 12th. That he has deferred in spite of my respectful insinuations, to convoke Congress immediately, in order to take the true sentiments of the people, to fix the political system of the United States, and to decide whether they will break, suspend, or tighten their bands with France; an honest measure which would have avoided to the federal government much contradiction and subterfuge, to me much pain and disgust, to the local governments,

embarrassments, so much the greater, as they found themselves placed between treaties, which are laws, and decisions of the federal government, which are not: in fine, to the tribunals, duties so much the more painful to fulfil, as they have been often under the necessity of giving judgments contrary to the intentions of the government.

It results from all these facts, sir, that I could not but be profoundly affected with the conduct of the federal government towards my country, a conduct so contrary to what the will of their sovereign, to what the proceedings of mine gave me reason to expect: and that if I have shown firmness, it is because it was indispensable that my resistance should be equal to the oppression, to the injustice, which were in opposition to the interests confided to me; it is, that it was not in my character to speak as many people do, in one way, and act in another; to have an official language, and a language confidential. I have done strictly my duty; I have defended my ground, and I will suffer no precedent against any of the rights of the French people while there remains to me a breath of life; while our two republicks shall not have changed the basis of their political and commercial relations, while they shall not have persuaded the American people that it is more advantageous for them to become insensibly the slaves of England, the passive tributaries of their commerce, the sport of their politics, than to remain the allies of the only power who may be interested to defend their sovereignty and their independence; to open to them their colonies, and to their riches those markets which double their value. If it be to this that tend all the machinations set in motion against the French republicans, and against their friends in the United States: if it be to attain this more conveniently, that they wish to have here, instead of a democrattick ambassador, a minister of the ancient regimen, very complaisant, very mild, well disposed to pay his court to people in place, to conform himself blindly to whatsoever may flatter their views and their projects, and to prefer above all to the modest and sure society of good farmers, plain citizens, honest artisans, that of distinguished personages, who speculate so patriotically on the publick funds, on the lands and paper of the state, I know not if the French Republick can find for you at this day such a man in their bosom; but in all events, sir, I can assure you,

that I will press very strongly its government to *sacrifice me without hesitation*, if this injustice offers the least utility.  
 Accept my respects, GENET.

NOTE.—This letter was one among several others which were received at the Secretary of State's office in Philadelphia, there formed into a packet, September 30, addressed to him, and forwarded by pest to Virginia. By some accident of the post, they did not get on to him in Virginia, were returned to Philadelphia, and there received by him only the 2d day of December.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Philadelphia, Sept. 5, 1793.*

SIR,—I am honoured with yours of August 30th: mine of the 7th of that month assured you, that measures were taking for excluding from all further asylum in our ports vessels armed in them to cruise on nations with which we are at peace, and for the restoration of the prizes, the *Lovely Lass*, *Prince William Henry*, and the *Jane* of Dublin, and that should the measures for restitution fail in their effect, the President considered it as incumbent on the United States to make compensation for the vessels.

We are bound by our treaties with three of the belligerent nations, *by all the means in our power*, to protect and defend their vessels and effects in our ports or waters, or on the seas near our shores, and to recover, and restore the same to the right owners, when taken from them. If all the means in our power are used, and fail in their effect, we are not bound by our treaties with those nations to make compensation.

Though we have no similar treaty with Great Britain, it was the opinion of the President, that we should use towards that nation the same rule, which, under this article, was to govern us with the other nations, and even to extend it to the captures made *on the high seas*, and brought into our ports, if done by vessels which had been armed within them.

Having, for particular reasons, forborne to use *all the means in our power* for the restitution of the three vessels mentioned in my letter of August 7th, the President thought it incumbent on the United States to make com-

compensation for them : and though nothing was said in that letter of other vessels taken under like circumstances, and brought in after the 5th June, and *before the date of that letter*, yet, where the same forbearance had taken place. it was, and is his opinion, that compensation would be equally due.

As to prizes made under the same circumstances, and brought in *after the date of that letter*, the President determined, that all the means in our power should be used for their restitution. If these fail, as we should not be bound by our treaties to make compensation to the other powers, in the analogous case, he did not mean to give an opinion, that it ought to be done to Great Britain. But still, if any cases shall arise subsequent to that date, the circumstances of which shall place them on similar ground with those before it, the President would think compensation equally incumbent on the United States.

Instructions are given to the governours of the different states, to use all the means in their power for restoring prizes of this last description, found within their ports. Though they will, of course, take measures to be informed of them, and the general government has given them the aid of the customhouse officers for this purpose, yet you will be sensible of the importance of multiplying the channels of their information, as far as shall depend on yourself, or any persons under your direction, in order that the governours may use the means in their power for making restitution. Without knowledge of the capture, they cannot restore it. It will always be best to give the notice to them directly ; but any information, which you shall be pleased to send to me also, at any time, shall be forwarded to them, as quickly as distance will permit.

Hence you will perceive, sir, that the President contemplates *restitution* or *compensation*, in the cases before the 7th of August, and *after* that date, *restitution*, if it can be effected by any means in our power : and that it will be important, that you should substantiate the fact, that such prizes are in our ports or waters.

Your list of the privateers illicitly armed in our ports is, I believe, correct.

With respect to losses by detention, waste, spoliation, sustained by vessels taken as before mentioned, between the dates of June 5th and August 7th, it is proposed, as a provisional measure, that the collector of the customs of the



district, and the British consul, or any other person you please, shall appoint persons to establish the value of the vessel and cargo, at the times of her capture and of her arrival in the port into which she is brought, according to the value in that port.

If this shall be agreeable, and you will be pleased to signify it to me, with the names of the prizes understood to be of this description, instructions will be given accordingly to the collectors of the customs, where the respective vessels are. I have the honour to be, &c.

TH: JEFFERSON.

*Philadelphia, Sept. 7, 1793.*

SIR,—Finding by the protests of several of the consuls of France,—by their advertisements in the publick papers, and other proceedings, and by other sufficient testimony, that they claim, and are exercising, within the United States, a general admiralty jurisdiction, and in particular, assume to try the validity of prizes, and to give sentence thereon, as judges of admiralty; and moreover, that they are undertaking to give commissions within the United States, and to enlist, or encourage the enlistment of men, natives or inhabitants of these states, to commit hostilities on nations with whom the United States are at peace, in direct opposition to the laws of the land—I have it in charge, from the President of the United States, to give notice to all the consuls and vice-consuls of France in the United States, as I hereby do to you, that if any of them shall commit any of the acts before mentioned, or assume any jurisdiction not expressly given by the convention between France and the United States, the exequatur of the consul so transgressing will be immediately revoked, and his person be submitted to such prosecutions and punishments as the laws may prescribe for the case. I have the honour to be, &c.

TH: JEFFERSON.

Citizen Francois Dupont, Consul, Philadelphia.

Citizen Moissonier, Vice Consul, Maryland.

Citizen Mangourit, Consul, Charleston.

The citizen Hauterive, Consul from the Republick of France, at New York.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, Sept. 9, 1793.*

SIR.—In my letter of June 25th, on the subject of the ship William. and generally of vessels suggested to be

taken within the limits of the protection of the United States, by the armed vessels of your nation, I undertook to assure you, it would be more agreeable to the President, that such vessels should be detained, under the orders of yourself, or the consuls of France, than by a military guard, until the government of the United States should be able to inquire into and decide on the fact. In two separate letters, of the 29th of the same month, I had the honour to inform you of the claims, lodged with the Executive, for the same ship William and the brig Fanny;—to enclose you the evidence on which they were founded, and to desire, that if you found it just, you would order the vessels to be delivered to the owners; or if overweighed, in your judgment, by any contradictory evidence which you might have or acquire, you would do me the favour to communicate that evidence, and that the consuls of France might retain the vessels in their custody, in the mean time, until the Executive of the United States should consider and decide finally on the subject.

When that mode of proceeding was consented to for your satisfaction, it was by no means imagined it would have occasioned such delays of justice to the individuals interested. The President is still without information, either that the vessels are restored, or that you have any evidence to offer as to the place of capture. I am therefore, sir, to repeat the request of early information on this subject, in order that if any injury has been done those interested, it may be no longer aggravated by delay.

The intention of the letter of June 25th having been to permit such vessels to remain in the custody of the consuls, instead of that of a military guard, (which, in the case of the ship William, appeared to have been disagreeable to you) the indulgence was, of course, to be understood as going only to cases where the Executive might take or keep possession with a military guard, and not to interfere with the authority of the courts of justice, in any case wherein they should undertake to act. My letter of June 29, accordingly, in the same case of the ship William, informed you, that no power in this country could take a vessel out of the custody of the courts, and that it was only because they decided not to take cognizance of that case, that it resulted to the Executive to interfere in it.

Consequently this alone put it in their power to leave the vessel in the hands of the consul. The courts of jus-

ice exercise the sovereignty of this country in judiciary matters, are supreme in these, and liable neither to control nor opposition from any other branch of the government. We learn, however, from the enclosed paper, that the consul of New York, in the first instance, and yourself in a subsequent one, forbade an officer of justice to serve the process with which he was charged from his court, on the British brig *William Tell*, taken by a French armed vessel within a mile of our shores, as has been deposed on oath, and brought into New York, and that you had even given orders to the French squadron there to protect the vessel against any person who should attempt to take her from their custody. If this opposition were founded, as is there suggested, on the indulgence of the letters before cited, it was extending that to a case not within their purview; and even had it been precisely the case to which they were to be applied, is it possible to imagine you might assert it, within the body of the country, by force of arms?

I forbear to make the observations which such a measure must suggest, and cannot but believe, that a moment's reflection will evince to you the depth of the error committed in this opposition to an officer of justice, and in the means proposed to be resorted to in support of it.

I am therefore charged to declare to you expressly, that the President expects and requires, that the officer of justice be not obstructed in freely and peaceably serving the process of his court, and that, in the mean time, the vessel and her cargo be not suffered to depart, till the judiciary, if it will undertake it, or himself, if not, shall decide whether the seizure has been made within the limits of our protection. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Philadelphia, Sept. 9. 1793.*

SIR,—I have the honour to acknowledge the receipt of your two memorials, of the 4th and 6th instant, which have been duly laid before the President of the United States.

You cannot be uninformed of the circumstances which have occasioned the French squadron, now in New York, to seek an asylum in the ports of the United States. Driven from those where they were on duty, by the superiority of

the adverse party in the civil war which has so unhappily afflicted the colonies of France, filled with the wretched fugitives from the same scenes of distress and desolation, without water or provisions for the shortest voyage, their vessels scarcely in a condition to keep the sea at all, they were forced to seek the nearest ports in which they could be received and supplied with necessaries. That they have ever been out again to cruise, is a fact we have never heard, and which we believe to be impossible, from the information received of their wants, and other impediments to active service. This case has been noted specially, to show, that no inconvenience could have been produced to the trade of the other belligerent powers by the presence of this fleet in our harbours.—I shall now proceed to more general ground.

France, England, and all other nations have a right to cruise on our coasts; a right, not derived from our permission, but from the law of nature. To render this more advantageous, France has secured to herself, by treaty with us (as she has alone also, by a treaty with Great Britain, in the event of a war with us or any other nation) two special rights. 1st. Admission for her prizes and privateers into our ports. This, by the xvii and xxii articles, is secured to her exclusively of her enemies, as is done for her in the like case by Great Britain, were her present war with us, instead of Great Britain. 2d. Admission for her publick vessels of war into our ports, in cases of stress of weather, pirates, enemies, or other urgent necessity, to refresh, victual, repair, &c. This is not exclusive: As we are bound by treaty to receive the publick armed vessels of France, and are not bound to exclude those of her enemies, the Executive have never denied the same right of asylum, in our ports, to the publick armed vessels of your nation. They, as well as the French, are free to come into them, in all cases of weather, pirates, enemies, or other urgent necessity, and to refresh, victual, repair, &c. And so many are these urgent necessities, to vessels far from their own ports, that we have thought inquiries into the nature, as well as the degree, of their necessities which drive them hither, as endless as they would be fruitless; and therefore have not made them. And the rather, because there is a third right, secured to neither by treaty, but due to both on the principles of hospitality between friendly nations,—that of coming into

our ports, not *under the pressure of urgent necessity*, but whenever their comfort or convenience induced them. On this ground also, the two nations are on a footing.

As it has never been conceived, that either would detain their ships of war in our ports, when they were in a condition for action, we have never conceived it necessary to prescribe any limits to the time of their stay. Nor can it be viewed as an injury to either party, to let their enemies lie idle in our ports, from year's end to year's end, if they choose it. Thus then the publick ships of war of both nations enjoy a perfect equality in our ports—1st, in cases of urgent necessity—2d, in cases of comfort or convenience—and 3d, in the time they choose to continue.—And all a friendly power can ask from another is, to extend to her the same indulgences which she extends to other friendly powers. And though the admission of the prizes and privateers of France is exclusive, yet it is the effect of treaty, made long ago for valuable considerations, not with a view to the present circumstances, nor against any nation in particular, but all in general; and may, therefore, be faithfully observed, without offence to any; and we mean faithfully to observe it. The same exclusive article has been stipulated, as was before observed, by Great Britain in her treaty with France, and indeed is to be found in the treaties between most nations.

With respect to the usurpation of admiralty jurisdiction by the consuls of France, within these states, the honour and rights of the states themselves were sufficient motives for the Executive to take measures to prevent its continuance, as soon as they were apprized of it. They have been led, by particular considerations, to await the effect of these measures, believing they would be sufficient; but finding, at length, they were not, such others have been lately taken, as can no longer fail to suppress this irregularity completely.

The President is duly sensible of the character of the act of opposition made to the service of legal process on the brig William Tell, and he presumes, the representations made on that subject to the minister of France will have the effect of opening a free access to the officer of justice, when he shall again present himself with the precept of his court. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Van Berckel, Resident of the United Netherlands. Philadelphia, September 9, 1793.*

SIR,—I have the honour now to acknowledge the receipt of your memorial of the 5th instant.

You cannot be uninformed of the circumstances which have occasioned the French squadron, now in New York, to seek an asylum in the ports of the United States; driven from those where they were on duty, by the superiority of the adverse party in the civil war which has so unhappily afflicted the colonies of France, filled with the wretched fugitives from the same scenes of distress and desolation. without water or provisions for the shortest voyage, their vessels scarcely in a condition to keep the sea at all, they were forced to seek the nearest ports in which they could be received and supplied with necessaries. That they have ever been out again to cruise, is a fact we have never heard, and which we believe to be impossible, from the information received of their wants, and other impediments to active service. This case has been noted specially, to show that no inconvenience can have been produced to the trade of the other belligerent powers by the presence of this fleet in our harbours. I shall now proceed to more general ground.

France, Holland, and all other nations, have a right to cruise on our coasts; a right, not derived from our permission, but from the law of nature. To render this more advantageous, France has secured to herself, by treaty with us, two special rights—1st. Admission for her prizes and privateers into our ports. This, by the xvii and xxii articles of our treaty, is secured to her, exclusively of her enemies, and there is a salvo of it in her favour, in our treaty with the United Netherlands. 2d. Admission for her publick vessels of war into our ports, in cases of stress of weather, pirates, enemies, or other urgent necessity, to refresh, victual, repair, &c. This is not exclusive, and is secured also to the United Netherlands, by our treaty with them, and their publick armed vessels are accordingly free to come into our ports, in all cases of weather, pirates, enemies, or other urgent necessity, and to refresh, victual, repair, &c. And so many are these urgent necessities, to vessels far from their own ports, that we have thought inquiries into the nature, as well as the degree, of the

necessities which drive them hither, as endless as they would be fruitless, and therefore have not made them: And the rather, because there is a third right, secured to neither by treaty, but due to both on the principles of hospitality between friendly nations, that of coming into our ports, not *under the pressure of urgent necessity*, but whenever their comfort or convenience inclines them. On this ground also, the two nations are on a footing.

As it has never been conceived, that either would detain their ships of war in our ports, when they were in a condition for action, we have never conceived it necessary to prescribe any limits to the time of their stay. Nor can it be viewed as an injury to either party, to let their enemies lie idle in our ports, from year's end to year's end, if they choose it. Thus then, the publick ships of war, of both nations, enjoy a perfect equality in our ports—1st, in cases of urgent necessity—2d, in cases of comfort or convenience—and 3d, in the time they choose to continue. And all a friendly power can ask of another is, to extend to her the same indulgences which she extends to other friendly powers. And though the admission of the prizes and privateers of France is exclusive, yet it is the effect of treaty, made long ago, for valuable considerations, not with a view to present circumstances, nor against any nation in particular, but all in general, and may, therefore, be faithfully observed, without offence to any; and we mean faithfully to observe it. And this has been expressly admitted, as was before observed, in our treaty with the United Netherlands.

With respect to the usurpation of admiralty jurisdiction by the consuls of France, within these states, the honour and rights of the states themselves were sufficient motives for the Executive to take measures to prevent its continuance, as soon as they were apprized of it. They have been led, by particular considerations, to await the effect of these measures, believing they would be sufficient; but finding, at length, they were not, such others have been lately taken, as can no longer fail to suppress this irregularity completely. I have the honour to be, &c.

TH: JEFFERSON.

*The Citizen Genet, Minister Plenipotentiary from the Republick of France to the United States, to Mr. Jefferson, Secretary of State of the United States. New York, September 6, 2d year of the French Republick.*

SIR,—I have just discovered the most horrible conspiracy which has been formed against the arms of the French Republick: I have just discovered the whole clue and all the proofs of the infernal plot, which for these two months detained the French squadron in your ports in a state of nullity;—of that plot which threatened, not only the safety of our vessels, but also that of our colonial possessions. The traitors Galbaud and Tanguy, and several other villains, not satisfied with having caused, at St. Domingo, the spilling of the blood of an immense number of people;—not satisfied with having there caused the loss of a milliard to the Republick, concerted here, at Baltimore, and at Philadelphia, the project of bringing our forces to concur with them in the execrable plan meditated by these men, whose crimes have caused them to flee their country, to return to St. Domingo, for the purpose of renewing there the horrors and misfortunes which they have already had committed in that place. I have been informed that the success which the colonists of this place promised to themselves was nothing less than founded, as was that, the execution of which has lately been attempted in the Windward Islands, upon a proposed alliance with the enemies, now at war with the Republick,—the English and the Spaniards.

France, sir, in such circumstances, has required in Europe of the neighbouring powers, that they oppose every preparation which may be attempted by the emigrants in their dominions against her safety. She expects from a friendly and allied government, that it will be sufficient to notify them of the plots forming against her in their own territory, in order to obtain from them all proper means to suppress them. I have effected the disarming of the vessel, which was in the most alarming state of rebellion; but the instigators of it have fled, and I learn that they are spreading over the continent, where they cannot but be very injurious, as well to the tranquillity of this, as to the interests of their own country.

I therefore request the federal government to take the most speedy and efficacious measures to have them arrest-



ed, and thereby prevent them from committing the crimes which they might attempt. The governour and magistracy of New York have issued warrants against Galbaud, Tanguy, Conscience, and Bonne; but they have each escaped the activity of the persons sent to apprehend them. The traitors fly the punishment reserved for their crimes, and doubtless will employ themselves on new means of executing the plots they have formed against France. I have positive information that they are still within the confines of the United States; and, as the warrants of New York cannot be served out of the bounds of the state, I particularly request from the federal government against the said Galbaud, Tanguy, Conscience, and Bonne, of whom I subjoin a description, orders of arrest which shall extend throughout the continent of the United States. I also request that the most strict and steady attention may be had relative to the plots I have mentioned.

May this signal act, leaving no doubt as to the sincerity of the wishes of the government of the United States, for the success of the French Republick, cause all the traitors to tremble, whom my esteem for your country has led me perhaps too much to despise, and who avail themselves of the access which the kindness and hospitality of your nation offer them, to conspire within its very bosom, and in the circle of its most elevated personages, against France and the general freedom of nations. GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, September 12, 1793.*

SIR,—I have the honour of your letter of the 6th inst. and can assure you with real truth of the readiness and zeal with which the Executive will concur in preventing, within the limits of the United States, any preparation of hostilities against France or her colonies, as far as this can be effected by the extension of that portion of the publick power, with which they are invested by the laws. Your letter requests the arrest and delivery of Tanguy, Galbaud, Conscience, and Bonne, escaped from the ship Jupiter; and from the punishment of crimes committed against the Republick of France; and also that necessary measures be taken, to prevent the carrying into execution certain plots formed by them and others against their country. These two requisitions stand on different ground. The

laws of this country take no notice of crimes committed out of their jurisdiction. The most atrocious offender, coming within their pale, is received by them as an innocent man, and they have authorized no one to seize or deliver him. The evil of protecting malefactors of every dyé is sensibly felt here, as in other countries; but until a reformation of the criminal codes of most nations, to deliver fugitives from them, would be to become their accomplices: the former therefore is viewed as the lesser evil. When the consular convention with France was under consideration, this subject was attended to: but we could agree to go no further than is done in the 9th article of that instrument, where we agree mutually to deliver up "captains, officers, mariners, sailors, and all other persons being part of the crews of vessels," &c. Unless therefore the persons before named be part of the crew of some vessel of the French nation, no person in this country is authorized to deliver them up, but on the contrary they are under the protection of the laws. If they are part of the crew of a vessel, they are to be delivered up; but then it happens that the district judge of each state is by the law of Congress made the competent person to execute this article of the convention, and consequently each within his own state, and no one over all the states; so that as criminals they cannot be given up, and if they be of a crew of a vessel, the act of Congress has not given authority to any one officer to send his process through all the states of the Union. The other branch of your request is more completely provided for by the laws, which authorize coercions as to expeditions formed in the territory of the United States against nations with whom they are at peace. If therefore you will be pleased to give me such information as to persons and places as may indicate to what points the vigilance of the officers is to be directed, proper measures will be immediately taken for preventing every attempt to make any hostile expedition from these states against any of the dominions of France; the stronger the proofs you can produce, and the more pointed as to persons, the stronger will be the means of coercion which the laws will allow to be used.

I have not yet laid this matter before the President, who is absent from the seat of government; but to save delay which might be injurious, I have taken the liberty, as the case is plain, to give you this *provisory* answer. I shall

immediately communicate it to the President, and if he shall direct any thing in addition, or alteration, it shall be the subject of another letter. In the mean time, I may venture to let this be considered as a ground for your proceeding. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Hamilton, Secretary of the Treasury. Philadelphia, Sept. 12, 1793.*

SIR,—I have the honour to enclose you a paper delivered me by Mr. Bournonville, on the part of the minister of France, reclaiming against the demand of tonnage on the vessels which came hither from the West Indies, in their late calamity.—It is urged, that they were driven out of their harbours by superior force, and obliged to put to sea without water or stores, and therefore, to make the first ports where they could be relieved; which constitute, in their opinion, those circumstances of distress and necessity, which exempt vessels from the payment of tonnage. This case belongs to your department. I take the liberty, in the absence of the President, and to save time, to transmit it to you directly, for your consideration. I have the honour to be, &c.

TH: JEFFERSON.

*Citizen Genet, Minister Plenipotentiary of the Republick of France, to Mr. Jefferson, Secretary of State of the United States. New York, September 24, 1793, 2d year of the Republick of France.*

SIR,—I am charged to communicate to you the decree rendered by the National Convention, on the 13th of April last, by which they declare, “That the French people shall not intermeddle, in any manner, with the government of other powers; but that they will not suffer any power to intermeddle with the interior administration of the Republick, and pronouncing the penalty of death on whoever shall propose to negotiate or treat with enemy powers, who shall not have solemnly acknowledged the independence and sovereignty of the French Republick.”

When the French citizens, by the example of those of America, have thought proper to establish a government founded on the rights of man, it was to be expected, that they would find enemies in all those ambitious and eager for authority—in all the cabinets in which *Machiavetisme*

is honoured ; and when the French people, soured, fatigued with the dark machinations of their enemies, their publick attacks, the insults contained in the acts of the despotick courts, of governments tending to monarchy, have thought proper to repel these perfidies by acts marked with the stamp of loyalty, greatness, philosophy, even at the instant their vile enemies reported that they wished to annihilate all the governments, to destroy all authority, to spread trouble and confusion throughout, as if to oppose a provocation was not a natural right, as if a great people, victim of the particular hatred of the government of another people, had not the right to retaliate their fears, to enlighten them as to their errors, and to endeavour, by these pleasant and just means, to ward off great misfortunes, even to prevent war. Be this as it may, the National Convention has thought it a duty to assure the friends of humanity, and to shut the mouths of their enemies, to proclaim the intentions of the French people, whose agents will show, in every circumstance, that they know as well how to respect the laws of other people, as to defend those of the French nation, and to maintain their rights.

Accept my respect,

GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Monticello, in Virginia, Oct. 2, 1793.*

SIR,—I was honoured, yesterday, with your letter of the 14th of September, covering the commission of the citizen Dannery, to be consul of the Republick of France, at Boston. I now lay the same, by letter, before the President, to obtain his exequatur, which will be forwarded to you with the commission. The exequatur is made exactly commensurate with the commission ; but I apprehend, that neither is so with the intentions of the executive council, who probably did not mean to confine the functions of Mr. Dannery to the township of Boston. Should this be the case, you will be sensible of the expediency of obtaining for him, as early as possible, a new commission, defining the limits of his office, as extensively as they mean he shall exercise them, to which a new exequatur being adapted, their intentions will be fulfilled.

Satisfied that errors in the address of their commissions proceed from a want of intimacy with our constitution. no

difficulty has been made, on that account, in the case of the present commission. But it is my duty to remark to you, that, by our constitution, all foreign agents are to be addressed to the President of the United States, no other branch of the government being charged with the foreign communications. I have no doubt you will draw the attention of your government to this circumstance of form in future commissions. I have the honour to be, &c.

TH: JEFFERSON.

*George Washington, President of the United States of America, to all whom it may concern :*

THE citizen Dannery, having produced to me his commission, as consul for the Republick of France, at Boston, I do hereby recognise him as such, and do declare him free to exercise and enjoy such functions, powers and privileges, as are allowed to consuls of the French Republick by the laws, treaties, and conventions, in that case made and provided.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, the —— day of ——, in the year of our Lord 1793, and the independence of the United States of America the 18th.

By the President. TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Duplaine, Vice Consul of France, at Boston. October 3, 1793.*

SIR,—Authentick information being received, that, under colour of your office, as vice-consul of the Republick of France, you have, with an armed force, opposed the course of the laws of the land, and rescued out of the hands of an officer of justice a vessel which he had arrested by authority of a precept from his court: The President of the United Sates has considered it as inconsistent with the authority of the laws, and the respect which it is his office to enforce to them, that you should any longer be permitted to exercise the functions, or enjoy the privileges, of vice-consul in these United States; and has therefore thought proper, by the letters patent, of which I enclose you a copy, to revoke the exequatur heretofore granted

you, and to make the same publick. I have the honour, also, to enclose copies of the evidence whereon this measure is founded. And to be, &c.

TH : JEFFERSON.

## UNITED STATES OF AMERICA.

DISTRICT OF MASSACHUSETTS, SS.

THE PRESIDENT OF THE UNITED STATES OF AMERICA

TO THE MARSHAL OF OUR DISTRICT OF MASSACHUSETTS, OR HIS DEPUTY.

Greeting :

WE command you, that you replevy the goods and chattels following, viz. A certain schooner called the Greyhound, of the burden of forty tons or thereabouts, whereof John Henry Hill was late master, together with her boat, rigging, tackle, apparel, and furniture whatsoever, also the cargo of said schooner, now on board the same, consisting of ninety-five thousand mackerel, in bulk, equal to four hundred barrels—The same goods and chattels belonging to Alexander Brymer and Andrew Belcher, of Halifax, in the province of Nova Scotia, merchants, now taken and detained by Lewis Guillaume Felix Laumosne, of Boston, in said district, at Boston harbour, so called in Boston aforesaid ; and them deliver unto the said Brymer and Belcher ; provided the same are not taken and detained upon mean process, warrant of distress, or upon execution, as the property of the said Brymer and Belcher ; and summon the said Lewis, that he appear before our justices of our circuit court, next to be holden at Boston, within and for our district of Massachusetts, on the twelfth day of October next, to answer unto the said Brymer and Belcher in a plea of replevin, for that the said Lewis, on the twenty-first day of August instant, at said Boston, unlawfully, and without any justifiable cause, took the goods and chattels of the said Brymer and Belcher as aforesaid, and them unlawfully detained to this day, to the damage of the said Brymer and Belcher, as they say, the sum of two thousand dollars : Provided, they the said Brymer and Belcher shall give bond to the said Lewis, with sufficient surety or sureties, in the sum of four thousand dollars, being twice the value of the said goods and chattels, to prosecute the said replevin to final judgment, and to pay such damages and costs as the said Lewis shall recover against

him; and also to return and restore the same goods and chattels, in like good order and condition as when taken, in case such shall be the final judgment. And have you there this writ, with your doings herein, together with the bond you shall take. Witness John Jay, Esquire, at Boston, this twenty-first day of August, in the year of our Lord one thousand seven hundred and ninety-three.

N. GOODALE, Clerk.

A true copy.

Attest.

SAML. BRADFORD, Dy. Marsl.

*I Thomas Amory, jun. depose :*

THAT on the 22d day of August, at the request of C. Gore, Esq. and general Brooks, I went with the latter on board the frigate *La Concorde*, introduced him to the captain and informed captain Van Dogen, that general Brooks was marshal of this district, and waited on him relative to the schooner which colonel Bradford had attempted to replevin, but was interrupted in the service of his precept by an armed force, sent by his order from on board the frigate, that general Brooks wished to converse with him, and the consul on the subject when convenient. Soon after the company withdrew, when general Brooks in presence of the captain, consul, justice Cooper and myself, told the captain, that colonel Bradford, his deputy, had been interrupted in serving a precept on the schooner *Greyhound*, taken by the privateer, pointing to the vessel under the frigate's stern, by an armed force under his orders, and that he had waited on him to demand a surrender of the vessel to colonel Bradford his deputy marshal, when the captain expressed his dislike to the taking the Americans out of the privateer and prizes the day before to colonel Bradford, serving the precept—that he received orders from the consul to withhold and protect, that it was his duty and he certainly should protect her. The consul said that any vessel wearing the national flag of the Republick of France, of course, was entitled to his protection; when general Brooks put this case, should a French merchantman be attached in this port by a citizen of the United States, would you consider it your duty to take that vessel under your protection against the process? The captain answered in the affirmative—the captain afterwards told me that he had written to the governour,

and that if he demanded the prize, he must of course relinquish her, forwarding the governour's reply with copy of his letter to the minister of France. The consul then appointed to meet at his lodgings in the evening, where I accompanied general Brooks, and after much conversation, the consul said, he did not wish to oppose force to the execution of our laws, that he left the frigate in a great hurry, or he should then have given orders to captain Van Dogen to withdraw his men out of the prize, and leave her to the control of colonel Bradford, and that he would then do it, but should at the same time protest against the business. At that moment Mr. Jutau came into the room, and said a few words to the consul in French, the consul turned about and said he should not relinquish the vessel, when I reminded him of what he had just before promised—he said again, he was sorry for the difficulty. The marshal then said, that a great deal had passed on the subject, and he now wished a categorical answer to his demand—the general wished to know if he was to understand, that he, the consul, refused to allow colonel Bradford to take charge of the vessel, the consul said he did not, certainly did not, wish to oppose force to the officers of law in this country. Said he wished them to write, and promised to answer, conclusively, in the morning. Friday morning, August 24, 3 o'clock. This morning general Brooks and myself waited on the consul, when he informed us, he had concluded to keep possession of the vessel, and general Brooks informed him he should make a representation of the business to the government. I then handed the consul an open letter from C. Gore, Esq. and took leave with general Brooks—a copy of which letter is hereunto annexed.

THOMAS AMORY, JUN.

Boston, September 10, 1793.

The consul did, in my presence, read part, or the whole, of the letter referred to, and made no reply.

THOMAS AMORY, JUN.

Sworn to, September 10th, 1793,

Before J. LOWELL, Judge of the District  
Court of Massachusetts District.

*Boston, August 22, 1793.*

SIR,—I have been informed that the marshal of the district of Massachusetts, yesterday, in obedience to a precept



from the Circuit Court of the United States, replevied a vessel in this harbour, that after he had so replevied the vessel, a number of armed men, acting by your order, and under your authority, forcibly took from him the vessel, and now resist the execution of his precept. As Attorney for the United States within the district of Massachusetts, I do demand of you that you remove the force and obstruction which you oppose to the laws of the United States. I am, sir, your obedient servant.

Mr. DUPLAINE, Vice Consul.

*I Rufus Greene Amory, of Boston, in Massachusetts District, of lawful age, testify and say,*

THAT on the twenty-second day of August last, being informed that the schooner Greyhound, against which I had issued a writ of replevin, in favour of Messrs. Brymer and Belcher, returnable to the next circuit court for said district, was taken from colonel Bradford, the deputy marshal, by some French people, I went on board the ship of war called the Concord, commanded by captain Van Dogen, to inquire if the said schooner was under his custody—the said captain informed me that she was under his protection. I told him that the civil officer, colonel Bradford, as marshal of the district, had gone on board the said schooner to replevy her under process of law. That on the evening before, while the said marshal was on board said schooner, by virtue of his precept, some armed people went on board, and against the will of said marshal, had brought said schooner near his ship, and I asked him, if the same was done by his authority—the said captain Van Dogen told me, that some person had complained to him of an attempt to carry the said schooner away from her anchorage in the night time, and that to prevent the same, he had ordered some of his people on board her, and had directed her to be brought nearer to his ship—where she then was—I asked him if he would deliver the schooner to the marshal, and he said that he should not without orders from the consul of France. I asked him if the said schooner was in his custody before the marshal had entered on board her—he said that he had none of his people on board—but she came into harbour under French colours as a prize, and that the captain of her had asked his leave for anchorage, where she had come too, and, as being un-

der a French commission in publick service, he had considered the said vessel under his protection.

RUFUS G. AMORY.

September 10th, Sworn to, before  
J. LOWELL, Judge of the District Court of  
Massachusetts District.

I the said Rufus Greene Amory further testify, that said Capt. Van Dogen told me, that he had complained to the governour concerning the attempt to carry away the said schooner in the night time, without his leave.

RUFUS G. AMORY.

*I John Brooks, Marshal of the District of Massachusetts,  
do testify and say,*

THAT on the twenty-second day of August last, being in Boston, and finding that Col. Samuel Bradford, deputy marshal for said district, in serving a writ of replevin upon the schooner Greyhound, had been opposed by an armed force, acting under the orders of Capt. Van Dogen, commander of the French frigate "La Concord," I went on board said frigate to demand of the captain the restoration of the said schooner. Upon my opening to Capt. Van Dogen the object of my visit, (which was done in the presence of Mr. Duplaine, the French consul, Mr. Justice Cooper and Mr. Thomas Amory) he discovered considerable warmth and displeasure at some Americans having been taken from on board a French vessel, as well as at the attempt of Col. Bradford to possess himself of a vessel bearing the colours of France, while under the protection of a ship of force belonging to the French Republick. As my object was to demand of Capt. Van Dogen restoration of the schooner aforesaid, and to obtain from him a categorical answer, I avoided as much as possible the discussion of any subject irrelative thereto; and at length obtained from him a declaration, that as he had received his orders from the French consul, for doing what he had done, and as it was his duty to obey the consul, he could not surrender the schooner. That he was an officer and must obey his orders. Immediately upon Capt. Van Dogen having made the above mentioned declaration, which was done in presence of the French consul, the latter observed to me, that he thought it a pity that any difficulty

should arise about the schooner—that he believed, if he and myself were to take our papers, we could settle the whole affair in a few minutes, and proposed that I should meet him on shore in one hour. To this I agreed, and we met accordingly. The result, after more than an hour's conversation at this interview, was a proposition for another the next morning at 8 o'clock. At the time assigned I again waited on the consul at his lodgings. Upon my entering the house, he informed me, that he had come to a determination about the schooner—that things should remain as they then were—that he should keep possession of the schooner—that I must apply to the governour, and that if the governour did not do something about it, he should advertise the schooner in the newspapers, and if in six days no body proved a claim to her, he should condemn her to the captors, or words to that effect.

I further testify, That, in the conversation with Capt. Van Dogen, he informed me, that by the laws of the French Republick, it was the duty of commanders of the ships of the said Republick, when in foreign ports, where there were French consuls, to obey the orders of such consuls—that the consuls were admirals, or had the power of admirals, or words to that effect. Capt. Van Dogen said this in the presence of the French consul.

I further testify, That Mr. Duplaine the French consul told me, it had been his design to withdraw the armed force from the schooner Greyhound, and intimated to me that he would give an order to have said force withdrawn—in which case, he said, he should protest against the measures then pursuing by the government, meaning the government of the United States, but that he, the said consul, afterwards refused to withdraw said force as above said.

J. BROOKS.

Sworn to, September 10th, 1793, before

JOHN LOWELL, Judge of the  
District Court of Massachusetts District.

*United States District of Massachusetts, Sept. 10, 1793.*

THEN Thomas Amory, jun. Rufus Greene Amory, Nathaniel Byfield Lyde and John Brooks, Esquire, made oath to the truth of the annexed depositions, by them respectively subscribed, in the presence of Antoine Charbonnet Duplaine, and declared, that they did not recollect

any other material circumstance relative to the matter in inquiry; and the annexed deposition of Samuel Bradford is transcript of his deposition taken under like circumstances. Before

JOHN LOWELL, Judge of the  
District Court of Massachusetts District.

*I Nathaniel Byfield Lyde, of lawful age, testify and say,*

THAT on the evening of the twenty-first of August instant, at the request of Samuel Bradford, Esq. marshal of Massachusetts district, I went with him on board the schooner Greyhound, lying off the end of Long-wharf in the harbour of Boston. The said Bradford went on board of said schooner, as I understood, to serve a writ of replevin against the said schooner, which issued from a circuit court of said district, in behalf of Messrs. Brymer and Belcher, of Halifax, Nova-Scotia, merchants; said Bradford wanted my assistance in the service of said writ—we got on board just after nine o'clock, and saw one person on board, who appeared to be a Frenchman—Col. Bradford made known to him, he had a process against the said vessel and inquired for the master—The said Frenchmen hailed a vessel which appeared to be a privateer, and a person came on board, who said, that he was prize-master of said schooner—Mr. Bradford then made known to him that he had a precept or writ of replevin, and by virtue of that he had taken possession of the schooner—The prize-master then requested that he might call for Mr. Jutau, who was said to be on board the frigate Concorde, soon after which Mr. Jutau came on board with some other persons, the said marshal then made known to Mr. Jutau the purpose and authority by which he had come on board, said Jutau explained the same to those persons on board said schooner—Mr. Jutau soon after went on board the frigate; an officer and about twelve men came on board the schooner, from the frigate, all armed—The said officer soon after, ordered the schooner to be removed near to the frigate—The marshal told said officer his authority by which he had taken possession, and forbid him to move the said schooner, this removal was between ten and eleven o'clock the same evening, shortly afterwards the French consul with Mr. Jutau came on board—The marshal then informed them by what authori-

ty he came on board, and had taken possession of the schooner—The consul then informed the marshal, that he should keep possession of the schooner—the marshal then told the said consul, he would not quit the schooner—the said schooner for one or two days remained in possession of the officer and armed men, contrary to the orders and will of the said marshal, but the marshal remained on board of said schooner—I was also on board the frigate in the morning of the 22d August, with Mr. Amory, attorney to and on the part of Messrs. Brymer and Belcher, when the captain informed said Amory, he should protect and retain said schooner under his protection notwithstanding the authority and doings of said marshal, as mentioned to him by Mr. Amory, who related the same to him.

NATHL. BYD. LYDE.

Sworn to, September 10th, 1793, before

JOHN LOWELL, Judge of the  
District Court of Massachusetts District.

*I Samuel Bradford, Deputy Marshal of the District of  
Massachusetts, do testify and say,*

THAT on Wednesday, the twenty-first day of August, at about seven of the clock, P. M. I was possessed of a writ, Brymer and Belcher, plaintiffs, in replevin, vs. Laumosne, commanding me to replevy the schooner called the Greyhound; that I immediately proceeded to serve the said process, and was accompanied on board the said schooner, then lying in the harbour of Boston, by captains Lyde and Hayman.—We found only one man on board; I inquired for Mr. Laumosne, the prize-master—The Frenchman hailed the privateer Rowland, and, at my request, informed the people on board said privateer, that an American had business with Mr. Laumosne—The said Laumosne came on board, attended by the captain of the privateer—I read the precept to the prize-master, and explained to him the nature of the process, and observed, that a bond was given to support any damages that might arise from my taking possession of the schooner—I added, that I was then in possession of the schooner, and that, at a proper time, I should remove said vessel to the wharf—The prize-master observed, that Mr. Jutau was then doing business on board the frigate La Concorde, and that he should send for him

—to which I consented—soon after, Mr. Jutau came on board the schooner—I then informed him of the process that I had against the said schooner—read to him the writ—and observed, that I should remove the vessel as above stated.—Mr. Jutau said, that I had no right or authority to serve any writ after dark—That the vessel belonged to the Republick of France, and could not be attached—and that she was under the protection of the French Republick—and he made many other observations to the same effect.—I replied, that, as an officer of the government of the United States, I should pursue strictly the line of my duty.—Mr. Jutau left the schooner, and told the prize-master to remain on board; after he was in the boat, to return to the frigate, I requested him to inform Mr. Laumosne, that after the schooner was hauled to the wharf, I should require him to go on shore.—Mr. Jutau replied, that I might inform the prize-master myself, and that I must force him from the vessel.—In about half an hour after Mr. Jutau's departure on board the frigate, an officer came from thence on board the schooner, he was a lieutenant, and I heard him inform the prize-master, that I should not remove the vessel.—In about an hour after this, a body of about twelve armed men (marines) came on board the schooner, from the frigate—The lieutenant read a paper, which I suppose were orders.—At about half past eleven o'clock, I addressed the lieutenant, and after observing to him, that he appeared interested in the business in which I was engaged, I assured him, that my writ was against Mr. Laumosne, and that I had nothing to say to him (the lieutenant) relative thereto, and I added, that I had taken possession of the schooner by virtue of my office, as deputy marshal, and that I should proceed to remove her.—He replied, that he should obey the orders that he had received from his captain, which was, to remove the said schooner near to the frigate.—The lieutenant then ordered the vessel to be removed, and we were hauled between the frigate and privateer Rowland. I told the lieutenant, that what he did, he must answer for, and I forbid him, at his peril, to remove the said schooner. I asked the said lieutenant, if he had brought the armed force to prevent my removing the schooner; he replied in the affirmative. Finding myself opposed in the progress of serving my precept, by an armed force, I dismissed the men who were on board

to give me aid in conducting the schooner to the wharf: some time after, the lieutenant retired from the schooner, and took off his men, excepting a corporal and four, whom, he observed, he should leave on board, to take care of said schooner. At about twelve o'clock, A. M. Mr. consul Duplaine, Mr. Jutau the chancellor, and Mr. Nancrede, in going on shore from the frigate, came on board the schooner.—We conversed on the subject—I went over the business again, and told Mr. Duplaine, that I was opposed by an armed force; but that I should not quit the vessel. The consul said, that he should keep possession; but added, that if I went on shore, I might return on board in the morning, and that the vessel would remain in the same situation. From the conversation between Mr. Duplaine, Mr. Jutau, the lieutenant of the frigate, the prize-master, and myself, I had no doubt, but that the captain of the frigate acted under the orders of Mr. Duplaine. A guard was regularly maintained on board the schooner, from Wednesday night till about twelve o'clock, P. M. on Saturday, the 24th, when a boat from the frigate, took from the schooner the guard—The corporal, previous to his quitting, hailed the shore, or the privateer Rowland, and a Frenchman came on board the schooner, after which the guard retired; soon after, the frigate being then under way, and having procured assistance from the town, I directed the people to weigh the anchors of the schooner, and conduct me to the wharf, where I arrived at one o'clock—having legally executed my precept.

I soon after saw the consul, who said, “Then, sir, you have quitted the vessel—You have then left her I suppose.” To which I replied, that I had left her at the wharf, had executed my precept, and that I should take proper care of the said schooner—The consul appeared surprised.

SAMUEL BRADFORD.

Boston, Sept. 10, 1793.

Sworn to, Sept. 10, 1793, before J. LOWELL,  
Judge of the District of Massachusetts.

GEORGE WASHINGTON, *President of the United States of America, to all whom it may concern.*

THE sieur Antoine Charbonnet Duplaine, heretofore having produced to me his commission as vice consul

for the Republick of France, within the states of New Hampshire, Massachusetts and Rhode Island, and having thereon received from me an exequatur, bearing date the fifth day of June, 1793, recognising him as such, and declaring him free to exercise and enjoy such functions, powers and privileges, as are allowed to vice consuls of the French Republick, by the laws, treaties, and conventions in that case made and provided, and the said sieur Duplaine, having, under colour of his said office, committed sundry encroachments, and infractions on the laws of the land, and particularly, having caused a vessel to be rescued, with an armed force, out of the custody of an officer of justice, who had arrested the same by process from his court; and it being therefore no longer fit, nor consistent with the respect and obedience due to the laws, that the said sieur Duplaine should be permitted to continue in the exercise and enjoyment of the said functions, privileges and powers: these are therefore to declare, that I do no longer recognise the said Antoine Charbonnet Duplaine, as vice consul of the Republick of France, in any part of these United States, nor permit him to exercise or enjoy any of the functions, powers or privileges, allowed to the vice consuls of that nation; and that I do hereby wholly revoke and annul the said exequatur heretofore given, and do declare the same to be absolutely null and void, from this day forward.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States of America to be hereunto affixed.

Given under my hand this            day of            in  
the year of our Lord. 1793, and of the independence of the United States of America, the eighteenth.    GEORGE WASHINGTON.

By the President,

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France. Monticello, in Virginia, Oct. 3, 1793.*

SIR,—In a former letter which I had the honour of writing you, I mentioned that information had been received, that Mr. Duplaine, vice consul of France, at Boston, had been charged with an opposition to the laws



of the land, of such a character, as, if true, would render it the duty of the President immediately to revoke the exequatur, whereby he was permitted to exercise the functions of vice consul in these United States. The fact has been since inquired into, and I now enclose you copies of the evidence establishing it, whereby you will perceive, how inconsistent with peace and order it would be to permit any longer the exercise of functions in these United States by a person capable of mistaking their legitimate extent, so far, as to oppose, by force of arms, the course of the laws within the body of the country. The wisdom and justice of the government of France, and their sense of the necessity, in every government, of preserving the course of the laws free and unobstructed, render us confident, that they will approve this necessary arrestation of the proceedings of one of their agents; as we would certainly do in the like case, were any consul or vice consul of ours to oppose, with an armed force, the course of their laws within their own limits. Still, however indispensable as this act has been, it is with the most lively concern the President has seen, that the evil could not be arrested otherwise than by an appeal to the authority of the country. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to Mr. Morris, Minister Plenipotentiary of the United States, to France.*  
Oct. 3, 1793.

DEAR SIR,—Mr. Duplaine, vice consul of France at Boston, having, by an armed force, opposed the course of the laws of this country, within the same, by rescuing, out of the hands of an officer of justice, a vessel which he had arrested by authority of a precept from his court, the President has thought it necessary to revoke the exequatur, by which he had permitted him to exercise his functions here. I enclose you copies of the act and of the evidence on which it has been founded; as also of the letters, written to him and Mr. Genet, and you are desired to communicate the same to the government of France, and to express to them the very great concern, with which the President has seen himself obliged to take a measure with one of their agents, so little in unison with the sentiments of friendship we bear to their nation, and to the respect

we entertain for their authority. But conscious we should deem it an act of friendship in them, to do the like in the like case, and to prove their confidence in our justice and friendship, by instantaneously disabling from a repetition of the act, any consul or vice consul of ours, who should once have been guilty of such an aggression on their authority, we rely on the same friendly construction, on their part, of the disagreeable measure now forced on us. I have the honour to be, &c. TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France. Germantown, Nov. 5, 1793.*

SIR,—I have the honour to enclose you the copy of a letter from Mr. Moissonier, consul of France, at Baltimore, to the governour of Maryland, announcing that Great Britain is about to commence hostilities against us, and that he purposes to collect the naval force of your Republick in the Chesapeake, and to post them as a vanguard to derange the supposed designs of the enemy.

The bare suggestion of such a fact, however improbable, renders it a duty to inquire into it, and I shall consider it as a proof of your friendship to our nation, if you have it in your power, and will be pleased to communicate to me the grounds of Mr. Moissonier's assertion, or any other respectable evidence of such an intention, on the part of Great Britain.

In the mean while, as we have reason to believe it unfounded, as they have in no instance, as yet, violated the sovereignty of our country, by any commitment of hostilities, even on their enemies within our jurisdiction, we presume with confidence that Mr. Moissonier's fears are groundless. I have it, therefore, in charge to desire you to admonish Mr. Moissonier against the parade he proposes, of stationing an advanced guard in the bay of Chesapeake, and against any hostile array, which, under the profession of defensive operations, may in fact generate those offensive. I flatter myself, sir, that you will be so good as to join the effect of your authority to that of our government, to prevent measures on the part of this agent of your Republick, which may bring on disagreeable consequences. I have the honour to be, &c.

TH: JEFFERSON.

*Citizen Moissonier to General Lee, Governour of the State of Maryland. Baltimore, October 23, 2d year of the French Republick.*

THE liberticide system, which directs the European cabinets, is going to manifest itself towards the United States. England, that power to which they have been so complaisant, is getting ready to fall upon them. The preparatives are made, and I see, with pain, that no dispositions whatever are made to oppose any resistance to them.

The indifference of this state cannot exist as to our interests.—This bay contains the riches of our commerce of St. Domingo, and the only hope of the French nation. We shall become infallibly the first victims of this carelessness, if I am not able to obtain from you, sir, that the forts which defend the entrance of the Chesapeake be put into condition.

In the mean while, and in pursuance of the orders of the minister, I am going to collect all the maritime forces which the Republick has in this bay, to form a vanguard, sufficiently formidable, and to derange, if it be possible, the projects of our common enemies. I have the honour to be, &c.

F. MOISSONIER.

TRANSLATION.

*The Minister of the French Republick with the United States, to Mr. Jefferson, Secretary of State of the United States. New York, Nov. 15, 1793, 2d year of the Republick of France.*

SIR,—I have received the letter which you have done me the honour to write to me the 5th November.

The citizen Moissonier has given to my instructions a sense more determinate than I had intended. I did not write him that England was immediately going to fall on you; but knowing by your history, by our own, and by still more particular information, all the hatred with which that government honours your and our principles, knowing the secret treaties which unite the courts leagued against free people, confident that our success can alone suppress the projects of vengeance, which are perpetually nourished in the breast of your ancient tyrant, seeing that some reverses afterwards effaced, might excite him to ag-

celebrate the execution of his designs, I prescribed to this vice consul,

1st. To concert with the commander of our naval forces in the Chesapeake, to have collected at Baltimore all the commercial vessels which may be in the open and unsafe road of Norfolk.

2d. To have the armed vessels anchored, according to custom, in the advanced guard of the convoy.

3d. To establish a severe police in the road for the purpose of preventing disorder, and protecting our property from incendiary enterprises, sufficiently familiar to our common enemy.

4th. To sound the local government of Maryland, to know whether the forts which form a part of the defence of Baltimore could not be repaired.

Citizen Moissonier, animated by a very pure patriotism, has doubtless mixed a little warmth in this latter step; but I do not see, sir, that he has merited the admonition you mention, and that the measures taken for the security of the road can compromise, in any manner, the peace of the United States. God grant that you may long enjoy, with honour, that peace so pleasant and happy. It is the very sincere wish of your friends; it is mine; but I shall not now dissemble more than I have hitherto done, that it is not the most certain object of my hopes. Before having the happiness of serving a free people, I was employed by a court, and I resided at several others. I have been seven years a head of the bureau at Versailles, under the direction of Vergennes. I have passed one year at London, two at Vienna, one at Berlin, five in Russia, and I am too well initiated in the mysteries of these cabinets, not to tremble at the fate which menaces America; if the cause of liberty should not triumph, every where, for every where where there is a throne, I warrant that you have an enemy. All the princes look upon you as our teachers; almost all consider you as rebels, who must sooner or later be chastised; almost all have *sworn your ruin as well as ours*, and be assured that George III. has not entered into their league, but on this condition. Your expedients, your managements will not change this system, and if the ministers who reside with you hold a different language, it is only the better to deceive you. They triumph at the security into which they have plunged you, at the very moment when their courts are insulting you in every quar-

ter, except on your coasts, where they know we have forces ; but their tone will change whilst ours shall remain invariably the same, true and sincere. Accept my respect,  
 GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister of France. Germantown, Nov. 8, 1793.*

Sir,—I have now to acknowledge and answer your letter of September 13, wherein you desire that we may define the extent of the line of territorial protection on the coasts of the United States, observing that governments and jurisconsults have different views on this subject.

It is certain that, heretofore, they have been much divided in opinion as to the distance from their sea coasts to which they might reasonably claim a right of prohibiting the commitment of hostilities. The greatest distance, to which any respectable assent among nations has been at any time given, has been the extent of the human sight, estimated at upwards of 20 miles, and the smallest distance, I believe, claimed by any nation whatever, is the utmost range of a cannon ball, usually stated at one sea-league. Some intermediate distances have also been insisted on, and that of three sea-leagues has some authority in its favour. The character of our coast, remarkable in considerable parts of it for admitting no vessels of size to pass near the shores, would entitle us, in reason, to as broad a margin of protected navigation, as any nation whatever. Not proposing, however, at this time, and without a respectful and friendly communication, with the powers interested in this navigation, to fix on the distance to which we may ultimately insist on the right of protection, the President gives instructions to the officers, acting under his authority, to consider those heretofore given them as restrained for the present to the distance of one sea-league, or three geographical miles from the sea shores. This distance can admit of no opposition, as it is recognised by treaties between some of the powers with whom we are connected in commerce and navigation, and is as little or less than is claimed by any of them on their own coasts.

Future occasions will be taken to enter into explanations with them, as to the ulterior extent to which we may reasonably carry our jurisdiction. For that of the rivers

and bays of the United States the laws of the several states are understood to have made provision, and they are, moreover, as being landlocked, within the body of the United States.

Examining, by this rule, the case of the British brig *Fanny*, taken on the 8th of May last, it appears from the evidence, that the capture was made four or five miles from the land, and consequently without the line provisionally adopted by the President, as before mentioned.

I have the honour to be, &c. TH: JEFFERSON.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary from the Republick of France to the United States. Germantown, Nov. 10, 1793.*

SIR,—As in cases where vessels are reclaimed by the subjects or citizens of the belligerent powers, as having been taken within the jurisdiction of the United States, it becomes necessary to ascertain that fact, by testimony taken according to the laws of the United States, the governours of the several states, to whom the applications will be made in the first instance, are desired immediately to notify thereof the attorneys of their respective districts. The attorney is thereupon instructed to give notice to the principal agent of both parties, who may have come in with the prize, and also to the consuls of the nations interested, and to recommend to them to appoint, by mutual consent, arbiters to decide whether the capture were made within the jurisdiction of the United States, as stated to you in my letter of the 8th instant, according to whose award the governour may proceed to deliver the vessel to the one or the other party. But in case the parties, or consul shall not agree to name arbiters, then the attorney, or some person substituted by him, is to notify them of the time and place, when and where he will be, in order to take the depositions of such witnesses as they may cause to come before him, which depositions he is to transmit for the information and decision of the President.

It has been thought best to put this business into such a train, as that the examination of the fact may take place immediately, and before the witnesses may have again departed from the United States, which would too frequently happen, and especially in the distant states; if it should be deferred till information is sent to the Executive, and a special order awaited to take the depositions.

I take the liberty of requesting that you will be pleased to give such instructions to the consuls of your nation, as may facilitate the object of this regulation. I urge it with the more earnestness, because, as the attorneys of the districts are for the most part engaged in much business of their own, they will rarely be able to attend more than one appointment, and consequently, the party who should fail, from negligence or other motives, to produce his witnesses at the time and place appointed, might lose the benefit of their testimony altogether. This prompt procedure is the more to be insisted on, as it will enable the President, by an immediate delivery of the vessel and cargo to the party having title, to prevent the injuries consequent on long delay. I have the honour to be, &c.

TH: JEFFERSON.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary from the Republic of France to the United States, to Mr. Jefferson, Secretary of State of the United States. New York, Nov. 14, 1793, 2d year of the French Republic.*

SIR,—I have received the exequatur of citizen Danneury's commission as consul, and immediately transmitted it to that publick officer.

I shall present to the executive council of the Republic, sir, the judicious reflections which you have made on the attribution of the consular functions, which are, in fact, reduced by the commissions of our consuls to the limits of the cities of their residence; which, certainly, is not the intention of the council. I shall also lay before them the observation you have made relatively to the address of our consular commissions; and they, in their wisdom, will adopt the alterations of which this matter appears susceptible, agreeably to the text, spirit, and basis of your constitution. However, as it is not explicit in this respect, and as the functions attributed to the President of the United States, relatively to the reception of foreign ministers, appear to be only those which are fulfilled in courts by the first ministers, for their pretended sovereigns, to verify purely and simply the powers of foreign agents accredited to their masters, and irrevocable by them when once they have been admitted, I should be glad, sir, in order the bet-

ter to fix the ideas of the French council on this interesting question, that you would have the goodness to enlighten it with your knowledge, and that of your learned colleagues, which I shall faithfully transmit to my superiors.

Accept my respect,

GENET.

*Mr. Jefferson, Secretary of State, to Citizen Genet, Minister Plenipotentiary from the Republick of France to the United States. Germantown, Nov. 22, 1793.*

SIR,—In my letter of October 2, I took the liberty of noticing to you, that the commission of consul to M. Dannery ought to have been addressed to the President of the United States; he being the only channel of communication between this country and foreign nations, it is from him alone that foreign nations or their agents are to learn what is or has been the will of the nation, and whatever he communicates as such, they have a right, and are bound to consider as the expression of the nation, and no foreign agent can be allowed to question it, to interpose between him and any other branch of government, under the pretext of either's transgressing their functions, nor to make himself the umpire and final judge between them. I am, therefore, sir, not authorized to enter into any discussions with you on the meaning of our constitution in any part of it, or to prove to you, that it has ascribed to him alone the admission or interdiction of foreign agents. I inform you of the fact by authority from the President. I had observed to you that we were persuaded, that in the case of the consul Dannery, the error in the address had proceeded from no intention in the executive council of France to question the functions of the President, and therefore no difficulty was made in issuing the commission. We are still under the same persuasion. But in your letter of the 14th instant, you *personally* question the authority of the President, and in consequence of that have not addressed to him the commissions of Messrs. Pennevert and Chervi, making a point of this formality on your part; it becomes necessary to make a point of it on ours also; and I am therefore charged to return you those commissions, and to inform you that, bound to enforce respect to the order of things established by our constitution, the President will issue no exequatur to any consul or vice consul, not directed to him in the usual form, after the party, from



whom it comes, has been apprized that such should be the address. I have the honour to be, &c.

TH: JEFFERSON.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary from the Republick of France to the United States, to Mr. Jefferson, Secretary of State of the United States. New York, Sept. 14, 1793, 2d year of the French Republick.*

SIR,—The multiplied business, with which I have been loaded since my stay here, has not hitherto permitted me to acknowledge the receipt of your letter to me of the 5th of August; it came duly to hand, and, as the decisions it contains are only the consequence of those on which I have already made the strongest and the best founded representations, I have thought that I should leave the care of executing them to the federal government, because it is not my business, in any manner, to give the consuls of the Republick orders contrary to the sense of our treaties, to prescribe to them not to conform, relative to the armaments and prizes made by our vessels, to the instructions given them by authority superior to mine, and to enjoin on them to suspend the effect of the commissions that our privateers hold from the executive council, and not from their delegate. With respect to the indemnity promised by the President of the United States to the English minister, in virtue of the principles he has established, it is not more in my power to consent to it, as, in my opinion, it is not in his to promise it. For in order to operate this new appropriation of the funds of the Republick, the consent of the legislative bodies of both parties is indispensable.

However, sir, though I have not the right to withdraw, authoritatively, the commissions of which our privateers are possessed, although I am equally unable to constrain them to submit to decisions which our treaties of alliance and commerce do not sanction, and which the decisions given by several tribunals of the United States, which even the negotiations with you, seem to contradict, yet you may be assured, that, after having supported as long as I have been able the rights and the interests of the French people, I shall neglect nothing to engage by persuasion our privateers to suspend their cruises and change their destination. The object for which we have encouraged the arming of all those little vessels, was to destroy the commerce of our

enemies, and to block up their seamen in your ports, for the purpose of accelerating the return of peace by a diminution of their strength. This plan was good, and notwithstanding the obstacles opposed to it, it has so far succeeded, as to bring into our possession fifty of their vessels, and to condemn to inactivity an infinitely greater number. This object is now accomplished; superior forces will accomplish the rest; and if I have had the misfortune, by my obedience to my instructions, by my obstinacy in acknowledging only the laws and treaties of the United States, to displease some *Anglophobists* or *Anglomen*, I have at least the satisfaction of having rendered an important service to my country, whose present policy is entirely devoted to the war.

I am very sensible, sir, of the measures which you have taken to frustrate the odious projects of some emigrants refugees of St. Domingo, and it were to be wished that we could expel this race entirely, as well as those of the emigrants and aristocrats of Europe, much more dangerous to the peace, liberty and independence of the United States, than all the privateers in the world. GENET.

*Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France. Germantown, Nov. 22, 1793.*

SIR,—In a letter which I had the honour of writing to you on the 12th of July, I informed you, that the President expected that the *Jane* of Dublin, the *Lovely Lass*, and *Prince William Henry*, British vessels, taken by the armed vessel *Citoyen Genet*, should not depart from our ports until his ultimate determination thereon should be made known. And in a letter of the 7th August, I gave you the further information, that the President considered the United States as bound, pursuant to positive assurances, given in conformity to the laws of neutrality, to effectuate the restoration of, or to make compensation for prizes, made subsequent to the 5th day of June by privateers fitted out of our ports; that, consequently, he expected you to cause restitution to be made of all prizes taken and brought into our ports, subsequent to the said 5th of June, by such privateers, in defect of which he considered it as incumbent on the United States to indemnify the owners of such prizes; the indemnification to be reimbursed by the French nation.

This determination involved the brig *Jane* of Dublin, taken by the armed vessel *Citoyen Genet* on the 24th of

July, the brig *Lovely Lass*, taken by the same vessel on the 4th of July, and the brig *Prince William Henry*, taken by the same vessel on the 23th of June, and I have it in charge to inquire of you, sir, whether these three brigs have been given up, according to the determination of the President, and if they have not, to repeat the requisition, that they be given up to their former owners.

I have the honour to be, &c. TH: JEFFERSON.

## TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the French Republic, to Mr. Jefferson, Secretary of State of the United States. New York, November 29, 1793, 2d year of the Republic.*

SIR,—It is not in my power to order the French vessels, which have received letters of marque in the ports of the United States, in virtue of our treaties, in virtue of the most precise instructions to me, to restore the prizes which they have been authorized to make on our enemies, but I have long since prescribed to all our consuls, neither to oppose nor allow to be opposed, any resistance to the moral force of the justice of the United States, if it thinks it may interfere in affairs relative to the prizes, or of the government, if it persists in the system against which I have incessantly made the best founded representations.

Neither is it in my power, sir, to consent that the indemnities, which your government proposes to have paid to the proprietors of the said prizes, should be placed to the account of France. 1st. Because no indemnity is due but when some damage has been occasioned in the use of a right which was not possessed, whereas our treaties and my instructions prove to me that we were fully authorized to arm in your ports. 2d. Because, according to our constitution as well as yours, the executive has not the arbitrary appropriation of the funds of the state; and the executive council of France and their delegates could not consent to a reimbursement of the indemnities in question, but when the legislative body shall first have renounced, under its responsibility to the people, the right which I have been expressly instructed to maintain, and afterwards have granted the sums demanded by our enemies, and which have been promised them by the President.

Accept my respect,

GENET.

## TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the Republick of France, to Mr. Jefferson, Secretary of State of the United States. New York, November 11, 1793, 2d year of the Republick.*

SIR,—The funds which were at the disposition of the French Republick for the year 1793 being exhausted by the colonial bills drawn on them, by the considerable expense which the continuance of the vessels of the Republick in the ports of the United States occasions, by the succour which I have given to the refugees from the Cape, the supplies of all kinds which I have sent into the French colonies in America; in fine, the divers expenses of the legation and of the administration confided to me, I request the favour of you to make known to the President of the United States, that I am forced in order to face our engagements, and to relieve our most pressing necessities, to draw on the sums which will become due to France, in the years 1794, and 95, until Congress shall have taken into consideration the mode of reimbursement which I have been instructed to propose to the federal government; our contractors will be content with these assignments, provided they are accepted by the treasury of the United States, to be paid when they become due. Accept my respect,  
GENET.

## TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State of the United States. New York, November 14, 1793, 2d year of the French Republick.*

SIR,—It becomes extremely important that you should have the goodness to inform me without delay, whether I can draw, by anticipation, on the approaching reimbursements of the debt of the United States to France; our agents being informed, that the funds, which were at the disposition of the Republick for 1793, are exhausted, have suspended their supplies and their enterprises, until they shall be assured that the assignments of the debt, which I may make to them in virtue of my powers, shall be paid when due. As without doubt you will form to yourself a just idea of all the branches of the service which will suffer,

as long as this authority shall be withheld from me, I am persuaded, sir, that you will zealously second me in this negotiation. Two thousand seamen and soldiers whom I support are on the eve of wanting bread. The repairs of our vessels are at a stand. The indispensable expeditions of subsistence for our colonies and France are suspended. The federal government, without advancing a single one of the payments fixed by law, can by two words signed by you or the Secretary of the Treasury, again put every thing into motion, until Congress shall have taken into consideration the general mode of reimbursement which I have been instructed to communicate to you, and which alone can put me in a condition to supply at least France for the next campaign, since it could not do so for this one. The long nights, the thick fogs and the heavy seas of winter will be favourable to our transports, by rendering less probable the painful risks to which the odious principles of England expose neutral vessels, and particularly those of the United States. Accept my respect, GÉNET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of the French Republick. Germantown, Nov. 24, 1793.*

SIR,—I laid before the President of the United States your two letters of the 11th and 14th instant, on the subject of new advances of money, and they were immediately referred to the Secretary of the Treasury, within whose department subjects of this nature lie. I have now the honour of enclosing you a copy of his report thereon to the President, in answer to your letters, and of adding assurances of the respect and esteem of sir, &c.

TH: JEFFERSON.

*The Secretary of the Treasury, upon two letters from the Minister Plenipotentiary of France, to the Secretary of State, severally bearing date the 11th and 14th of November, instant, respectfully reports to the President of the United States, as follows:*

1st. THE object of these letters is to procure an engagement, that the bills which the minister may draw upon the sums, which, according to the terms respecting the contracts of the French debt, would fall due in the years 1794 and 1795, shall be accepted on the part of the United

States, payable at the periods stipulated for the payments of those sums respectively.

The following considerations are submitted as militating against the proposed arrangement—

1. According to the view entertained at the Treasury of the situation of the account between France and the United States, adjusting equitably the question of depreciation, there have already been anticipated payments to France equal, or nearly equal to the sums falling due in the course of the year 1794.

11. The provision by law for discharging the principal of the French debt, contemplates only loans. Of those, which have been hitherto made, the sum unexpended is not more than commensurate with a payment which is to be made on the first of June next, upon account of the capital of the Dutch debt. It is possible that a fund for this payment may be derived from another loan; but it is known to the President, that from advices recently received, full reliance cannot be placed on this resource; owing to the influence of the present state of European affairs upon the measures of the United States for borrowing. It need not be observed that a failure in making the payment referred to would be ruinous to the credit of the United States.

The acceptance of the bills of the minister of France would virtually pledge the only fund, of which there is at present a certainty, for accomplishing that payment, and as this is a matter of strict obligation, directly affecting the publick credit, it would not appear advisable to engage that fund for a different object, which, if the ideas of the Treasury are right, with regard to the state of our account with France, does not stand upon a similar footing.

It would be manifestly unsafe to presume upon contingencies, or to enter into engagements to be executed at distant periods, when the means of execution are uncertain.

But as there appears to be a difference of opinion between the minister of France and the Treasury, with regard to the state of the account between the two countries, it is necessary that something on this head should be ascertained. With this view, the Secretary of the Treasury will proceed without delay to take arrangements for the adjustment of the account.

ALEXANDER HAMILTON,

Secretary of the Treasury.

Treasury Department, Nov. 23, 1793.

*Mr. Clinton, Governour of New York, to Mr. Genet, Minister Plenipotentiary of France. New York, Nov. 21, 1793.*

SIR,—As by your letter of the 11th instant, I am informed that the vessel therein mentioned, now repairing at the wharf in the East river, is called the Carmagnole, and that she was fitted out as a privateer, in the Delaware, I conceive it proper to transmit to you a copy of a letter which I have since received from the Secretary of War, dated the 15th instant, in answer to one from me to the President of the United States, informing him of your having withdrawn the commissions granted to certain privateers, fitted out in the ports of the United States: by which you will perceive it to be the sense of the President, that this vessel should be entirely divested of her warlike equipments, and which, from the readiness you are pleased to express to conform to the views of the federal government, I cannot doubt, will on the receipt hereof, be complied with, and that until this is effected you will not permit her to leave the harbour. I am, &c.                   GEORGE CLINTON.

*Citizen Genet, Minister Plenipotentiary from the French Republick, to General Clinton, Governour of the state of New York. New York, Nov. 23, 1793, 2d year of the French Republick.*

SIR,—I have received the letter which you did me the honour to write me the 21st instant, as also the copy annexed to it of a letter from the Secretary of War.

The fresh requisitions which have lately been transmitted to you respecting the schooner *Columbia*, formerly called the Carmagnole, are only a continuation of the system which has been observed towards me, from the very commencement of my mission, and which evidently appears to be calculated to baffle my zeal, to fill me with disgust, and to provoke my country to measures dictated by a just resentment, which would accomplish the wishes of those whose politicks tend only to disunite America from France, the more easily to deliver the former into the power of the English.

Warned by this conjecture, which is unfortunately but too well founded, instead of proving to you as I could easily do that the orders which have been given to you are contrary to our treaties, to the conduct of the federal

government even towards the British nation, whose packets and a great number of merchant vessels, I am well informed, have been permitted to arm for defence in their ports, to the bonds of friendship which unite the people of both republicks, and to their mutual interest, since the vessel in question is intended to serve as an advice-boat in our correspondence with the French islands, which, by our treaties, you are bound to guaranty, and in whose fate your property is no less interested than ours, I will give orders to the consul and to the French commodore of the road, to conform themselves to every thing that your wisdom may think proper to direct. Accept, sir, &c.

GENET.

*The Governour of New York, to the President of the United States. New York, November 24, 1793.*

SIR,—I have recently received a letter from the Secretary of War, dated the 12th, and also another dated the 13th instant, in answer to mine of the 8th of September last.

On recurring to my correspondence with the minister of France, a copy of which was enclosed in that letter, it will appear, that my object was to procure the departure of the privateers *Petit Democrat* and *Carmagnole*, agreeably to your decision, communicated to me in a letter from the Secretary of War, dated the 16th of August; but as it was mentioned to be your desire, that forcible measures should not be resorted to, until every other effort had been tried, I thought it proper to submit to your consideration the measure proposed by the French minister. In the interim, the *Petit Democrat* departed from this harbour without any augmentation of her military equipments, so far as my knowledge extends. The *Carmagnole* still remains here, and it seems is the vessel to which my letter of the 15th instant refers. I now transmit a second letter which I have written to the French minister on this subject and his answer, and have only to request to be informed whether any farther interference on my part is expected.

As I shall in a short time set out for Albany, to attend the meeting of our legislature, I take this opportunity of apprizing you of it, in order, that if any arrangements are thought necessary, which may require my personal attention, they may be concerted before my departure, as it is



uncertain whether I shall return to this city before spring. I am, with sentiments of the highest respect, &c.

GO : CLINTON.

*Citizen Genet, Minister Plenipotentiary of the Republick of France with the United States, to Mr. Jefferson, Secretary of State of the United States. New York, Nov. 25, 1793, 2d year of the Republick of France.*

SIR,—I ask your pardon, if my despatches precipitate themselves with so much rapidity on you; but events announce themselves in such a manner, daily, that I am scarcely able to trace and notify them to you. My preceding despatches have presented to you complaints on the workings of the new emigrants, who inundate your continent. I have assayed to unmask to you the profound and double intrigues; I have notified you of their insults to the French agents, and the personal dangers which these agents are daily exposed to, surrounded by these furies. At present, I have to inform you of facts, well characterized; and if I do not obtain justice, I shall at least have done my duty, and my heart and my country will have nothing to reproach me.

It is announced to me, from Baltimore, that 200 colonists are embarking, in the Chesapeake, for *Jeremie*.\* The Philadelphia counter-revolutionary presses advertise, that two vessels are about taking passengers for the Mole.† Thus, sir, it is no longer the good offices of an ally, that France has occasion to claim of the federal government—It is not to aid in our destruction, that I have to conjure you—It is to intreat you, not to conspire in the loss of a colony, which you ought to defend, that my afflicting duty is confined to.

With whatever fury they have *obstinately persisted to paint me, in libels, which I despise*, as an enemy of the American people, and of their government, and as aspiring to involve you in the war, you know, sir, with what moderation I have reminded you of the obligations which were imposed on you. In that also I have a clear conscience, of having been influenced, neither by our successes, nor our misfortunes. I have only ceded to provisory acts.

\* In a vessel belonging to Mr. Zachariah Copmann.

† One is the ship Delaware, Captain James Art, fitted out by James Shoemaker.

The other is the Galliot Betsey Hannah, captain Donanchan, fitted out by Messieurs Reed and Soder.

which, concealing a manifest contradiction under an apparent modesty, avow the inability to defend us, and usurp, at the same time, the right to let us be attacked.

I have in my possession the proofs of a conspiracy, which broke out in September last, for the surrender of the Mole; and the original papers enclosed prove, that it was concerted in first days of 1793, and signed then with names which were not unmasked till 7th September last. The conspirators, adroitly concealed, were urging claims on the Republick, at the moment they were treating with the English minister, to the end, that by this double intrigue, they might overthrow the true friends of the French, and conduct to its end their shameful plot. These partial threads, which discover themselves now, were only accessory portions of the conspiracy of a great traitor, celebrated in the last year, now crushed under remorse, and the contempt of the world. The French people, sir, have baffled all these intrigues, and if ulterior proofs were wanting of their wisdom, of their firm determination to be free, and of the stability of their government, you would find them in the glorious struggle of the present campaign. Therein, amidst great reverses, signal victories, and atrocious conspiracies, the colossus of the French people raises itself majestically, and makes their enemies tremble. These then are the friends, under whose wing America will brave the despots who divide their hatred between her and us. Those are the friends, who, among the general measures of rigour, which circumstances force from them, do not cease a moment to remember you, to exempt you from them. The demands, which I make of you in their name, sir, are confined to this, that you will not suffer poignards, for their assassination, to be forged in your territory.

I pray you, in consequence, sir, to represent to the President of the United States, 1st. That the personal safety of our consuls is threatened, at Charleston and at Baltimore, and that little activity is employed for their protection. 2d. That 200 colonial emigrants are embarking at Baltimore, and are perhaps departed to join the traitors of Jeremie—That two other vessels, armed, doubtless, by our enemies, are advertised at Philadelphia, in the counter-revolutionary gazettes, to carry passengers of the same stamp to the Mole, Saint Nicholas. That I know also, of my certain knowledge, that American vessels have, for some time, carried provisions and war stores

to these two rebel places ; and, in fine, that the emissaries of men, with whom some of your ministers associate, have gone to this island, which has been a long time the prey of a thousand artful conspiracies, there to negotiate insurrections, and the ruin of the commercial interests of my country ; that it is on your territory, that all this is doing ; that it is in your country, in fine, that exists the centre of the intriguing desolations of our ultramarine possessions.

I request you, sir, to obtain a definitive answer, from the supreme head of the federal government, on these two objects, in order that I may, by the first opportunity, inform the French government of the steps I have taken in this respect, and of their effect.

I shall moreover take the liberty to propose to you a measure, which I cannot adopt, but with your authority, and which would obviate the subterfuges of traitors, and the coercive means which you may not possess. It is, to give orders to the armed vessels of the Republick, to stop every American vessel destined for the island of Saint Domingo, which shall not have a passport signed by me. Thus I shall prevent the introduction of enemies, which may escape your vigilance, and we shall guard your citizens from seductions and dangers. I beg of you to make known to me the intention of the President on this proposition. Accept my respect,

GENET.

*Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France. Philadelphia, November 30, 1793.*

SIR,—I have laid before the President of the United States your letter of Nov. 25, and have now the honour to inform you, that most of its objects, being beyond the powers of the Executive, they can only manifest their dispositions by acting on those which are within their powers. Instructions are accordingly sent to the district attorneys of the United States, residing within states wherein French consuls are established, requiring them to inform the consuls of the nature of the provisions made by the laws, for preventing, as well as punishing, injuries to their persons, and to advise and assist them in calling these provisions into activity, whenever the occasions for them shall arise.

It is not permitted, by the law, to prohibit the departure of the emigrants to St. Domingo, according to the wish you now express, any more than it was to force them away, according to that expressed by you in a former letter. Our country is open to all men, to come and go peaceably, when they choose; and your letter does not mention that these emigrants meant to depart armed and equipped for war. Lest, however, this should be attempted, the governours of the states of Pennsylvania and Maryland are requested to have particular attention paid to the vessels named in your letter, and to see that no military expedition be covered or permitted under colour of the right which the passengers have to depart from these states.

Provisions not being classed among the articles of contraband, in time of war, it is possible that American vessels may have carried them to the ports of Jeremie and La Mole, as they do to other dominions of the belligerent powers; but if they have carried arms also, these, as being contraband, might certainly have been stopped and confiscated.

In the letter of May 15, to Mr. Ternant, I mentioned, that in answer to the complaints of the British minister, against the exportation of arms from the United States, it had been observed, that the manufacture of arms was the occupation and livelihood of some of our citizens; that it ought not to be expected, that a war among other nations should produce such an internal derangement of the occupations of a nation at peace, as the suppression of a manufacture, which is the support of some of its citizens; but that if they should export these arms to nations at war, they would be abandoned to the seizure and confiscation, which the law of nations authorized to be made of them on the high seas. This letter was handed to you, and you were pleased, in yours of May 27, expressly to approve of the answer which had been given. On this occasion, therefore, we have only to declare, that the same conduct will be observed, which was announced on that.

The proposition, to permit all our vessels, destined for any port in the French West India islands, to be stopped, unless furnished with passports from yourself, is so far beyond the powers of the Executive, that it will be unnecessary to enumerate the objections to which it would be liable. I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Falconer, Master Warden of the port of Philadelphia, to his Excellency Thomas Mifflin, Governour of the Commonwealth of Pennsylvania. Warden's Office, Philadelphia, Nov. 29, 1793.*

SIR,—In obedience to your excellency's letter of this morning, I have seen Mr. Jacob Shoemaker, one of the owners of the ship Delaware; he informed me, that they intend their ship for Cape Nichola Mole, and expected to take a number of passengers, if they offered; but they assure me, only one person has, as yet, engaged his passage in the ship Delaware; I have requested of Mr. Shoemaker and captain Art, that whatever Frenchmen may engage their passages, that they will bring them to me, in order to declare the object of their voyage. I have also been with the owners of the goillette Betsey, who are Reed and Ford; who inform, that she is not bound to Jeremie nor the Mole, but chartered by a French gentleman for Guadaloupe, to go there in order to bring off his property; some passengers are going in her for that island. You may rest assured, I will pay every attention to those vessels; and if I can discover any thing like armament, I shall give your excellency immediate notice of it. I am, &c.

NATHANIEL FALCONER,  
Master Warden of the port of Philadelphia.  
A. J. DALLAS, Secretary.

*Department of State, to wit:*

I HEREBY certify, that the preceding copies and translations, beginning with a letter of May 22, 1793, and ending with one of November 29, 1793, are from originals, or from authentick copies, in the office of the department of state.

Given under my hand, this 4th day of December, 1793.  
TH: JEFFERSON.

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## PAPERS RELATIVE TO GREAT BRITAIN.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Philadelphia, Nov. 29, 1791.*

SIR,—In recalling your attention to the 7th article of the definitive treaty of peace between the United States of

America and his Britannick Majesty, wherein was it stipulated, that "his Britannick Majesty should, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States, and from every post, place, and harbour within the same," I need not observe to you that this article still remains in a state of inexecution, nor recapitulate what, on other occasions, has past on this subject. Of all this, I presume you are fully apprized. We consider the friendly movement lately made by the court of London, in sending a minister to reside with us, as a favourable omen of its disposition to cultivate harmony and good will between the two nations, and we are perfectly persuaded that these views will be cordially seconded by yourself in the ministry which you are appointed to exercise between us. Permit me, then, sir, to ask whether you are instructed to give us explanations of the intentions of your court as to the execution of the article above quoted?

With respect to the commerce of the two countries, we have supposed that we saw in several instances regulations on the part of your government, which, if reciprocally adopted, would materially injure the interests of both nations.

On this subject too, I must beg the favour of you to say, whether you are authorized to conclude, or to negotiate arrangements with us which may fix the commerce between the two countries on principles of reciprocal advantage? I have the honour to be, &c. TH: JEFFERSON.

*Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State. Philadelphia, Nov. 30, 1791.*

SIR,—I have the honour of acknowledging the receipt of your letter of yesterday. With respect to the non-execution of the 7th article of the definitive treaty of peace between his Britannick Majesty and the United States of America, which you have recalled to my attention, it is scarcely necessary for me to remark to you, sir, that the king, my master, was induced to suspend the execution of that article on his part, in consequence of the non-compliance, on the part of the United States, with the engage-

ments contained in the 4th, 5th, and 6th articles of the same treaty. These two objects are, therefore, so materially connected with each other as not to admit of separation, either in the mode of discussing them, or in any subsequent arrangements, which may result from that discussion.

In stating to you, sir, this indispensable consideration, I must at the same time assure you, that, in the confidence of experiencing a similar disposition in the government of the United States, it is his majesty's desire to remove every ground and occasion of misunderstanding which may arise between the two countries: And in conformity to that disposition in his majesty, I can add, that I am instructed to enter into the discussion of all such measures as may be deemed the most practicable and reasonable, for giving effect to those stipulations of the definitive treaty, the execution of which has hitherto been delayed, as well by the government of this country, as by that of Great Britain.

In answer to your question on the subject of the commerce of Great Britain and the United States, I can also inform you, sir, that the king is sincerely disposed to promote and facilitate the commercial intercourse between the two countries, and that I am authorized to communicate to this government his majesty's readiness to enter into a negotiation for establishing that intercourse upon principles of reciprocal benefit.

Before I conclude this letter, I cannot omit mentioning the sense I entertain of the obliging expressions of personal regard, which you, sir, have been pleased to employ, relative to my appointment to the station which I hold in this country. I can venture to assure you, with the greatest sincerity, that it affords me the warmest satisfaction to be the medium of communicating to the United States the actual good dispositions of my sovereign and nation towards them.—And, I trust, I may be permitted to add, that it would be the highest object of my ambition, to be the humble instrument of contributing, in any manner, to fix upon a permanent basis the future system of harmony and good understanding between the two countries.

I have the honour to be, &c.                   GEO. HAMMOND.

*Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State. Philadelphia, December 6, 1791.*

SIR,—As I am extremely solicitous to avoid any misapprehension of my letter of the 30th ult. I have now the honour of stating to you, in explanation of that part of it to which you have adverted in yours of yesterday, that although (as I formerly mentioned in my first conversations with you after my arrival in this country) I am not as yet empowered to *conclude* any definitive arrangement with respect to the commercial intercourse between the two countries, I still meant it to be understood, that I am fully authorized to *enter* into a negotiation, for that purpose, and into the discussion of such principles, as may appear best calculated to promote that object, on a basis of reciprocal advantage.

I am farther authorized to receive any propositions which this government may be pleased to make to me upon this subject. I have the honour to be, &c.

GEO. HAMMOND.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Philadelphia, December 13, 1791.*

SIR,—I have laid before the President of the United States the letters of November 30 and December 6th with which you honoured me, and in consequence thereof, and particularly of that part of your letter of December 6th, where you say that you are fully authorized to enter into a negotiation for the purpose of arranging the commercial intercourse between the two countries, I have the honour to inform you that I am ready to receive a communication of your full powers for that purpose, at any time you shall think proper, and to proceed immediately to their object.

I have the honour to be, &c. TH: JEFFERSON.

*Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State. Philadelphia, December 14, 1791.*

SIR,—In answer to your letter of yesterday, I can only repeat what I have before stated in my first conversations with you after my arrival, and subsequently in my letter



of the 6th of this month ; viz. that I have no special commission, empowering me to *conclude* any *definitive* arrangement upon the subject of the commercial intercourse between Great Britain and the United States. But that I conceive myself fully competent to enter into a negotiation with this government for that purpose, in the discussion of the principles which may serve as the basis, and constitute the stipulations of any such definitive arrangement.

This opinion of my competency, is founded upon my instructions, in as much as they are to regulate my personal conduct, and upon the conviction that the letter of credence from his majesty, investing me with a general *plenipotentiary* character which I had the honour of presenting to the President of the United States, and his consequent recognition of me in that character, are authorities decidedly adequate to the commencement of a preliminary negotiation. I have the honour to be, &c.

GEO. HAMMOND.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Philadelphia, December 15, 1791.*

SIR,—I am to acknowledge the honour of your letter of November 30th, and to express the satisfaction with which we learn, that you are instructed to discuss with us the measures, which reason and practicability may dictate, for giving effect to the stipulations of our treaty yet remaining to be executed. I can assure you, on the part of the United States, of every disposition to lessen difficulties, by passing over whatever is of smaller concern, and insisting on those matters only, which either justice to individuals or publick policy render indispensable ; and in order to simplify our discussions, by defining precisely their objects, I have the honour to propose that we shall begin by specifying, on each side, the particular acts which each considers to have been done by the other, in contravention of the treaty. I shall set the example.

The provisional and definitive treaties in their 7th article stipulated that his “ Britannick majesty should with all convenient speed and without causing any destruction or *carrying away any negroes, or other property* of the American inhabitants, *withdraw all his armies, garrisons, and fleets from the said United States and from every port, place, and harbour within the same.*”

But the British garrisons were not withdrawn with all convenient speed, nor have ever yet been withdrawn from Michillimackinac, on lake Michigan; Détroit, on the strait of lakes Erie and Huron; Fort Erie, on Lake Erie; Niagara, Oswego, on Lake Ontario; Oswegatchie, on the river St. Lawrence; Point Au-fer, and Dutchman's Point, on Lake Champlain.

2. The British officers have undertaken to exercise a jurisdiction over the country and inhabitants in the vicinities of those forts; and

3d. They have excluded the citizens of the United States from navigating, even on our side of the middle line of the rivers and lakes established as a boundary between the two nations.

By these proceedings we have been intercepted entirely from the commerce of furs with the Indian nations to the northward, a commerce which had ever been of great importance to the United States, not only for its intrinsic value, but as it was the means of cherishing peace with those Indians, and of superseding the necessity of that expensive warfare we have been obliged to carry on with them, during the time that these posts have been in other hands.

On withdrawing the troops from New York, 1st. A large embarkation of negroes, of the property of the inhabitants of the United States, took place before the commissioners on our part for inspecting and superintending embarkations had arrived there, and without any account ever rendered thereof. 2d. Near three thousand others were publickly carried away by the avowed order of the British commanding officer, and under the view, and against the remonstrances of our commissioners. 3d. A very great number were carried off in private vessels, if not by the express permission, yet certainly without opposition on the part of the commanding officer, who alone had the means of preventing it, and without admitting the inspection of the American commissioners; and 4th, Of other species of property carried away, the commanding officer permitted no examination at all. In support of these facts I have the honour to enclose you documents, a list of which will be subjoined, and in addition to them, I beg leave to refer to a roll signed by the joint commissioners and delivered to your commanding officer for transmission to his court, containing a description of the negroes pub-

lickly carried away by his order as before mentioned, with a copy of which you have doubtless been furnished.

A difference of opinion too having arisen as to the river intended by the plenipotentiaries to be the boundary between us and the dominions of Great Britain, and by them called the St. Croix, which name, it seems, is given to two different rivers, the ascertaining of this point becomes a matter of present urgency: it has heretofore been the subject of applications from us to the government of Great Britain.

There are other smaller matters between the two nations which remain to be adjusted, but I think it would be better to refer these for settlement through the ordinary channel of our ministers, than to embarrass the present important discussions with them: they can never be obstacles to friendship and harmony.

Permit me now, sir, to ask from you a specification of the particular acts, which, being considered by his Britannick majesty as a non-compliance on our part with the engagements contained in the 4th, 5th, and 6th articles of the treaty, induced him to suspend the execution of the 7th, and render a separate discussion of them inadmissible. And accept assurances, &c.

THOMAS JEFFERSON.

DOCUMENTS REFERRED TO, AND ENCLOSED.

Extract of a letter of May 12th, 1783, from Sir Guy Carleton to General Washington. Letter of May 24th, 1783, from the American commissioners to Sir Guy Carleton. Letter of May 29th, 1783, from Mr. Morgann for Sir Guy Carleton to the American commissioners.

Remonstrance of June 9th, 1783, from the American commissioners to Sir Guy Carleton. Letter of June 14th, 1783, from the American commissioners to General Washington. Extract of remonstrance of June 17th, 1783, from the American commissioners to Sir Guy Carleton. Letter of January 18th, 1784, from the American commissioners to General Washington.

*Extract of a letter from Sir Guy Carleton to General Washington, of May 12, 1783.*

“I ENCLOSE a copy of an order which I have given out to prevent the carrying away any negroes or other

property of the American inhabitants. I understand from the gentlemen therein named, that they visited the fleet bound to Nova Scotia, and ordered on shore whatever came clearly under the above description : there appeared to be but little difference of opinion except in the case of the negroes who had been declared free, previous to my arrival.—As I had no right to deprive them of that liberty I found them possessed of, an accurate register was taken of every circumstance respecting them so as to serve as a record of the name of the original proprietor of the negro, and as a rule by which to judge of his value. By this open method of conducting the business, I hoped to prevent all fraud, and whatever might admit of different constructions is left open for future explanation or compensation. Had these negroes been denied permission to embark, they would, in spite of every means to prevent it, have found various methods of quitting this place, so that the former owner would no longer have been able to trace them, and of course would have lost in every way all chance of compensation.

“ This business carried on in this publick manner, and the orders nominating persons to superintend embarkations published in the gazette, I had no reason to think either the embarkation or any circumstance attending it could have been matter of surprise to your excellency on the 6th of May. I then, however, learned with concern, that the embarkation which had already taken place, and in which a large number of negroes had been conveyed away, appeared to your excellency as a measure totally different from the letter and spirit of the treaty.

“ The negroes in question I have already said I found free when I arrived at New York, I had therefore no right, as I thought, to prevent their going to any part of the world they thought proper.

“ I must confess that the mere supposition, that the king’s minister could deliberately stipulate in a treaty an engagement to be guilty of a notorious breach of the publick faith, towards people of any complexion, seems to denote a less friendly disposition than I could wish, and I think less friendly than we might expect. After all, I only give my own opinion. Every negro’s name is registered, the master he formerly belonged to, with such other circumstances as serve to denote his value, that it may be adjusted by compensation, if that was really

the intention and meaning of the treaty. Restoration, where inseparable from a breach of publick faith, is, as the world, I think, must allow, utterly impracticable. I know of no better method of preventing abuse, and the carrying away negroes, or other American property, than that I proposed to the minister for foreign affairs, in my letter of the 14th of April, the naming commissioners to assist those appointed by me, to inspect all embarkations, and I am pleased to find your excellency has approved of this method, and appointed Egbert Benson, Esq. lieutenant colonel Smith, and Daniel Parker, Esq. one of the contractors for supplying your army with provisions, commissioners on your part for this purpose."

I am, sir, &c.

GUY CARLETON.

*From the Commissioners to Sir Guy Carleton. May 24, 1783.*

SIR,—With this we do ourselves the honour to transmit your excellency the case of James Van Derburgh, Esq. an inhabitant of this state, and conformable to the instructions contained in our commission, it becomes our duty to request that your excellency will please to direct that the claim of Mr. Van Derburgh may be inquired into, and if, on such inquiry, the facts, as stated, should be proved, that the horse may then be delivered to Mr. Van Derburgh.

We have the honour to be, &c.

EGBERT BENSON,  
W. S. SMITH.

*The Case of James Van Derburgh, Esquire.*

MR. VAN DERBURGH had a horse stolen from him, out of his stable, in Beekman's precinct, in Dutchess county, twenty-sixth of February, 1780; and the horse was conveyed by the persons who stole him to a then British post in West Chester county, where he has since been detained, so that Mr. Van Derburgh could not recover him again. The horse is now in the possession of colonel James De Lancy, of this city, from whom Mr. Van Derburgh has demanded him, and who refuses to deliver him to Mr. Van Derburgh.

*From Sir Guy Carleton to the Commissioners. New York, May 29, 1783.*

GENTLEMEN,—I am directed to inform you, in answer to your letter of the twenty-fourth instant, that after the most attentive review by the commander in chief of his letter to the honourable R. R. Livingston, which has become the declared ground of your commission, he is not able (suspending all other considerations) to perceive either in that letter, or in any clause of your instructions, any authority for your officially claiming, on behalf of Mr. Van Derburgh, a horse, stolen or taken in Dutchess county, in the year 1780, and which you do not even suggest to be in danger of being presently embarked and carried away. I have the honour to be, gentlemen, &c.

M. MORGANN.

*Copy of a Remonstrance from the Commissioners to Sir Guy Carleton. New York, June 9, 1783.*

THE undersigned commissioners, in behalf of the United States of America, do represent to your excellency, that, on Friday last, the board, composed of the commissioners appointed by your excellency and of the undersigned, examined into the claim of Mr. Philip Lott to a negro named Thomas Francis, now on board a vessel called the Fair American, in this harbour, and about to be carried off to the island of Jamaica; that on such examination it appeared to the board that Mr. Lott purchased the aforementioned negro from Mr. Elihu Spencer, of New Jersey, and that the said negro came within the British lines the second day of November last, and was enlisted, by captain Thelwall, in a corps distinguished by the name of the Jamaica Rangers. Captain Thelwall produced to the board a certificate, from the commandant of this city, that the said negro came within the British lines, under the sanction of the proclamation respecting negroes.

The undersigned, therefore, in conformity to that part of their commission whereby they are required “to attend particularly to the due execution of that part of the 7th article of the provisional treaty, where it is agreed, his Britannick majesty shall withdraw his armies, &c. without causing any destruction, or carrying away any negroes or other property of the American inhabitants,” do request

of your excellency, that the said captain Thelwall may be prohibited from carrying away the said negro, and in conformity to that part of their commission, whereby they are required "to obtain the delivery of all negroes, and other property of the inhabitants of the United States in the possession of the British forces, or any subjects of, or adherents to his Britannick majesty;" do further request of your excellency that the said negro may be delivered to Mr. Lott.

The undersigned do themselves the honour, herewith, to transmit to your excellency a copy of an act of the United States in Congress assembled of the twenty-sixth of May last, which has been transmitted to them by his excellency general Washington, with directions to pay strict attention to the injunctions of Congress contained in the said act; and as the undersigned are by their commission enjoined to represent to the commander in chief of the British forces in this city every infraction of the articles of peace, it therefore becomes their duty to remonstrate to your excellency against your permitting any negroes, the property of the citizens of these states, to leave this city, and to insist on a discontinuance of that measure.

EGBT. BENSON.

WILLM. S. SMITH.

DANIEL PARKER.

*Copy of a letter from the Commissioners to General Washington. New York, June 14, 1783.*

SIR,—We do ourselves the honour to acknowledge the receipt of your excellency's letter of the second instant, covering the act of Congress of the twenty-sixth ultimo, and we also do ourselves the honour to transmit your excellency a copy of a memorial which we presented to sir Guy Carleton on Monday last, to which we have not, as yet, received any answer, except a verbal message by his deputy secretary, that he did not conceive an answer at this time necessary.

Your excellency will recollect, that in answering our claim for restitution in the case of Mr. Vanderburgh, sir Guy Carleton intimated an impropriety in the claim, as the property was not suggested to be in danger of being sent away: this left room for an idea that, possibly, property about to be sent away would be restored, and we appriz-

ed your excellency that we should take the first fair occasion which should present itself, to remove all doubt on this point, and with this view we made the requisition in behalf of Mr. Lott; and we conceive it is now reduced to a certainty, that all applications for the delivery of property will be fruitless, and we shall therefore desist from them.

That part of the memorial which is in the nature of a remonstrance, is in consequence of the resolution of Congress, and your excellency's letter, which accompanied it.

Yesterday we assisted in superintending an embarkation, consisting of fourteen transports bound to Nova Scotia, having on board, as nearly as we could estimate, about three thousand souls, among which were at least one hundred and thirty negroes, who appeared to be property of the citizens of the United States, and as this embarkation was made since we presented our memorial, and as it were in the face of it, we submit it to your excellency, whether it is necessary for us further to remonstrate to sir Guy Carleton against his permitting slaves, the property of American subjects, to leave this place, and could wish to receive your excellency's directions on that subject. We have the honour to be. &c.

EGBT. BENSON.

DANIEL PARKER.

*Extract of a Remonstrance from the Commissioners to Sir Guy Carleton. New York, June 17, 1783.*

THE undersigned commissioners in behalf of the United States of America did, with intent to comply with their instructions directing them "to assist such persons as should be appointed by your excellency in superintending and inspecting such embarkations as the evacuation of this place should require," on Friday last assist the commissioners appointed by your excellency in superintending and inspecting an embarkation made by direction of your excellency, and consisting of fourteen transports in the pay and service of the crown of Great Britain, bound for the province of Nova Scotia, and having on board, as near as the undersigned could estimate, at least two thousand white persons, who, a few individuals excepted, appeared to be persons in civil life, and inhabitants of the United States; and having also on board upwards of one hundred negroes, seventy-three of which appeared to be



the property of American subjects not residing within the British lines.

The undersigned, therefore, in order to guard against improper inferences from their silence on this occasion, and from their conduct in future, conceive it incumbent on them to represent to your excellency, that, notwithstanding any act on their part in superintending or inspecting the above mentioned, or any other embarkation, they do, and shall consider the permission from your excellency to any negroes, belonging to the citizens of these states, to leave this city, as an infraction of the treaty of peace, agreeable to their representation of the ninth instant; and that they do not, neither can they consider the said embarkation or any other of a similar nature, as an embarkation which the evacuation of this place requires.

*From the Commissioners to his Excellency General Washington. New York, Jan. 18, 1784.*

SIR,—The British troops being wholly withdrawn from this place, it only remains to the closing the business under your excellency's commission to us of the eighth of May ult. that we should report our proceedings.

We presume it will be needless to recapitulate our former communications, and therefore, take the liberty of referring to our letters to your excellency of the thirtieth of May, fourteenth and eighteenth of June last, with their respective enclosures.

As sir Guy Carleton did not, except in one or two instances, answer our representations, we forbore to make further representation. We interpreted his silence into a determination that all future application from us should remain equally unnoticed, and therefore presumed, that they would be, not only fruitless, but also derogatory to the dignity of the sovereignty by whose authority we were commissioned.

From our first arrival in this city hitherto, we have, whenever we were formally requested by the British commissioners, assisted them in superintending embarkations. These embarkations were always made in vessels in the pay and service of the crown of Great Britain, and the superintendence consisted in visiting the ships after they were laden and ready for sailing, and taking an account of the negroes, which the captain informed us were on

board, and which were also produced to us. The captains were then asked, whether they had any other American property on board. They all answered in the negative, and this was received as evidence, without further scrutiny or examination. A descriptive list of negroes your excellency will receive with this. This list, as to the names of the negroes and places of residence of their masters, is formed from the declaration of the negroes themselves, made to the British commissioners in our presence.

We conceive it requisite to inform your excellency, that sir Guy Carleton retained and exercised the authority of entering and clearing out merchant vessels, at this port, which were never submitted to any inspection, and consequently, it is impossible for us to determine, for a certainty, the number of negroes, or the amount of other property belonging to the citizens of the United States, which were carried away in those vessels, neither do we know that any measures were used by the British government to ascertain these points. Sir Guy Carleton affected to distinguish between the cases of such negroes as came within the British lines, in consequence of the promises of freedom and indemnity held out in the proclamations of his predecessors, and such as came in, either previous to the proclamations, or subsequent to the cessation of hostilities. Negroes of the first description he supposed not included in the treaty, as the publick faith had, prior to the treaty, been pledged to them for their security against the claims of their former masters. Admitting this distinction to be just, we would mention a circumstance to your excellency, which we suppose no otherwise material, than to show, that sir Guy Carleton, or at least that his subordinate officers did not intend to observe the treaty, even agreeable to their own limited construction of it.

Whenever the negroes, at an inspection of an embarkation, were examined, they always, except in a very few instances, produced a printed certificate from the commandant of the city, countersigned by his secretary, purporting that they came within the British lines in consequence of the proclamations issued by sir Henry Clinton and others. We were sensible, as there was no mode prescribed for investigating these matters, that it was impossible the commandant or his secretary could, in every case, have sufficient proof of the time of the negroes coming in, and therefore concluded there must be an abuse.

In this we were not deceived ; for it appears, that certificates with blanks were given by the commandant to individuals, to be filled up as their convenience might require. One of these blank certificates have fallen into our hands, and we transmit it to your excellency.

Sir Guy Carleton, during the whole of the time from our arrival in this city until his departure on the 25th of November, exercised the same kind of jurisdiction in this city, and on Long Island, and Staten Island, and as fully as his predecessors in command had, at any period of the war. And in the exercise of this jurisdiction, he retained the regulation of the commerce of this port, continued to lease and receive the rents of a number of houses in this city, which had been previously taken, and the rents appropriated by the British government here as belonging to persons residing without their lines, and by them, therefore, declared as being in rebellion, he refused, except in a very few instances, to restore persons, who were desirous of returning to their former habitations, the possession of their estates, and caused several citizens of the United States to be apprehended, and tried by courts martial. A considerable embarkation of negroes took place the day this city was evacuated. The hurry of business, on the part of the Britons, is the ostensible reason why we were not invited to the inspection, as appears by a letter from captain Gilfillan. We have the honour to be, &c.

EGBT. BENSON.

W. S. SMITH.

DAN. PARKER.

THE BLANK CERTIFICATE.

*New York, April 23, 1783.*

(B.) This is to certify, to whomsoever it may concern, that the bearer hereof, a negro, recruited to the British lines, in consequence of the proclamations of sir William Howe and sir Henry Clinton, late commanders in chief in America ; and that the said negro has hereby his excellency sir Guy Carleton's permission to go to Nova Scotia, or wherever else may think proper.

By order of brigadier general Birch, commandant of the city and garison of New York, this day of April, Annoque Domini, 1783.

E. WILLIAMS, Major of Brigade.

*Mr. Hammond, Minister Plenipotentiary of Great Britain,  
to Mr. Jefferson, Secretary of State. Philadelphia, Dec.  
19, 1791.*

SIR,—I have the honour of acknowledging the receipt of your letter of the 15th current, and of expressing my perfect approbation of, and concurrence in the mode you have suggested of discussing the several particulars relative to the non-execution of the definitive treaty of peace.

In conformity to your example, I am now preparing an abstract of the circumstances that appear to me contraventions, on the part of the United States, of the fourth, fifth, and sixth articles of that treaty. This abstract I intend to present to you, sir, with as little delay as the extensive nature of the subject under consideration will admit. I have the honour to be, &c.

GEO. HAMMOND.

*Mr. Hammond, Minister Plenipotentiary of Great Britain,  
to Mr. Jefferson, Secretary of State. Philadelphia,  
March 5, 1792.*

SIR,—In conformity to the mode which you have pursued and suggested, I have now the honour of submitting to you an abstract of such particular acts of the United States, as appear to me infractions, on their part, of the definitive treaty of peace, concluded between the king my master and the United States. The necessity of collecting from distant parts of this continent the requisite materials, of combining and arranging them, has occasioned a much longer delay in presenting to you this abstract than I at first apprehended: I trust, however, that it will be found so comprehensive as to include every cause of complaint, resulting from the treaty, and so fully substantiated as to require no subsequent elucidations to prove and to confirm the facts which I shall specify.

Many of the legislative acts and judicial determinations, which I shall adduce as violations of the treaty, having been common to a majority of the states, I have thought it expedient, in order to avoid repetitions, not to discuss the tendency and extent of their operation in the several states distinctly and separately, but to reduce the infractions under general heads, and to throw into the form of

an appendix references to justify and explain the documents by which they are authenticated.

Although I have employed every exertion in my power to acquire the most accurate and general information upon the respective points comprehended in this abstract, it is still possible, that many materials may have been out of my reach, or that, in the extensive collection of laws and of other documents which I have been obliged to peruse and digest, many objects may have escaped my notice. It is possible, that acts of the states, of which I have complained, as militating against the treaty of peace, may have been repealed or modified by succeeding legislatures; and that decisions of the state courts, which I have alleged as violations of the treaty, may have been rectified by subsequent determinations. I am not conscious of any errors or misrepresentations of this nature; but if any such should exist in the abstract, I desire you, sir, to be persuaded, that they have been totally unintentional on my part, and that I shall be extremely solicitous to have them explained and corrected.

Immediately after the ratification of the definitive treaty of peace, the Congress of the United States, by a proclamation, announcing that event, and by a resolve dated, 14th Jan. 1784, required and enjoined all bodies of magistracy, legislative, executive, and judiciary, to carry into effect the definitive articles, and every clause and sentence thereof, sincerely, strictly, and completely—and earnestly recommended to the legislatures of the respective states to provide for the restitution of all estates, rights, and properties confiscated, belonging to real British subjects, and of estates, rights, and properties of persons resident in districts in possession of his majesty's arms, between the 30th Nov. 1782, and 14th Jan. 1784, who had not borne arms against the United States; and that persons of any other description should have liberty to go to any part of the United States, to remain twelve months, unmolested in their endeavours to obtain the restitution of their estates, rights, and properties confiscated. It was also recommended to the several states to reconsider and revise all laws regarding the premises, so as to render them perfectly consistent with justice and that spirit of conciliation, which, on the return of the blessings of peace, should universally prevail—and it was farther recommended, that the estates, rights, and properties of such last mentioned persons

should be restored to them, they refunding the bona fide price, paid on purchasing any of the said lands, rights, and properties, since the confiscation.

In consequence of the little attention, which had been manifested to this proclamation and recommendation, and of the answer given, (20th Feb. 1786) by the marquis of Carmarthen, to the requisitions of Mr. Adams, respecting the posts and territories, ceded by the treaty of peace to the United States, the Congress transmitted, in April, 1787, a circular letter to the governours of the respective states, recommending it to the different legislatures to repeal such acts, or parts of acts, as were repugnant to the treaty of peace between his Britannick majesty and the United States, or any article thereof, and that the courts of law and equity should be directed and required, in all causes and questions cognizable by them respectively, and arising from, or touching the said treaty, to decide and adjudge according to the tenour, true intent, and meaning of the same, any thing in the said acts or parts of acts to the contrary thereof in any wise notwithstanding.

In this circular letter, after enforcing in the most energetick manner the regard, due to solemn national compacts, and the impropriety of the individual states attempting to contravene, or even discuss stipulations, which had been sanctioned by their general government, the Congress further declare, 'they have deliberately and dispassionately examined and considered the several facts and matters urged by Great Britain as infractions of the treaty of peace, on the part of America; and regret, that, in some of the states, too little attention appears to have been paid to the publick faith, pledged by the treaty.'

It is observable that Congress, neither in this proclamation nor recommendation, take any notice of the fourth article of the treaty of peace, by which it was *agreed* that creditors on either side should meet with no lawful impediment to the recovery of the full value, in sterling money, of all bona fide debts, theretofore contracted; nor does either the proclamation or recommendation extend to the stipulations in the close of the fifth article, whereby it was *agreed* that all persons who have any interests in confiscated lands, either by debts, marriage settlements, or otherwise, should meet with no lawful impediment in the prosecution of their just rights.

This omission of these essential points can only be as-

cribed to the conviction that Congress entertained, that it was totally unnecessary to specify them, as they were stipulations positive and obligatory upon the individual states, and that no local regulation was competent either to confirm or invalidate them. It does not, however, appear that this proclamation and recommendation had any general and extensive effect upon the legislatures of the respective states, as, in consequence thereof, even the formality of a municipal adoption of the treaty, either in the nature of a repeal of existing laws, repugnant to the treaty of peace, or of a declaratory law, establishing the treaty of peace as the supreme law of the land, seems to have been confined to a small portion of the several states.

Having thus stated the measures pursued by Congress to give validity and effect to the engagements contained in the treaty of peace, it is now expedient to specify in detail the particular acts, which Great Britain considers as infractions of the treaty on the part of the United States; and it will tend to simplify the discussion, to make the following arrangement:

I. To define what Congress has enforced or omitted.

II. To advert to the conduct observed by the individual states generally, in respect to the treaty of peace.

In not repealing laws that existed antecedently to the pacification,

In enacting laws subsequent to the peace in contravention of the treaty,

And in the decisions of the state courts upon questions affecting the rights of British subjects.

As to the first of these points, it cannot be presumed, that the commissioners, who negotiated the treaty of peace, would engage in behalf of Congress to make recommendations to the legislatures of the respective States, which they did not expect to be effectual, or enter into direct stipulations, which they had not the power to enforce. And yet the laws were not repealed which Congress recommended to be repealed, nor were the stipulations enforced which Congress was absolutely pledged to fulfil. It does not appear—that any of the state legislatures repealed their confiscation laws, or provided for the restitution of all estates, rights and properties of real British subjects which had been confiscated, and of persons resident in districts in the possession of his majesty's arms, who had not borne arms against the United States—that

persons of other descriptions were at liberty to remain twelve months in the United States, unmolested in their endeavours to obtain the restoration of their confiscated estates, rights and properties—that the acts of the several states which respected confiscations, were in many of the states reconsidered or revised—nor, finally, have British creditors been countenanced or supported either by the respective legislatures, or by the state courts, in their endeavours to recover the full value of debts, contracted antecedently to the treaty of peace. On the contrary, in some of the states, the confiscation laws have been acted upon since the peace, and new legislative regulations have been established to carry them into effect. In many of the states, the subjects of the crown, in endeavouring to obtain the restitution of their forfeited estates and property, upon refunding the price to the purchasers, have been treated with indignity—menaced, exposed to personal danger, and in some instances imprisoned. Prosecutions have been commenced against his majesty's subjects for the part which they had taken in the late war. In many of the states, laws have actually passed, delaying the legal investigation of just claims, and abridging the demands of British merchants. Local regulations, in respect to the tender of property, in discharge of just debts, have prevailed to such an extent as to amount to a prohibition of suits. Paper money, emitted by particular states, has been made at its nominal value legal tender and payment for all debts, for the recovery of which actions were commenced at the time when money of that description was greatly depreciated. Creditors, too, in some of the states, were exposed to the necessity of taking real or personal property, at a valuation made by a partial, prejudiced, or interested neighbourhood, while, in other states, when the question of alienage has been under discussion, the courts of law and equity have determined, that a subject of Great Britain, residing within the king's dominions, at and after the declaration of independence, was not competent to acquire or hold real property within the United States. In many of the state courts, decisions have taken place, reducing the amount of British debts, in violation of the terms of the original contracts, and some of those courts have positively refused to take cognizance of suits, instituted for the recovery of British debts. These facts will be more fully illustrated under the next head of arrangement.



II. To advert to the conduct observed by the individual states, generally, in respect to the treaty of peace.

1st. In not repealing the laws that existed antecedently to the pacification.

During the war, the respective legislatures of the United states passed laws to confiscate and sell, to sequester, take possession of, and lease, the estates of the loyalists, and to apply the proceeds thereof towards the redemption of certificates and bills of credit, or towards defraying the expenses of the war—to enable debtors to pay, into the state treasuries, or loan offices, paper money, then exceedingly depreciated, in discharge of their debts. Under some of the laws, many individuals were attainted by name, others were banished for ever from the country, and, if found within the state, declared felons, without benefit of clergy. In some states, the estates and rights of married women, of widows, and of minors, and of persons who had died within the territories possessed by the British arms, were forfeited. Authority also was given to the executive department to require persons who adhered to the crown to surrender themselves, by a given day, and to abide their trials for high treason; in failure of which, the parties so required were attainted, were subject to, and suffered, all the pains, penalties, and forfeitures awarded against persons attainted of high treason. In one state, (New York) a power was vested in the courts to prefer bills of indictment against persons alive or dead, who had adhered to the king, or joined his fleets or armies, if in full life, and generally reputed to hold or claim, or, if dead, to have held or claimed, at the time of their decease, real or personal estate. And upon notice or neglect to appear and traverse the indictment, or, upon trial and conviction, the persons charged in the indictment, whether *in full life or deceased*, were respectively declared guilty of the offences charged, and their estates were forfeited, whether in possession, reversion, or remainder. In some of the states confiscated property was applied to the purposes of public buildings and improvements, in others was appropriated as rewards to individuals for military services rendered during the war; and, in one instance, property mortgaged to a British creditor was liberated from the incumbrance by a special act of the legislature, as a provision for the representatives of the mortgager, who had fallen in battle.

A general repeal of these laws, under the stipulated exceptions, would have been a compliance with the terms of the treaty of peace. But the restitution of the estates, rights, and properties, of real British subjects, or of persons resident in districts in possession of his majesty's arms, and who had not borne arms against the United States, was not provided for by any local law, or general regulation, nor did any such law or regulation prevail, to support persons of other descriptions in their endeavours to obtain the restitution of such of their estates, rights, and properties, as had been confiscated. Some of the state legislatures, it is true, soon after the peace, passed acts, in conformity to the treaty, to provide against farther confiscations, and to deliver up, under certain conditions and assessments, such lands and tenements, the property of persons described in confiscation laws, as had not been confiscated by process of law. Other states have, in certain instances, upon application of the children of friends of attainted persons, passed laws to restore the ownership of forfeited estates, upon the payment of a given price in depreciated certificates, and, in others, without exacting any consideration for the property restored. Acts of pardon and oblivion are also to be found in the statute book of some of the states, but fettered with such qualifications, exceptions, and restraints, as to exclude effectually from the hope of recovery or restitution numbers who were expressly within the meaning and intention of the treaty.

2d. In enacting laws subsequent to the peace in contravention of the treaty.

In stating the particular acts that relate to this head of arrangement, it will be proper to place them in three classes.

1. Such as relate to the estates of the loyalists ;
2. Such as respect their persons ; and lastly,
3. Such as obstruct the recovery of debts due to the subjects of the crown.

1. Many of the confiscated estates being undisposed of, not only at the time the preliminary articles of peace were signed, but even after the conclusion of the definitive treaty, it would have been perfectly consistent with justice, and that spirit of conciliation, which ought to have prevailed upon the return of the blessings of peace, to have suspended the sales of property not then disposed of, to have repealed the laws of confiscation, under certain limitations.

and to have restored the rights of married women, of widows, and of minors: and though the policy of the different state governments might exact a rigid adherence to forfeitures, incurred by persons who had actually borne arms during the war, yet such a suspension of sales, repeal of laws, and restitution of property, might have been effected with great convenience in a number of instances, and might have been liberally extended to real British subjects, and to persons who had not borne arms against the United States, but who, from local residence, were liable to the imputation of offence, and to the operation of severe penal laws.

But immediately after the preliminary articles were signed, and for many years subsequent to the peace, acts passed the different legislatures of the United States—to confirm forfeitures and confiscations made by virtue of former laws; to secure in their possessions persons who had purchased forfeited lands, tenements, goods, and chattels; to sell confiscated property that remained unsold; to resell such as had been already sold, and to which no title had been given; and to release from their bargains persons who had misconceived the modes of payment. In one state, (Georgia) many years subsequent to the peace, an act passed to compel, under severe penalties, the discovery of debts due to merchants and subjects of the crown of Great Britain, that had been sequestered by particular regulations. Under this act, the auditor of that state has published a formal notice, manifesting his determination to pursue the rigid letter of the law, and to sequester British debts, in defiance of the solemnity of national engagements. In another state, (Maryland) offers have even been held out by legislative authority to persons, who, within limited periods, should make discovery of British property, to compound for the same by granting certain portions of such as should be discovered: and these legislative acts extended to forfeited rights and property generally, without discrimination or distinctions of persons plainly defined in the treaty, distinctions which the spirit of conciliation and the feelings of humanity most forcibly recommended, and which the respective states were fully competent to establish and enforce, when applied to estates and property, either unsold at the period

of the peace, or for which (owing to the default of the purchasers) no titles had been given.

2d. In respect to the persons who under the treaty of peace were to have free liberty to come to any part of the United States. The permission in their favour was in terms the most general and unqualified; and though the period, in which persons of one description were to remain in this country, was restricted, none, however exceptionable their political conduct might have been considered by the United States, were debarred from the means of personal application, and of endeavouring to obtain the restitution of such of their estates, rights, and properties, as had been confiscated. As to those who, under the appellation of British subjects, had incurred no other imputation of criminality, than that of adherence to their sovereign, and as to others, who, though resident in districts in possession of his majesty's forces, had not borne arms against the United States, the express provision in the treaty for the restitution of the estates and properties of persons of both these descriptions certainly comprehended a virtual acquiescence in *their* right to reside where their property was situated, and to be restored to the privileges of citizenship. This virtual acquiescence may be justly assumed as an argument in favour even of those who had borne arms against the United States, and who, if any instances of this kind existed, had been successful in their endeavours to obtain the restoration of their confiscated estates on refunding to the purchasers the bona fide price that had been paid. Acts, however, of proscription, attainder, and banishment, which had passed during the war, and which extended, not only to those who had borne arms against the United States, but also to those who had borne arms against their allies, to persons who had left particular states, and gone off with the fleets or armies of Great Britain, to those who had attached themselves to, adhered to, or taken the protection of the government, fleets, or armies of Great Britain, who were, and still remained absent from the states, who had withdrawn themselves from, and still resided beyond the limits of the United States, though repealed as to certain individuals therein named, remained in full force against numbers of every description of persons defined in the treaty. And subsequent to the peace, acts passed

several of the state legislatures, for the purpose of asserting the rights of the states for preserving their independence, and expelling such aliens as might be dangerous to the peace and good order of government: whereby persons who had left the states, gone off to, or taken the protection of the government, fleet, or armies of Great Britain; or aided, assisted, or abetted the same; or had borne arms, exercised, or accepted military commands; or owned, or fitted out armed vessels to cruise against the United States or their allies; or had been joined to the fleets or armies, or to any volunteer corps of the king, or had held any office, at particular boards instituted during the war; and all other absentees named in divers acts of confiscation, or who had been banished, or sent out of the states, were forbidden to return without license, at their peril, or were subject to disqualifications, to prosecution, and tedious imprisonment, if they remained after notice given to depart the state. In some states the ceremony of notice was dispensed with, and the parties upon being found therein were liable to imprisonment, to the confiscation of the property they possessed, and, in other states, to the penalty of death. In some of the states, it is true, permission was given to certain individuals to return unconditionally, but in others the indulgence was of momentary duration, and the unfortunate objects of it were then banished from their connections and friends for ever.

To this it may be added, that though the treaty of peace expressly declares, That no future confiscations shall be made, nor any prosecutions commenced against any persons for or by reason of the part which they might have taken during the war, confiscation acts have passed since the preliminary articles were signed, and sales have been made of confiscated estates long since the peace. Acts have also passed for granting effectual relief in cases of trespasses, and pointing out modes for the recovery of property acquired while the king's troops occupied particular districts, whereby it was made lawful for any inhabitants of the state, who had left their places of abode, and had not since voluntarily put themselves into the power of the king's troops, to bring actions of trespass against any person who had occupied, injured, or destroyed their estate, either real or personal, within the power of the king's troops, or against persons who had received or pur-

chased such goods or effects ; and the purchasers of property, under sales made in districts occupied by the royal army, were required to restore and deliver up the same under the penalty of forfeiting treble the value of such property, so obtained, and neglected to be delivered or restored ; to the great inconvenience of many who had used, possessed, or acquired real and personal property, under the sanction of the only authority, existing in the districts wherein the property was situated, an authority justified by the laws and usages of nations, and confirmed by the letter and spirit of the treaty of peace. The persons who were the objects of the trespass law were still more oppressed by its operation, in consequence of a subsequent act, suspending prosecutions for acts done to promote the American cause, which was manifestly leveled at the friends of the crown, and deprived them of the means of satisfaction for those acts of outrage, which had involved them in loss and ruin. And, in order to provide for the enforcement of these trespass laws against absentees, the remedy of attachment against absconding debtors was extended to the recovery of damages sustained by the injury, destruction or occupancy of real or personal estates during the war, whereby absentees, though in a state of legal exile, were considered as absconding debtors.

3d. The securing of the enormous debt due from the citizens of the United States to the merchants of Great Britain, being an object of important consideration to his majesty's government, in arranging and discussing the terms of the treaty of peace, was expressly provided for in it ; though stipulations of that nature are not usual in treaties between independent nations ; as the engagements of individuals of different countries are not liable to the intervention of partial local regulations, but rest upon the sacred and permanent basis of universal justice. The magnitude of this object cannot therefore be better ascertained, than by this circumstance ; and accordingly a solemn and unequivocal stipulation was introduced into the treaty " That creditors on either side should meet with no lawful impediment to the recovery of the full value, in sterling money, of all bona fide debts heretofore contracted ;" a stipulation, as precise and definite as to the measure and mode of recovery and payment, as it was general and unqualified in respect to the debts to be recovered.

“The full value in sterling money” could only mean the value, to be ascertained by the nature and terms of the original contract between debtor and creditor and to be paid in sterling money according to the rate of exchange prevailing between the two countries. “All bona fide debts heretofore contracted” comprehended every species of debt, due to the creditors on either side, contracted antecedent to, and which remained unpaid at, the period of concluding the treaty of peace.

Hitherto Great Britain has anxiously, though in vain, expected, from the United States, the fulfilment of this article, in behalf of her suffering merchants: But prohibitions of suits and personal disabilities, created during the war, to commence actions, remained unrepealed, and have been protracted to periods subsequent to the peace. Acts, too, have passed since the peace, suspending, for a time, the recovery of debts and the issuing of executions. Courts have been authorized by law to direct and admit the reduction of interest; and the absolute reduction of interest, for a limited number of years, has been provided for. Laws which existed before the war, compelling the creditors to take the debtor's land, at an appraised value, remained unrepealed, notwithstanding the change of circumstances in the two countries had, in some of the state courts, tended to establish principles of alienage which have been carried to so rigorous an extent, applied to British subjects, as to inspire doubts of their competency to acquire or hold real property within the United States. New tender and valuation laws have been passed subsequent to the peace, by the operation of which creditors were reduced to the alternative, either of accepting under partial appraisements, resulting from prescribed modes of valuation, real and personal property which bore no proportion to the value of the original debt, and for which they could command no price whatsoever, or of having the persons of their debtors protected from arrests, or discharged from executions. British subjects and their agents were compelled to give security to pay all just debts due from the creditors to any citizen of the state, as far as the amount of the debts to be collected, before any debtor could be compelled to make payment. Paper money emitted and made current, for a number of years, was constituted legal tender for payment and discharge of

any debt, bargain or sale, bond, mortgage, specialty, or contract whatsoever "already made or hereafter to be made," either *for sterling money*, silver money, dollars, or any species of gold or silver. Instalment laws have passed, restraining, for a time, the commencement of suits, and then limiting the modes of recovering all debts due previous to the month of February, 1782, and of obligations taken since that time for debts previously incurred, to three annual payments, of one third of the principal and interest in each successive year. These restrictions and limitations were afterwards extended to all debts contracted previous to the 1st of January, 1787; and when these limitations, in which the British merchants most patiently and benevolently acquiesced, were about to expire, a new instalment law was passed, protracting the period of payments five years longer, and restraining the recovery even of bonds or notes, given payable according to the instalments prescribed by the former acts, to the manner directed in the last instalment law.

It is worthy of observation that this latter instalment law, passed subsequent to the formation of the federal constitution, which ordains that all treaties, made, or which should be made, under the authority of the United States, should be the supreme law of the land, and that the judges in each state should be bound thereby, and every senator and representative of the United States, members of the several state legislatures, and all executive and judicial officers both of the United States and of the several states, were to be bound by oath or affirmation to support that constitution.

3d. The last point of discussion relates to the decisions of state courts upon questions affecting the rights of British subjects; in respect to which the dispensations of law have, for the most part, been as unpropitious to the subjects of the crown as the legislative acts of the different assemblies throughout this continent: It must however be allowed that in one state (Massachusetts Bay) where great property was at stake, justice has been liberally dispensed, and, notwithstanding a particular regulation of the state warranted the deduction of that portion of the interest on British debts which accrued during the war, the courts, in conformity to the plain terms of the treaty, have admitted and directed the quantum of the demand to be regulated



by the original contract: and where the contract bore interest, or the custom of the trade justified the charge, the full interest has been allowed to British creditors, notwithstanding the intervention of war. On the other hand it is to be lamented that in a more distant state (Georgia) it was a received principle, inculcated by an opinion of the highest judicial authority there, that as no legislative act of the state existed, confirming the treaty of peace with Great Britain, war still continued between the two countries; a principle which may perhaps still continue, in that state, as it is one of those that have not to this moment paid any municipal regard to the different recommendations of Congress to the several legislatures, to repeal all laws inconsistent with the treaty of peace.

The decisions of the state courts having affected the claims and persons of British subjects, a short view will be taken of some of the most important decisions, under these two heads.

1st. In the prosecution of claims, instituted by British merchants for debts contracted previous to the war, proof of the usage of the trade to allow interest after the expiration of a year on the amount of the goods shipped, or of the specifick contract between the debtor and creditor has been uniformly established, the full value of the debt, to be recovered, ought consequently to have been nothing short of the debt and interest according to the usage of the trade or to the terms of the contract; but under the direction of many of the courts, juries have invariably abated interest on the British debts for seven years and a half. Even the solemnity of obligations has not been found of sufficient force to secure the creditor from this deduction, it having been determined—that obligations, which on the face of the contract itself bore interest, were upon no better footing in this respect than book-debts, in which the intervention of war and the prohibitory resolves of Congress were deemed sufficient grounds to destroy the usage between the British and American trader by abating the interest for the period the war continued—and that as the debtor was deprived of the means of making payment, unless by a violation of a positive restrictive law, prohibiting remittances as a means of strengthening the enemy, and as it would have been criminal to have remitted during the war, no man should suffer for his obedience

to the laws, or be answerable for the interest, while the laws of the land restrained him from remitting the principal. The treaty of peace too has been considered as having no effect upon this question, it having been held that the treaty only secured the mutual recovery of debts, when the amount was ascertained; but the amount of the debts was to be settled by the laws of the land.

In one state particularly, in which the claim of interest has been generally involved in the recovery of British debts, that had been paid in consequence of legislative acts into the state treasury, the superior court of the state determined, that the construction of the treaty and the acts of the state entitled the creditor to recover the principal of his debt and all interest thereon, which had not arisen during the war, and that as by the intervention of war, the means of recovering British debts were suspended, the claim of interest, during the suspension, was inadmissible.

It was admitted that notwithstanding the payments into the treasury, the treaty of peace restored the right of action; but interest was recoverable only from the date of the definitive treaty.

In one of the southern states (Virginia) where debts to a very considerable amount are depending, the suits that have been instituted for their recovery have been referred to the district courts of the state, and some of the causes, having stood for several years under a mere formal continuance upon the records, have been adjourned, for difficulty, to the general court, wherein they still remain undecided, and others, it is said, have been actually dismissed. The delay of justice, operating equally as a denial of justice, would have been effectually reformed in that state by the provisions of a particular law, giving summary relief in determining disputes wherein subjects of those countries, which had acknowledged or should hereafter recognise the independence of the United States, were parties against the citizens of that state; but unfortunately for the British creditors, upon the conclusion of peace, it was soon found that this summary relief extended to British debts in common with the claims of other foreigners, whose sovereigns had recognised the independence of the United States, and that some of the judges favoured the idea; and so much of the act as points out and authorizes the mode of proceeding in suits wherein

foreigners were parties was repealed, and at this moment, the means of recovery depend solely upon limitations and conditions created by local regulations, which are in direct opposition to the recommendatory resolves of Congress and palpable infractions of the fourth article of the treaty of peace.

The few attempts to recover British debts in the county courts of that state have universally failed; and these are the courts, wherein, from the smallness of the sum, a considerable number of debts can only be recovered.

A farther hardship under which the British creditors labour, is that they are answerable and proceeded against by course of law for every claim brought against them; when at this moment it is not a settled point, whether even the federal court, in that district, will entertain in their behalf suits to which that jurisdiction is competent, the circuit court of the United States, after very solemn argument, having adjourned the question.

In addition to these observations, it is necessary to mention, that in some others of the southern states there does not exist a single instance of the recovery of a British debt in their courts, though so many years have expired since the establishment of peace between the two countries.

2d. The proceedings of the state courts upon points, which affected the persons of British subjects, have been equally repugnant to the terms of the treaty. In one state, suits have been instituted under the acts for granting a more effectual relief in cases of certain trespasses, for the recovery of damages resulting from the occupancy of estates, held in districts in the possession of his majesty's arms, by virtue of license and permission from the commanders in chief; and though the license and permission were pleaded, and it was stated upon the record, that after the declaration of Independence by Congress, there was open war between the two countries, that the place, where the estates were situate, continued in the uninterrupted possession of the royal army during the whole period they were occupied under such license and permission, and as long as the same remained in force—that by the treaty of peace, the claim which the subjects or citizens of either of the contracting parties had to recompense or retribution for injuries done to each other, in consequence of, or

relating to, the war, were mutually relinquished and released; that the parties, against whom the suits were instituted, were subjects of the crown, residing in a district occupied by the royal army, where the estate in question was situate, under the protection of the king then at war with this country. These pleas were overruled by the court, as insufficient, and damages have been awarded against the parties for the time the estates were so occupied by them, to the great injury of numbers, who had, during the war, actually paid a competent rent for the property they occupied under the authority of the commander in chief.

In another state, an indictment has lately been preferred against a subject of the crown, for the murder of a citizen of the United States, found under suspicious circumstances, within the royal lines. Though the grand jury did not find the bill of indictment against the party, as the facts alleged were not sufficiently proved, they postponed a farther inquiry to a future time, to give the prosecutor an opportunity of producing farther testimony, in which the court acquiesced, and refused to discharge the prisoner, observing, when the counsel moved for his discharge, that the commission for holding the court of oyer and terminer did not expire for some months, and the court would again sit before the period expired. The prisoner was, however, admitted to bail, upon his own recognisance in 500*l.* and two sureties in 250*l.* each; but as his friends doubted the disposition of the court to determine according to the terms of the treaty, they thought it more prudent to suffer the forfeiture of the recognisances, than to put his life again into jeopardy.

In that state also, actions of trespass have been instituted, for taking and driving off cattle during the war, converting indictable offences into civil suits, with a view of eluding the stipulations of the treaty; but with what success, has not been ascertained.

Upon this last head of arrangement, it is only necessary farther to observe, that the prosecutions, in the cases specified, are all direct and positive violations of the 6th article of the treaty of peace.

From the foregoing detail, it is evident, that the recommendations of Congress to the respective state legislatures have, in some of the states, been totally disregarded. and

in none have produced that complete and extensive effect, which Great Britain, from the stipulations of the treaty, was perfectly justifiable in expecting and requiring; that since the peace, many of the states have passed laws in direct contravention of the definitive treaty, and essentially injurious to the estates, rights and properties of British subjects, in whose favour precise distinctions were clearly defined and expressed in the treaty—That although some of the states may have repealed their exceptionable laws partially or generally, yet, in a majority of the states, they still exist in full force and validity—and that in some of the state courts, actions have been commenced and prosecuted with success against individuals, for the part they had taken in the war; which actions were, in their origin, positive contraventions of the 6th article of the treaty, and, in their consequences, materially detrimental to the rights and property of many subjects of the crown of Great Britain. In consequence of the violation of the treaty in these particulars, great numbers of his majesty's subjects have been reduced to a state of penury and distress, and the nation of Great Britain has been involved in the payment to them of no less a sum than four millions sterling, as a partial compensation for the losses they had sustained.

It is further manifest, that the stipulation in the fourth article of the treaty, which provides for the recovery of the debts due to the subjects of the two countries respectively, has been not only evaded in many of the states, but that municipal regulations have been established in them, in avowed contravention of it—And that, in many instances, the means and prospect of obtaining redress are nearly as remote as ever; since, in one state, in which a sum far exceeding one million sterling is still due to British creditors, the supreme federal court has thought proper to suspend, for many months, the final judgment on an action of debt brought by a British creditor; and since, in the same state, the county courts (which alone can take cognizance of debts of a limited amount) have uniformly rejected all suits instituted for the recovery of sums due to the subjects of the crown of Great Britain.

The delay which has arisen in the administration of justice, has, with equal propriety, been stated as equivalent to an infraction of the treaty: For, by the effect of

that delay, many descriptions of his majesty's subjects have been exposed, not only to material inconvenience, but, in various cases, to the ruin and absolute loss of their property.

The conduct of Great Britain, in all these respects, has been widely different from that which has been observed by the United States. In the former country, the legislature has never harboured the intention of enacting regulations which might invalidate a national compact, or affect the sacred tenour of engagements contracted between individuals. And in the courts of law, the citizens of the United States have experienced, without exception, the same protection and impartial distribution of justice, as the subjects of the crown. Examples can be adduced of judgment having been given in favour of American creditors, in actions of debt brought even against loyalists, the whole of whose property had been seized by legislative acts of the states in which it was situated, and appropriated, in the first instance, to the liquidation of the very description of debts for which these suits were commenced against them in England.

Such is the nature of the specifick facts which the king, my master, has considered as infractions of the treaty on the part of the United States, and in consequence of which his majesty has deemed it expedient to suspend the full execution, on his part, of the 7th article of that treaty. On this head also, it is necessary to premise the following evident distinction: That the king has contented himself with a mere suspension of that article of the treaty; whereas the United States have not only withheld from subjects of the crown that redress to which they were entitled, under the terms of the treaty, but also many of the states have, subsequent to the peace, passed new legislative regulations, in violation of the treaty, and imposing additional hardships on individuals, whom the national faith of the United States was pledged, under precise and solemn stipulations, to ensure and protect from future injury.

On the grounds, therefore, of the irreparable injury which many classes of his subjects have sustained, and of the heavy expense to which the British nation has been subjected by the non-performance of their engagements, on the part of the United States, the measure that the king has adopted (of delaying his compliance with the 7th

article of the treaty) is perfectly justifiable. Nevertheless, his majesty's sincere desire to remove every occasion of misunderstanding has induced him to direct me to express his readiness to enter into a negotiation with respect to those articles of the treaty, which have not been executed by the two countries respectively, and to consent to such arrangements upon the subject, as, after due examination, may now be found to be of mutual convenience, and not inconsistent with the just claims and rights of his subjects.

I have the honour to be, &c.

GEO. HAMMOND.

APPENDIX A.

No. 1. Act of New Hampshire, to confiscate estates of sundry persons therein named—passed Nov. 28, 1778.

2. Act of Massachusetts Bay, to prevent the return of certain persons therein named, and others who had left that state, or either of the United States, and joined the enemies thereof—passed in 1778.

3. Act of Massachusetts Bay, to confiscate the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late Province, now state of Massachusetts Bay—passed in 1779.

4. Act of Rhode Island, to confiscate and sequester estates, and banish persons of certain descriptions—passed October, 1775.—February, March, May, June, July, August, October, 1776.—February and October, 1778.—February, May, August, September, October, 1779.—July, September, October, 1780.—January, May, 1781.—June, October, November, 1782.—*February, May, June, October, 1783.*

5. Act of Connecticut, directing certain confiscated estates to be sold—Connecticut laws, fol. 56.

6. Act of New York for the forfeiture and sales of the estates of persons who have adhered to the enemies of the state—passed 22d October, 1779.

7. Act of New York for the immediate sale of part of the confiscated estates—passed March 10, 1780.

8. Act of New York approving the act of Congress relative to the finances of the United States, and making provision for redeeming that State's proportion of bills of credit to be emitted—passed 15 June, 1780.

9. Act of New York to procure a sum in specie for the purpose of redeeming a portion of the bills emitted, &c.—passed 7 October, 1780.

10. Act of New Jersey to punish traitors and disaffected persons—passed 4 October, 1776.

11. Act of New Jersey for taking charge of and leasing the real estates, and for forfeiting personal estates of certain fugitives and offenders—passed April 18, 1778.

12. Act of New Jersey for forfeiting to and vesting in the state the real estates of certain fugitives and offenders—passed 11 December, 1778.

13. Act of New Jersey, supplemental to the act (No. 10) to punish traitors and disaffected persons—passed Oct. 3, 1782.

14. Act of Pennsylvania for the attainder of divers traitors, and for vesting their estates in the commonwealth, if they render not themselves by a certain day—6 March, 1778.

15. Act of Delaware, declaring estates of certain persons forfeited, and themselves incapable of being elected to any office—passed 5 February, 1778.

16. Act of Maryland for calling out of circulation the quota of the state, of the bills of credit issued by Congress—October, 1780.

By the 11th section of this act persons indebted to creditors, who had not become subjects and residents of the state, or had an agent constantly residing within the



state, were under certain regulations, authorized to pay these debts into the treasury in certain species of depreciated paper money, and the treasurer's receipt was declared good evidence, in law and equity, of the payment of such debt.

17. Act of Maryland to seize, confiscate and appropriate all British property within the state—passed October, 1780.

18. Act of Maryland to appoint commissioners to preserve confiscated British property—passed October, 1780.

19. Act of Maryland to procure a loan and for the sale of escheat lands and the confiscated British property, therein mentioned—passed October, 1780.

20. Act of Virginia for sequestering British property, enabling those indebted to British subjects to pay off such debts, &c.—passed October, 1777.

21. Act of Virginia, concerning escheats and forfeitures from British subjects—May, 1779.

22. Act of Virginia, to amend the act concerning escheats, &c.—passed May, 1779.

23. Act of Virginia to amend the act concerning escheats and forfeitures—passed October, 1779.

24. Act of Virginia to adjust and regulate pay and account of officers of Virginia line—passed November, 1781.

25. Act of Virginia for providing more effectual funds for redemption of certificates—passed May, 1782.

26. Act of North Carolina, for confiscating the property of all such persons as are inimical to the United States. &c.—passed November, 1777.

27. Act of North Carolina to carry into effect the last mentioned act—passed January, 1779.

28. Act of South Carolina for disposing of certain estates and banishing certain persons therein mentioned—passed 26 February, 1782.

29. Act of South Carolina to amend the last mentioned act—passed 16 March, 1783.

30. Act of Georgia for inflicting penalties on and confiscating the estates of such persons as are therein declared guilty of treason, and for other purposes therein mentioned—passed May 4, 1782.

31. Act of South Carolina to vest one hundred and eighty acres of land, late property of James Holmes, in certain persons in trust for the benefit of a publick school—passed 15 August, 1783.

32. Act of Virginia for removal of seat of government—passed May session, 1779, see No. 21.

33. Act of New Jersey to appropriate a certain forfeited estate—passed 23 December, 1783.

34. Act of Maryland for the benefit of the children of major Andrew Leitch—15 June, 1782.

#### APPENDIX B.

No. 1. Act of Massachusetts in addition to an act made and passed the present year, (1784) entitled, An act for repealing two laws of this state—passed Nov. 10, 1784, see appendix C, No. 2.

2. Act of North Carolina to secure and quiet in their possessions all such as have or may purchase lands, goods, &c. sold or hereafter to be sold by the commissioners of forfeited estates—passed Dec. 29, 1785.

3. Act of North Carolina directing the sale of confiscated property—passed October session, 1784.

4. Act of Georgia to authorize the auditor to liquidate the demands of such persons as have claims against the confiscated estates—passed Feb. 22, 1785.

5. Ordinance of South Carolina for amending and explaining the confiscation act—passed March 26, 1784.

6. Act of South Carolina to amend the confiscation act, and for other purposes therein mentioned—passed March 22, 1786.

7. Act of Georgia releasing certain persons from their bargains, &c.—passed July 29, 1783.

8. Act of Georgia to compel the settlement of publick accounts, for inflicting penalties, and for vesting auditor with certain powers—passed Feb. 10, 1787.

9. Act of Maryland to vest certain powers in the governour and council. Sect. 3d—passed November session, 1785.

10. Act of Maryland to empower governour and council to compound with the discoveries of British property, and for other purposes—passed November session, 1788.

## APPENDIX C.

See Acts of Confiscation, Banishment, &c. referred to in Appendix A, No. 1 to 30 inclusive.

No. 1. Act of North Carolina of pardon and oblivion—passed April session, 1788.

2. Act of Massachusetts Bay, for repealing two laws of the state, and for asserting the right of that free and sovereign commonwealth to expel such aliens as may be dangerous to the peace and good order of government—passed March 24, 1784.

3. Act of Georgia for ascertaining the rights of aliens, and pointing out a mode for the admission of citizens—passed Feb. 7, 1735.

4. Act of New York to preserve the freedom and independence of the state, and for other purposes therein mentioned—passed May 12, 1784.

5. Act of Virginia prohibiting the migration of certain persons to that commonwealth, and for other purposes therein mentioned—passed October session, 1783.

6. Act of Virginia to explain, amend, and reduce into one act the several acts for the admission of emigrants to the rights of citizenship, and prohibiting the migration of certain persons to that commonwealth—passed October session, 1786.

7. Act of North Carolina to describe and ascertain such persons as owed allegiance to the state, and to impose certain disqualifications on certain persons therein named—passed October session, 1784.

8. Act of North Carolina to amend the last mentioned act—passed November session, 1785.

9. Act of South Carolina restoring to certain persons their estates, and for permitting the said persons to return, and for other purposes—March 26, 1784.

10. See appendix A, No. 23. By act of Feb. 26, 1782, penalties of confiscation and banishment were inflicted on certain persons described in lists 1, 2, 3, 4, 5, and, though it appears by the foregoing act, that the persons named in lists No. 1, 2, 3, were restored to their estates under certain assessments and limitations, and permitted to return and reside in the state under certain disqualifications, the penalties of the act of Feb. 26, 1782, still prevail against those persons mentioned in the lists No. 4 and 5, who are liable to suffer death, if they return to the state after being sent out of it.

11. Act of Rhode Island to send out of the state N. Spink and John Underwood, who had formerly joined the enemy, and were returned into Rhode Island—passed May 27, 1783.

12. Act of Rhode Island to send William Young, theretofore banished, out of the state, and forbidden to return at his peril—passed June 8, 1783.

13. Act of Rhode Island, allowing William Brenton, late an absentee, to visit his family for one week, then sent away not to return—passed June 12, 1783.

14. Act of Rhode Island, to banish S. Knowles (whose estate had been forfeited) on pain of death if he return—passed October, 1783.

15. Act of Pennsylvania, to attaint Harry Gordon, unless he surrender himself by a given day (July 24, 1783) and the seizure of his estates by the agents of forfeited estates confirmed—passed Jan. 31, 1783.

This act, passed after the provisional articles were signed, and the time limited for the surrender of Mr. Gordon's person was many months after the account reached the United States, part of Mr. Gordon's real estate was sold in consequence of an order of the executive council of Pennsylvania—made in the year 1790.

16. Act of New York, for granting a more effectual relief in cases of certain trespasses—passed March 17, 1783.

17. Act of Georgia to point out the mode for the recovery of property unlawfully acquired under the British usurpation, and withheld from the rightful owners, and for other purposes—passed Feb. 17, 1783.

18. Act of New York, for suspending the prosecutions therein mentioned—passed March 21, 1783.

19. Act of New York, to amend an act, entitled, "An act for relief against absconding and absent debtors." and to extend the remedy of the act entitled, "An act for grant-

ing a more effectual relief in cases of certain trespasses, and for other purposes therein mentioned—passed May 4, 1784.

## APPENDIX D.

No. 1. Act of North Carolina, for establishing courts of law and for regulating the proceedings therein. Sect. 101—passed November session, 1777.

2. Act of Virginia for directing the mode of adjusting and settling the payment of certain debts and contracts—passed November session, 1781.

3. Act of Virginia to repeal so much of a former act as suspends the issuing executions upon certain judgments, until December, 1783—passed May session, 1782.

4. Act of Virginia, to amend an act, entitled, "An act to repeal so much of a former act as suspends the issuing executions on certain judgments, until December, 1783,"—passed October session, 1782.

5. Act of Virginia, to revive and continue the several acts of assembly, for suspending the issuing executions on certain judgments, until December, 1783—passed October session, 1783.

6. Act of Maryland to prevent suits on certain debts for a limited time—passed April session, 1782.

7. Ordinance of South Carolina respecting suits for the recovery of debts—passed March 26, 1784.

8. Act of Connecticut, relative to debts due to persons who have been and remained within the enemy's power or lines during the late war—passed May session, 1784.

9. Act of Massachusetts Bay, directing the justices of the courts of judicature to suspend rendering judgment for any interest that might have accrued between the 19th

April, 1775, and the 20th January, 1783, on debts due to British subjects—passed Nov. 9, 1784.

10. Old Act of Maryland.

11. { Case of Thomas Harrison's representatives, in the  
chancery court of Maryland.  
Case of Bayard and Singleton, decided in N.  
Carolina.

12. Act of Rhode Island to enable any debtor in gaol on execution at the suit of any creditor to tender real, or certain specifick articles of personal estate—passed March, 1786.

13. Act of New Jersey, to direct modes of proceeding on writs of fieri facias, and for transferring lands and chattels for payment of debts—March 23, 1786.

14. Act of South Carolina, for regulating sales under executions, and for other purposes therein mentioned—passed Oct. 12, 1785.

15. Act of Maryland for the settlement of publick accounts, and to appoint persons to collect the debts due to persons convicted of treason, and for a specifick performance of certain contracts made by British subjects previous to the revolution—passed November session, 1786.

16. Acts of Rhode Island of May and June, 1775; of January, July, and September, 1776; of February, 1777; and of May, 1786.

17. Act of New Jersey, for making bills emitted by the act for raising a revenue of 3159*l.* 5*s.* per annum for 25 years, legal tender—passed June 1, 1786.

18. Act of New Jersey for striking and making current 100,000*l.* in bills of credit, to be let out on loan—passed May 26, 1786.

19. Act of Georgia for emitting the sum of 50,000*l.* in bills of credit, and for establishing a fund for the redemp-

tion and for other purposes therein mentioned—Aug. 14, 1786.

20. Ordinance of South Carolina, respecting suits for the recovery of debts—passed March 26, 1784.

21. Act of South Carolina, to regulate the recovery and payment of debts, and prohibiting the importation of negroes, &c.—passed March 28, 1787.

22. Act of South Carolina, to regulate the payment and recovery of debts, and to prohibit the importation of negroes for the time therein limited—passed Nov. 4, 1788.

#### APPENDIX E.

No. 1. Case of William Neate's executors against Comfort Sands—decided in the Supreme Court of New York.

2. Case of Osborne against Mifflin's executors—decided in the Supreme Court of Pennsylvania.

3. Case of Hoare against Allen—decided in the same court.

4. Case of Stewardson, administrator of Mildred against Dorsey—decided in the General Court of Maryland.

5. Act of Virginia, for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America—October session, 1779.

6. Act of Virginia, to repeal part of an act for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America—passed Dec. 31, 1787.

7. Act of Virginia, to repeal so much of all and every act or acts of assembly as prohibits the recovery of British debts—passed Dec. 12, 1787.



8. Case of Rutgers against Waddington—decided in the Mayor's Court of New York.

9. Case of John Smith Hatfield, at a court of Oyer and Terminer, held at Bergen, in the state of New Jersey—in August, 1789.

*Mr. Jefferson, Secretary of State of the United States, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Philadelphia, March 30, 1792.*

SIR,—A constant course of business has as yet put it out of my power to prepare an answer to your letter of the 5th instant. In the mean time I have been taking measures to procure copies of the several acts therein complained of, that I might save you the trouble of producing proofs of them. My endeavours have failed in the instances below cited, of which therefore I am constrained to ask you to furnish the documents. I have prefixed to them your own marks of reference, that you may the more easily find them. I beg you to be assured that I would not have given you the trouble to produce any proofs which I could have obtained myself; and I hope it will be considered as an evidence of this, that the list subjoined is only of 13 out of 94 numbers which your appendix specifies. Of all the rest I either have, or expect copies in consequence of the measures I have taken.

I have the honour to be, &c.

TH: JEFFERSON.

A. 4. Act of Rhode Island to confiscate and sequester estates and banish persons of certain descriptions, passed October, 1775. February, March, May, June, July, August, October, 1775. February, May, June, October, 1783.

C. 11. Act of Rhode Island to send out of the state N. Spink and John Underwood.

12. ditto.

to send Wm. Young theretofore banished out of the state, &c.

13. Act of Rhode Island allowing Wm. Brenton to visit his family, &c.
14. ditto, to banish S. Knowles, &c.
- D. 10. Old act of Maryland.
16. Act of Rhode Island of May, 1786.
- E. 1, 2, 3, 4, 8, 9. The cases of Neate v. executors, Osborne v. Mifflin's executors.—Hoare v. Allen.—Stewardson v. Dorsey.—Rutgers v. Waddington.—John Smith Hatfield.

The records of these cannot be dispensed with.

*Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, April 6, 1792.*

SIR,—I have been so much engaged for the last five or six days, that I have not had it in my power sooner to acknowledge the receipt of your letter of the 30th March—I have however now the honour of submitting to your consideration some few remarks on the several points contained in my statement, of which you require an explanation.

With respect to the laws of Rhode Island, they are so blended with the journal of the general proceedings of the legislature of the state, that it was a matter of some difficulty to separate the legislative acts from the other transactions of the assembly—I therefore cannot but regret that in selecting these instances, I could make a reference only to the *dates* of the particular years in which they were passed—these last will, I trust, upon recurring to the collection of the laws of Rhode Island (which book is no longer in my possession) be found to be faithfully stated—By the expression *the old act of Maryland*, I meant to combine the statute of the 5th of George the II. (declaring lands in the plantations to be personal estate for the payment of debts due to British merchants) with the act of

assembly of that state of 1716, Ch. xvi. Sect. 2. (pointing out the mode of appraisement and delivery of the debtors lands in common with his personal property)—This statute and colonial law have I understand, been acted upon in the state courts of Maryland, since the establishment of its independence, but from the strict application of the principle of alienage, mentioned in the text to which this note refers, British creditors are incompetent to the holding of real estates, assigned under these valuation laws, in payment of their debts.

All the cases to which you have alluded (excepting that of *Rutgers v. Waddington*, which was printed at New York) have been collected from the manuscript notes of a friend, and I have no doubt of their being accurately reported—I wish it were in my power to furnish you with the records of them, but I beg leave to suggest to you, sir, with the utmost deference, whether those documents could not be obtained on application to the courts of the states, in which the actions were tried, or the reports be supplied by the gentlemen of the law, employed in the several suits.

Should this explanation not be satisfactory to you, sir, I will certainly endeavour to obtain some farther information upon the several points to which you have referred, as after the very polite and obliging manner, in which you have been pleased to express your desire of saving me trouble, I certainly feel it an act of reciprocal attention due from me to facilitate, by all the means in my power, your investigation of any part of the statement, which I delivered to you. I have the honour to be, &c.

GEO. HAMMOND.

*Mr. Jefferson, Secretary of State of the United States, to Mr. Hammond, Minister Plenipotentiary of Great Britain.*

SIR,—Your favour of March 5th has been longer unanswered than consisted with my wishes, to forward as much as possible explanations of the several matters it contained. But these matters were very various, and the evidence of them not easily to be obtained, even where it could be obtained at all. It has been a work of time and trouble, to collect from the different states all the acts themselves, of which you had cited the titles, and to investigate

the judiciary decisions which were classed with those acts as infractions of the treaty of peace. To these causes of delay may be added the daily duties of my office, necessarily multiplied during the sessions of the legislature.

Section 1. I can assure you with truth, that we meet you on this occasion, with the sincerest dispositions to remove from between the two countries those obstacles to a cordial friendship, which have arisen from an inexecution of some articles of the treaty of peace. The desire entertained by this country, to be on the best terms with yours, has been constant, and has manifested itself through its different forms of administration, by repeated overtures to enter into such explanations and arrangements, as should be right and necessary, to bring about a complete execution of the treaty. The same dispositions lead us to wish, that the occasion now presented should not be defeated by useless recapitulations of what had taken place anterior to that instrument. It was with concern, therefore, I observed that you had thought it necessary to go back to the very commencement of the war, and in several parts of your letter to enumerate and comment on all the acts of our different legislatures, passed during the whole course of it, in order to deduce from thence imputations which your justice would have suppressed, had the whole truth been presented to your view, instead of particular traits, detached from the ground on which they stood. However easy it would be to justify our country, by bringing into view the whole ground, on both sides, to show that legislative warfare began with the British parliament, that when they levelled at persons or property, it was against entire towns or countries, without discrimination of cause or conduct, while we touched individuals only; naming them man by man, after due consideration of each case, and careful attention not to confound the innocent with the guilty; however advantageously we might compare the distant and tranquil situation of their legislature with the scenes in the midst of which ours were obliged to legislate, and might then ask, whether the difference of circumstance and situation would not have justified a contrary difference of conduct, and whether the wonder ought to be, that our legislatures had done so much, or so little. We will wave all this, because it would lead

to recollections, as unprofitable as unconciliating. The titles of some of your acts, and a single clause of one of them only, shall be thrown among the documents at the end of this letter [No. 1. 2.] and with this, we will drop for ever the curtain on this tragedy!

Sect 2. We now come together to consider that instrument which was to heal our wounds, and begin a new chapter in our history. The state in which that found things, is to be considered as rightful: so says the law of nations.\* L'état où les choses se trouvent au moment du traité doit passer pour légitime; et si l'on veut y appor-ter du changement il faut que le traité en fasse une mention expresse. Par conséquent toutes les choses dont le traité ne dit rien, doivent demeurer dans l'état où elles se trouvent lors de sa conclusion. Vattel, l. 4. s. 21. 'De quibus nihil dictum, ea manent quo sunt loco. Wolf, 1222. No alterations then are to be claimed on either side, but those which the treaty has provided. The moment too, to which it refers, as a rule of conduct for this country at large, was the moment of its notification to the country at large.† Vattel, l. 4. s. 24. 'Le traité de paix oblige les *parties contractantes* du moment qu'il est conclu aussitôt qu'il a reçu toute sa forme; et elles doivent procurer incessamment l'exécution—mais ce traité n'oblige les *sujets* que du moment qu'il leur est notifié'—and s. 25. 'Le traité devient *par la publication*, une loi

\* 'The state in which things are found at the moment of the treaty should be considered as lawful, and if it is meant to make any change in it the treaty must expressly mention it. Consequently all things about which the treaty is silent, must remain in the state in which they are found at its conclusion.' Vattel, l. 4. s. 21.

† 'Those things of which nothing is said, remain in the state in which they are.' Wolf, 1222.

† Vattel, l. 4. s. 24. 'The treaty of peace binds the *contracting parties* from the moment it is concluded, as soon as it has received its whole form, and they ought immediately to have it executed.—But this treaty does not bind the *subjects*, but from the moment it is notified to them.' And, s. 25. 'The treaty becomes, by its *publication*, a law for the subjects, and they are obliged, *thenceforward*, to conform themselves to the stipulations therein agreed on.'

'The paction of the peace binds the *contractors* immediately as it is *perfect*, since the obligation is derived from the pact; but the *subjects* and *soldiers*, as soon as it is *published* to them; since they cannot have certain evidence of it before its publication.' Wolf, s. 1220.

pour les sujets, et ils sont obligés de se conformer désormais aux dispositions dont on y est convenu.'—And another author as pointedly says, '*Pactio pacis paciscentes statim obligat quam primum perfecta, cum ex pacto veniat obligatio. Subditos vero et milites, quam primum iisdem fuerit publicata; cum de eâ ante publicationem ipsis certo constare non possit.*' Wolf, s. 1229. It was stipulated indeed by the ix article, that 'if before its arrival in America,' any place or territory belonging to either party should be conquered by the arms of the other, it should be restored. This was the only case in which transactions intervening between the signature and publication were to be nullified.

Congress, on the 24th of March, 1733, received informal intelligence from the marquis de la Fayette, that provisional articles were concluded; and on the same day, they received a copy of the articles, in a letter of March 19th from general Carleton and admiral Digby. They immediately gave orders for recalling all armed vessels, and communicated the orders to those officers, who answered on the 26th and 27th that they were not authorized to concur in the recall of armed vessels, on their part. On the 11th of April, Congress received an official copy of these articles from doctor Franklin, with notice that a preliminary treaty was now signed between France, Spain, and England. The event having now taken place on which the provisional articles were to come into effect on the usual footing of preliminaries, Congress immediately proclaim them, and on the 19th of April, a cessation of hostilities is published by the commander in chief. These particulars place all acts preceding the 11th of April out of the present discussion, and confine it to the treaty itself, and the circumstances attending its execution. I have therefore taken the liberty of extracting from your list of American acts all those preceding that epoch, and of throwing them together in the paper, No. 6, as things out of question. The subsequent acts shall be distributed, according to their several subjects of I. Exile and Confiscation. II. Debts, and III. Interest on those debts. Beginning I. with those of exile and confiscation, which will be considered together, because blended together in most of the acts. and blended also in the same article of the treaty.

S. 3. It cannot be denied that the state of war strictly permits a nation to seize the property of its enemies found within its own limits, or taken in war, and in whatever form it exists, whether in action or possession. This is so perspicuously laid down by one of the most respectable writers on subjects of this kind, that I shall use his words, “\* Cum ea sit belli conditio, ut hostes sint omni jure spoliati, rationis est, quascunque res hostium apud hostes inventas dominum mutare, et fisco cedere. Solet praeterea in singulis fere belli indictionibus constitui, ut bona hostium, tam *apud nos reperta*, quam *capta bello publicentur*. Si merum jus belli sequamur, etiam *immobilia* possent vendi, et eorum pretium in fiscum redigi, ut in mobilibus obtinet. Sed in omni fere Europa sola fit annotatio, ut eorum fructus, durante bello, percipiat fiscus, finito autem bello, ipsa *immobilia* ex pactis restituuntur pristinis dominis.” Bynkersh. Quest. Jur. Pub. l. I. c. 7. Every nation, indeed, would wish to pursue the latter practice, if under circumstances leaving them their usual resources. But the circumstances of our war were without example, excluded from all commerce, even with neutral nations, without arms, money, or the means of getting them abroad, we were obliged to avail ourselves of such resources as we found at home. Great Britain too, did not consider it as an ordinary war, but a rebellion; she did not conduct it according to the rules of war, established by the law of nations, but according to her acts of parliament, made from time to time, to suit circumstances. She would not admit our title even to the *strict rights* of ordinary war. She cannot then claim from us its *liberalities*, yet the confiscations of property were by no means universal, and that of debts still less so. What effect was to be produced on

\* “Since it is a condition of war that enemies may be deprived of all their rights, it is reasonable that every thing of an enemy’s found among his enemies should change its owner, and go to the treasury. It is moreover usually directed, in all declarations of war, that the goods of enemies, as well *those found among us*, as those taken in war, shall be confiscated. If we follow the mere right of war, even *immoveable* property may be sold, and its price carried into the treasury, as is the custom with moveable property. But in almost all Europe, it is only notified that their profits, during the war, shall be received by the treasury, and the war being ended, the immoveable property itself is restored by agreement to the former owner.” Bynk. Quest. Jur. pub. l. I. c. 7.

them by the treaty, will be seen by the words of the v. article, which are as follows.

S. 4. Article v. It is agreed, that the Congress shall earnestly recommend it to the legislatures of the respective states to provide for the restitution of all estates, rights and properties, which have been confiscated, belonging to real British subjects, and also, of the estates, rights, and properties of persons resident in districts in the possession of his majesty's arms, and who have not borne arms against the said United States; and that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their estates, rights, and properties as may have been confiscated: And that Congress shall also earnestly recommend to the several states a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which on the return of the blessings of peace should universally prevail: and that Congress shall also earnestly recommend to the several states, that the estates, rights, and properties of such last mentioned persons shall be restored to them, they refunding to any persons who may be now in possession the bona fide price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights, or properties, since the confiscation. And it is agreed, that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

“ Article vi. That there shall be no future confiscations made.”

S. 5. Observe that in every other article, the parties agree expressly, that such and such things *shall be done*. In this, they only agree to *recommend* that they shall be done. You are pleased to say (page 7.) “ It cannot be presumed, that the commissioners who negotiated the treaty of peace would engage, in behalf of Congress, to make



*recommendations* to the legislatures of the respective states, which they did not expect to be effectual, or enter into direct stipulations, which they had not the power to enforce." On the contrary, we may fairly presume, that if they had had the power to *enforce*, they would not merely have *recommended*. When in every other article, they agree expressly *to do*, why in this do they change the style suddenly and agree only to *recommend*?—because the things here proposed to be done were retrospective in their nature, would tear up the laws of the several states, and the contracts and transactions private and publick, which had taken place under them; and retrospective laws were forbidden by the constitutions of several of the states. Between persons, whose native language is that of this treaty, it is unnecessary to explain the difference between *enacting* a thing to be done, and *recommending* it to be done; the words themselves being as well understood, as any by which they could be explained. But it may not be unnecessary to observe that *recommendations* to the people, instead of *laws*, had been introduced among us, and were rendered familiar in the interval between discontinuing the old, and establishing the new governments. The conventions and committees who then assembled, to guide the conduct of the people, having no authority to oblige them by law, took up the practice of simply recommending measures to them. These recommendations they either complied with or not, at their pleasure. If they refused, there was complaint but no compulsion. So after organizing the governments, if at any time it became expedient that a thing should be done, which Congress, or any other of the organized bodies were not authorized to ordain, they simply recommended and left to the people, or their legislatures, to comply, or not, as they pleased. It was impossible that the negotiators on either side should have been ignorant of the difference between agreeing *to do* a thing, and agreeing only to *recommend* it to be done. The import of the terms is so different, that no deception or surprise could be supposed, even if there were no evidence that the difference was attended to, explained and understood.

S. 6. But the evidence on this occasion removes all question. It is well known, that the British court had it

extremely at heart, to procure a restitution of the estates of the refugees who had gone over to their side: that they proposed it in the first conferences, and insisted on it to the last: that our commissioners, on the other hand, refused it from first to last, urging 1st. That it was unreasonable to restore the confiscated property of the refugees, unless they would reimburse the destruction of the property of our citizens, committed on their part; and 2ndly, That it was beyond the powers of the commissioners to stipulate, or of Congress to enforce. On this point, the treaty hung long. It was the subject of a special mission of a confidential agent of the British negotiator from Paris to London. It was still insisted on, on his return, and still protested against, by our commissioners: And when they were urged to agree only, that Congress should *recommend* to the state legislatures to restore the estates, &c. of the refugees, they were expressly told that the legislatures would not regard the recommendation. In proof of this, I subjoin extracts from the letters and journals of Mr. Adams and Dr. Franklin, two of our commissioners, the originals of which are among the records of the Department of State, and shall be open to you for a verification of the copies. These prove, beyond all question, that the difference between an express agreement to do a thing and to recommend it to be done was well understood by both parties, and that the British negotiators were put on their guard by those on our part, not only, that the legislatures would be free to refuse, but that they probably would refuse. And it is evident, from all circumstances, that Mr. Oswald accepted the *recommendation* merely to have something to oppose to the clamours of the refugees, to keep alive a hope in them, that they might yet get their property from the state legislatures; and that, if they should fail in this, they would have ground to demand indemnification from their own government; and he might think it a circumstance of present relief at least, that the question of indemnification by them should be kept out of sight, till time and events should open it upon the nation insensibly.

S. 7. The same was perfectly understood by the British ministry, and by the members of both Houses of Parliament, as well those who advocated as those who opposed

the treaty; the latter of whom, being out of the secrets of the negotiation, must have formed their judgments on the mere import of the terms. That all parties concurred in this exposition will appear by the following extracts from the parliamentary register; a work, which, without pretending to give what is spoken with verbal accuracy, may yet be relied on, we presume, for the general reasoning and opinion of the speakers.

*House of Commons.*

The preliminary articles under consideration: 1783, Feb. 17th. Mr. Thomas Pitt. "That the interests of the sincere loyalists were as dear to him, as to any man; but that he could never think it would have been promoted by carrying on that unfortunate war, which parliament had in fact suspended before the beginning of the treaty; that it was impossible, after the part Congress was pleased to take in it, to conceive that their *recommendation* would not have its proper influence on the different legislatures; that he did not himself see what more could have been done on their behalf, except by renewing the war for their sakes, and increasing our, and their calamities." 9. Debrett's Parl. Register, 233.

Mr. Wilberforce. "When he considered the case of the loyalists, he confessed he felt himself there conquered, there he saw his country humiliated; he saw her at the feet of America! Still he was induced to believe, that Congress would religiously comply with the article, and that the loyalists would obtain redress from America. Should they not, this country was bound to afford it them. They must be compensated. Ministers, he was persuaded, meant to keep the faith of the nation with them, and he verily believed, had obtained the best terms they possibly could for them." *ib.* 236.

Mr. Secretary Townsend. "He was ready to admit, that many of the loyalists had the strongest claims upon this country; and he trusted should the *recommendation* of Congress to the American states prove unsuccessful, which he flattered himself would not be the case, this country would feel itself bound in honour to make them full compensation for their losses." *ib.* 242.

*House of Lords, February 17, 1783.*

Lord Shelburne. "A part must be wounded, that the whole of the empire may not perish. If better terms could be had, think you, my lords, that I would not have embraced them? You all know my creed. You all know my steadiness. If it were possible to put aside the bitter cup, the adversities of this country presented to me, you know I would have done it: but you called for peace. I had but the alternative, either to accept the terms, said Congress, of our recommendation to the states in favour of the colonists, or continue the war. It is in our power to do *no more than recommend*. Is there any man who hears me, who will clap his hand on his heart, and step forward and say, I ought to have broken off the treaty? If there be, I am sure he neither knows the state of the country, nor yet has he paid any attention to the wishes of it: but say the worst—and that after all, this estimable set of men are not received and cherished in the bosom of their own country. Is England so lost to gratitude, and all the feelings of humanity, as not to afford them any asylum?—Who can be so base as to think she will refuse it to them? Surely it cannot be that noble minded man, who would plunge his country again knee deep in blood, and saddle it with an expense of twenty millions for the purpose of restoring them. Without one drop of blood spilt, and without one fifth of the expense of one year's campaign, happiness and ease can be given to the loyalists in as ample a manner as these blessings were ever in their enjoyment: therefore let the outcry cease on this head." *Ib.* 70, 71.

Lord Hawke. "In America," said he, "Congress had engaged to recommend their [the loyalists] cause to the legislatures of the country: What other term could they adopt? He had searched the journals of Congress on this subject: what other term did they, or do they ever adopt in their requisitions to the different provinces? It is an undertaking on the part of Congress: that body, like the king here, is the executive power in America. Can the crown undertake for the two houses of parliament? It can only recommend. He flattered himself that recommendation would be attended with success; but, said he, state the case, that it will not, the liberality of Great Britain is

still open to them. Ministers had pledged themselves to indemnify them ; not only in the address now moved for, but even in the last address, and in the speech from the throne."

Lord Walsingham. " We had only the *recommendation* of Congress to trust to, and how often had their recommendations been fruitless ? There were many cases in point in which provincial assemblies had peremptorily refused the recommendations of Congress. It was but the other day the states refused money on the recommendations of Congress. Rhode Island unanimously refused when the Congress desired to be authorized to lay a duty of 5 per cent. because the funds had failed. Many other circumstances might be produced of the failure of the recommendations of Congress, and therefore we ought not, in negotiating for the loyalists, to have trusted to the recommendations of Congress. Nothing but the *repeal* of the acts existing against them ought to have sufficed, as nothing else could give effect to the treaty ; *repeal* was not mentioned. They had only stipulated to revise and reconsider them." 11. Debrett's Parl. Reg. 44.

Lord Sackville. " The king's ministers had weakly imagined that the *recommendation* of Congress was a sufficient security for these unhappy men. For his own part, so far from believing that this would be sufficient, or any thing like sufficient, for their protection, he was of a direct contrary opinion : and if they entertained any notions of this sort, he would put an end to their idle hopes at once, by reading from a paper in his pocket a resolution, which the assembly of Virginia had come to, so late as on the 17th of December last.—The resolution was as follows, " That all demands or requests of the British court for the restitution of property, confiscated by this state, being neither supported by law, equity, or policy, are wholly inadmissible : and that our delagates in Congress be instructed to move Congress, that they may direct their deputies who shall represent these states in the general Congress, for adjusting a peace or truce, neither to agree to any such restitution, or submit that the laws made by any independent state in this Union be subjected to the adjudication of any power or powers on earth." *Ib.* page 62, 63.

Some of the speakers seem to have had not very accurate ideas of our government. All of them, however, have perfectly understood, that a *recommendation* was a matter, not of obligation or coercion, but of persuasion and influence, merely. They appear to have entertained greater or less degrees of hope or doubt, as to its effect on the legislatures, and though willing to see the result of this chance, yet if it failed, they were prepared to take the work of indemnification on themselves.

S. 8. The agreement then being only that Congress should *recommend* to the state legislatures a restitution of estates, and liberty to remain a twelve month for the purpose of soliciting the restitution, and to recommend a revision of all acts regarding the premises, Congress did immediately on the receipt of the definitive articles, to wit, on the 14th of January, 1784, come to the following resolution, viz. "Resolved unanimously, nine states being present, that it be and it is hereby earnestly recommended to the legislatures of the respective states to provide for the restitution of all estates, rights, and properties, which have been confiscated, belonging to real British subjects; and also, of the estates, rights, and properties of persons resident in districts which were in possession of his Britannick majesty's arms, at any time between the 30th day of November, 1782, and the 14th day of January, 1784, and who have not borne arms against the said United States; and that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as may have been confiscated: and it is also hereby earnestly recommended to the several states to reconsider and revise all their acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent not only with justice and equity, but with that spirit of conciliation which, on the return of the blessings of peace, should universally prevail: and it is hereby also earnestly recommended to the several states that the estates, rights, and properties of such last mentioned persons should be restored to them, they refunding to any persons who may be now in possession the bona fide price (where any has been given) which such persons

may have paid, on purchasing any of the said lands, rights, or properties, since the confiscation.

Ordered, that a copy of the proclamation of this date, together with the recommendation, be transmitted to the several states by the secretary."

S. 9. The British negotiators had been told by ours, that all the states would refuse to comply with this recommendation: One only, however, refused altogether. The others complied in a greater or less degree, according to the circumstances and dispositions in which the events of the war had left them; but had all of them refused, it would have been no violation of the 5th article, but an exercise of that freedom of will, which was reserved to them, and so understood by all parties.

The following are the acts of your catalogue which belong to this head, with such short observations as are necessary to explain them. Beginning at that end of the Union where, the war having raged most, we shall meet with the most repugnance to favour.

S. 10. *Georgia*. July 29. An act releasing certain persons from their bargains. A law had been passed during the war, to wit; in 1782, [A. 30.] Confiscating the estates of persons therein named and directing them to be sold:—they were sold; but some misunderstanding happened to prevail among the purchasers, as to the mode of payment. This act of 1783, therefore permits such persons to relinquish their bargains, and authorizes a new sale—the lands remaining confiscated under the law made previous to the peace.

February 22. An act to authorize the auditor to liquidate the demands of such persons as have claims against the confiscated estates. In the same law of confiscations made during the war, it had been provided that the estates confiscated should be subject to pay the debts of their former owner. This law of 1785, gave authority to the auditor to settle with, and pay the creditors, and to sell the remaining part of the estate confiscated as before.

February 10. An act to compel the settlement of publick accounts, for inflicting penalties, and vesting the auditor with certain powers. This law also is founded on

the same confiscation law of 1782, requiring the auditor to press the settlement with the creditors, &c.

February 7. An act for ascertaining the rights of aliens, and pointing out the mode for the admission of citizens. It first describes what persons shall be free to become citizens, and then declares none shall be capable of that character who had been named in any confiscation law, or banished, or had borne arms against them. This act does not prohibit either the refugees, or real British subjects from coming into the state to pursue their lawful affairs. It only excludes the former from their right of citizenship, and it is to be observed, that this recommendatory article does not say a word about giving them a right to become citizens. If the conduct of Georgia should appear to have been peculiarly uncomplying, it must be remembered that that state had peculiarly suffered; that the British army had entirely overrun it; had held possession of it for some years; and that all the inhabitants had been obliged either to abandon their estates and fly their country, or to remain in it under a military government.

S. 11. *South Carolina.* August 15th. An act to vest 180 acres of land, late the property of James Holmes, in certain persons, in trust for the benefit of a publick school. These lands had been confiscated and sold during the war. The present law prescribes certain proceedings as to the purchasers, and provides for paying the debts of the former proprietors.

March 22. An act to amend the confiscation act, and for other purposes therein mentioned. This relates only to estates which had been confiscated before the peace. It makes some provision towards a final settlement, and relieves a number of persons from the ameracements which had been imposed on them during the war, for the part they had taken.

March 26. An act restoring to certain persons their estates, and permitting the said persons to return, and for other purposes. This act recites, that certain estates had been confiscated, and the owners 124 in number banished by former laws; that Congress had earnestly recommended in the terms of the treaty: it therefore distributes them into three lists or classes, restoring to all of them the lands themselves where they remained unsold, and the price,



where sold, requiring from those in lists, No. 1, and 3, to pay 12 per cent. on the value of what was restored, and No. 2, nothing; and it permits all of them to return, only disqualifying those of No. 1 and 3; who had borne military commissions against them from holding any office for seven years.

Governour Moultrie's letter of June 21, 1786, informs us, that most of the confiscations had been restored; that the value of those not restored, was far less than that of the property of their citizens carried off by the British, and that fifteen, instead of twelve months had been allowed to the persons for whom permission was recommended to come and solicit restitution.

S. 12. *North Carolina.* October. An Act directing the sale of confiscated property.

December 29. An act to secure and quiet in their possessions, the purchasers of lands, goods, &c. sold, or to be sold by the commissioners of forfeited estates. These two acts relate expressly to property "heretofore confiscated," and secure purchasers under those former confiscations.

The case of Bayard, *v.* Singleton, adjudged in a court of Judicature in North Carolina. Bayard was a purchaser of part of an estate confiscated during the war, and the court adjudged his title valid; and it is difficult to conceive on what principle that adjudication can be complained of as an infraction of the treaty.

November 19. An act was passed to restore a confiscated estate to the former proprietor, Edward Bridgen.

October. An act to describe and ascertain such persons as owed allegiance to the state, and impose certain disqualifications on certain persons therein named.

November. An act to amend the preceding act.

April. An act of pardon and oblivion. The two first of these acts exercised the right of the state, to describe who should be its citizens, and who should be disqualified from holding offices. The last, entitled An act of pardon and oblivion, I have not been able to see; but so far as it pardons, it is a compliance with the recommendation of Congress under the treaty, and so far as it excepts persons out of the pardon, it is a refusal to comply with the recommendation, which it had a right to do. It does not

appear, that there has been any obstruction to the return of those persons who had claims to prosecute.

S. 13. *Virginia.* The catalogue under examination presents no act of this state subsequent to the treaty of peace, on the subject of confiscations. By one of October 18, 1784, they declared there should be no future confiscations. But they did not choose to comply with the recommendation of Congress, as to the restoration of property which had been already confiscated: with respect to persons, the first assembly which met after the peace, passed

October. The act prohibiting the migration of certain persons to this commonwealth, and for other purposes therein mentioned, which was afterwards amended by

October. An act to explain and amend the preceding. These acts, after declaring who shall not have a right to migrate to, or become citizens of the state, have each an express proviso, that *nothing contained in them shall be so construed as to contravene the treaty of peace with Great Britain*, and a great number of the refugees having come into the state, under the protection of the first law, and it being understood, that a party was forming in the state to ill-treat them, the governour, July 26, 1784, published the proclamation, No. 14, enjoining all magistrates and other civil officers, to protect them, and secure to them, the rights derived from the treaty, and acts of assembly aforesaid, and to bring to punishment, all who should offend herein, in consequence of which, those persons remained quietly in the state; and many of them have remained to this day.

S. 14. *Maryland.* November. An act to vest certain powers in the governour and council. Sec. 3.

November. An act to empower the governour and council to compound with the discoverers of British property and for other purposes. These acts relate purely to property which had been confiscated during the war, and the state not choosing to restore it, as recommended by Congress, passed them for bringing to a conclusion the settlement of all transactions relative to the confiscated property.

I do not find any law of this state, which could prohibit the free return of their refugees, or the reception of the

subjects of Great Britain, or of any other country. And I find that they passed in

November. An act to repeal that part of the act for the security of their government, which disqualified non-jurors from holding offices, and voting at elections.

The case of Harrison's representatives, in the court of chancery of Maryland, is in the list of infractions. These representatives being British subjects, and the laws of this country, like those of England, not permitting aliens to hold lands, the question was, whether British subjects were aliens. They decided that they were; consequently that they could not take lands, and consequently also, that the lands in this case escheated to the state. Whereupon the legislature immediately interposed, and passed a special act, allowing the benefits of the succession to the representatives. But had they not relieved them, the case would not have come under the treaty, for there is no stipulation in that doing away the laws of alienage, and enabling the members of each nation to inherit or hold lands in the other.

S. 15. *Delaware.* This state in the year 1778, passed an act of confiscation against forty-six citizens by name, who had joined in arms against them, unless they should come in by a given day, and stand their trial. The estates of those who did not, were sold, and the whole business soon closed. They never passed any other act on the subject, either before or after the peace. There was no restitution, because there was nothing to restore, their debts having more than exhausted the proceeds of the sales of their property, as appears by Mr. Read's letter, and that all persons were permitted to return, and such as chose it, have remained there in quiet, to this day.

S. 16. *Pennsylvania.* The catalogue furnishes no transaction of this state, subsequent to the arrival of the treaty of peace, on the subjects of confiscation, except August. An order of the executive council, to sell part of Harry Gordon's real estate, under the act of January 31, 1783. This person had been summoned by proclamation, by the name of Henry Gordon, to appear before the 1st day of November, 1781, and failing, his estate was seized by the commissioners of forfeitures, and most of it sold. The

act of 1783, January 31, cured the misnomer, and directed what remained of his estate, to be sold. The confiscation being complete, it was for them to say whether they would restore it, in compliance with the recommendation of Congress. They did not, and the executive completed the sale, as they were bound to do. All persons were permitted to return to this state, and you see many of them living here to this day in quiet and esteem.

S. 17. *New Jersey.* The only act alleged against this state, as to the recommendatory article, is,

December 23. An act to appropriate a certain forfeited estate. This was the estate of John Zabriski, which had been forfeited during the war, and the act gives it to major-general Baron Steuben, in reward for his services. The confiscation being complete, the legislature were free to do this. Governor Livingston's letter is an additional testimony of the moderation of this state, after the proclamation of peace, and from that we have a right to conclude, that no persons were prevented from returning and remaining indefinitely.

S. 18. *New York.* This state had been among the first invaded; the greatest part of it had been possessed by the enemy through the war; it was the last evacuated; its inhabitants had in great numbers been driven off their farms; their property wasted, and themselves living in exile and penury, and reduced from affluence to want, it is not to be wondered at, if their sensations were among the most lively: accordingly, they, in the very first moment, gave a flat refusal to the recommendation, as to the restoration of property: See document No. 17, containing their reasons. They passed, however, May 12, The act to preserve the freedom and independence of this state, and for other purposes therein mentioned, in which, after disqualifying refugees from offices, they permit them to come, and remain as long as may be absolutely necessary, to defend their estates.

S. 19. *Connecticut.* A single act only on the same subject is alleged against this state, after the treaty of peace: This was an act directing certain confiscated estates to be sold. The title shows, they were old confiscations, not

new ones, and governour Huntington's letter informs us, that all confiscations and prosecutions were stopped on the peace; that some restoration of property took place, and all persons were free to return.

S. 20. *Rhode Island.* The titles of four acts of this state, are cited in your appendix, to wit:

May 27. An act to send out of the state, N. Spink, and I. Underwood, who had formerly joined the enemy, and were returned to Rhode Island.

June 8. An act to send William Young, theretofore banished out of the state, and forbidden to return at his peril.

June 12. An act allowing William Brenton, late an absentee, to visit his family for one week, then sent away not to return.

October. An act to banish S. Knowles, (whose estate had been forfeited) on pain of death, if he return. Mr. Channing, the attorney of the United States for that district, says in his letter, "he had sent me all the acts of that legislature, that affect either the debts, or the persons of British subjects, or American refugees." The acts above cited, are not among them. In the answer of April 6, which you were pleased to give to mine of March 30, desiring copies of these, among other papers, you say the book is no longer in your possession. These circumstances will, I hope, excuse my not answering or admitting these acts, and justify my proceeding to observe, that nothing is produced against this state, on this subject after the treaty; and the district attorney's letter, before cited, informs us, that their courts considered the treaty as paramount the laws of the state, and decided accordingly, both as to persons and property, and that the estates of all British subjects seized by the state had been restored, and the rents and profits accounted for. Governour Collin's letter, No. 20, is a further evidence of the compliance of this state.

S. 21. *Massachusetts.* March 24. This state passed an act for repealing two laws of this state, and for asserting the right of this free and sovereign commonwealth to expel such aliens as may be dangerous to the peace and good order of government, the effect of which was to reject the recommendation of Congress, as to the return of

persons, but to restore to them such of their lands as were not confiscated, unless they were pledged for debt, and by

Nov. 10. An act in addition to an act for repealing two laws of this state, they allowed them to redeem their lands pledged for debt, by paying the debt.

S. 22. *New Hampshire.* Against New Hampshire nothing is alleged; that state having not been invaded at all, was not induced to exercise any acts of rigour against the subjects or adherents of their enemies.

The acts then, which have been complained of, as violations of the 5th article, were such as the states were free to pass, notwithstanding the recommendation, such as it was well understood they would be free to pass without any imputation of infraction, and may therefore be put entirely out of question.

S. 23. And we may further observe, with respect to the same acts, that they have been considered as infractions not only of the 5th article, which recommended the restoration of the confiscations which *had taken place during the war*, but also of that part of the 6th article which forbade *future* confiscations. But not one of them touched an estate which had not been before confiscated; for you will observe, that an act of the legislature, confiscating lands, stands in place of *an office found* in ordinary cases; and that, *on the passage of the act*, as *on the finding of the office*, the state stands ipso facto possessed of the lands, without a formal entry. The confiscation then is complete by the passage of the act. Both the title and possession being divested out of the former proprietor, and vested in the state, no subsequent proceedings relative to the lands are acts of confiscation, but are mere exercises of ownership, whether by levying profits, conveying for a time, by lease, or in perpetuo, by an absolute deed. I believe, therefore, it may be said with truth, that there was not a single confiscation made in any one of the United States, after notification of the treaty; and consequently, it will not be necessary to notice again this part of the 6th article.

S. 24. Before quitting the recommendatory article, two passages in the letter are to be noted, which, applying to all the states in general, could not have been properly

answered under any one of them in particular. In page 16 is the following passage, "The express provision in the treaty, for the restitution of the estates and properties of persons of both these descriptions [British subjects and Americans who had staid within the British lines, but had not borne arms,] certainly comprehended a virtual acquiescence in their right to reside where their property was situated, and to be restored to the privileges of citizenship." Here seems to be a double error, first in supposing an express provision, whereas the words of the article, and the collateral testimony adduced, have shown that the provision was neither *express*, nor meant to be so. And secondly, in inferring from a restitution of the estate, a virtual acquiescence in the right of the party, to reside where the estate is. Nothing is more frequent, than for a sovereign to banish the person, and leave him possessed of his estate. The inference in the present case, too, is contradicted, as to the *refugees*, by the recommendation to permit their residence twelve months; and as to British subjects, by the silence of the article, and the improbability that the British plenipotentiary meant to stipulate a right for British subjects to emigrate and become members of another community.

S. 25. Again, in page 34, it is said, "The nation of Great Britain has been involved in the payment to them of no less a sum than four millions sterling, as a partial compensation for the losses they had sustained." It has been before proved, that Mr. Oswald understood perfectly, that no indemnification was claimed from us; that on the contrary, we had a counter claim of indemnification to much larger amount: It has been supposed, and not without grounds, that the glimmering of hope, provided by the recommendatory article, was to quiet, for the present, the clamours of the sufferers, and to keep their weight out of the scale of opposition to the peace, trusting to time and events for an oblivion of these claims, or a gradual ripening of the publick mind to meet and satisfy them, at a moment of less embarrassment: the latter is the turn which the thing took. The claimants continued their importunities, and the government determined at length to indemnify them for their losses: and, open-handedly as they went to work, it cost them less than to have settled with

us the just account of mutual indemnification, urged by our commissioners. It may be well doubted, whether there were not single states of our union, to which the four millions you have paid would have been no indemnification for the losses of property sustained contrary even to the laws of war: and what sum would have indemnified the whole thirteen, and, consequently, to what sum our whole losses of this description have amounted, would be difficult to say. However, though in no wise interested in the sums you thought proper to give to the refugees, we could not be inattentive to the measure in which they were dealt out. Those who were on the spot, and who knew intimately the state of affairs with the individuals of this description, who knew that their debts often exceeded their possessions, insomuch that the most faithful administration made them pay but a few shillings in the pound, heard with wonder of the sums given, and could not but conclude, that those largesses were meant for something more than loss of property: that services, and other circumstances must have had great influence. The sum paid is therefore no imputation on us. We have borne our own losses. We have even lessened yours, by numerous restitutions, where circumstances admitted them: and we have much the worst of the bargain by the alternative you chose to accept, of indemnifying your own sufferers, rather than ours.

S. 26. II. The article of debts is next in order: but to place on their true grounds our proceedings relative to them, it will be necessary to take a view of the British proceedings, which are the subject of complaint in my letter of Dec. 15.

In the 7th article, it was stipulated, that his Britannick Majesty should withdraw his armies, garrisons, and fleets, without carrying away any negroes, or other property of the American inhabitants. This stipulation was known to the British commanding officers, before the 19th of March, 1783, as *provisionally* agreed; and on the 5th of April they received official notice from their court of the conclusion and ratification of the preliminary articles between France, Spain, and Great Britain, which gave activity to ours, as appears by the letter of Sir Guy Carleton to Gen. Washington, dated April 6, 1783. [Document No. 21.]



From this time, then, surely no negroes could be carried away without a violation of the treaty. Yet we find that so early as May 6, a *large* number of them had already been embarked for Nova Scotia, of which, as contrary to an express stipulation in the treaty, Gen. Washington declared to him his sense and his surprise. In the letter of Sir Guy Carleton of May 12, (annexed to mine to you of the 15th of December) he admits the fact; palliates it by saying he had no right to deprive the negroes of that liberty he found them *possessed* of: that it was unfriendly to suppose that the king's minister could stipulate to be guilty of a notorious breach of the publick faith towards the negroes, and that, *if it was his intention, it must be adjusted by compensation*, restoration being utterly impracticable, where inseparable from a breach of publick faith. But surely, sir, an officer of the king is not to question the validity of the king's engagements, nor violate his solemn treaties, on his own scruples about the publick faith. Under this pretext, however, general Carleton went on in daily infractions, embarking, from time to time, between his notice of the treaty, the 5th of April, and the evacuation of New York, Nov. 25.—3000 negroes, of whom our commissioners had inspection, and a very large number more, in publick and private vessels, of whom they were not permitted to have inspection. Here, then, was a direct, unequivocal, and avowed violation of this part of the 7th article, in the first moments of its being known; an article, which had been of extreme solicitude on our part, on the fulfilment of which depended the means of paying debts, in proportion to the number of labourers withdrawn; and when in the very act of violation, we warn, and put the commanding officer on his guard, he says, directly, he will go through with the act, and leave it to his court to adjust it by compensation.

S. 27. By the same article his Britannick majesty stipulates, that he will, *with all convenient speed*, withdraw his garrisons from *every* post within the United States. “When no precise term, says a writer on the law of nations, [Vattel, l. 4. c. 26.] has been marked for the accomplishment of a treaty, and for the execution of each of its articles, good sense determines that every point should be executed *as soon as possible*: This is, without doubt, what

was understood." The term in the treaty, *with all convenient speed*, amounts to the same thing, and clearly excludes all unnecessary delay. The general pacification being signed on the 20th of January, some time would be requisite for the orders for evacuation to come over to America, for the removal of stores, property and persons, and finally, for the act of evacuation. The larger the post, the longer the time necessary to remove all its contents; the smaller, the sooner done: Hence, though general Carleton received his orders to evacuate New York, in the month of April, the evacuation was not completed till late in November. It had been the principal place of arms and stores; the seat, as it were, of their general government, and the asylum of those who had fled to them. A great quantity of shipping was necessary, therefore, for the removal, and the general was obliged to call for a part from foreign countries. These causes of delay were duly respected on our part. But the posts of Michillimackinac, Detroit, Niagara, Oswego, Oswegatchie, Point-au-Fer, Dutchman's Point, were not of this magnitude. The orders for evacuation, which reached general Carleton, in New York, early in April, might have gone, in one month more, to the most remote of these posts: Some of them might have been evacuated in a few days after, and the largest in a few weeks. Certainly they might all have been delivered, without any *inconvenient speed* in the operations, by the end of May, from the known facility furnished by the lakes, and the water connecting them; or by crossing immediately over into their own territory, and availing themselves of the season for making new establishments there, if that was intended: Or whatever time might, in event, have been necessary for their evacuation, certainly the order for it should have been given from England, and might have been given as early as that from New York. Was any order ever given? Would not an *unnecessary delay* of the order, producing an equal delay in the evacuation, be an infraction of the treaty? Let us investigate this matter.

On the 3d of August, 1783, major general Baron Steuben, by orders from general Washington, having repaired to Canada for this purpose, wrote the letter, No. 22, to general Haldimand, governour of the province, and received from him the answer of August 13. No. 23. Wherein he says, 'The orders I have received, direct a discontinu-

ance of every hostile measure *only*,' &c. And in his conference with Baron Steuben, he says expressly, 'That he *had not received any orders* for making the least arrangement for the evacuation of a single post.' The orders then, which might have been with him by the last of April, were unknown, if they existed, the middle of August. See Baron Steuben's letter, No. 24.

Again, on the 19th of March, 1784, governour Clinton, of New York, within the limits of which state some of these posts are, writes to general Haldimand, the letter No. 25; and that general, answering him, May 10, from Quebec, says, 'Not having had the honour *to receive orders* and instructions relative to withdrawing the garrisons,' &c. fourteen months were now elapsed, and the *orders not yet received*, which might have been received in four.

Again, on the 12th of July, colonel Hull, by order from general Knox, the Secretary at War, writes to general Haldimand, the letter No. 27; and general Haldimand gives the answer of the 13th, No. 28, wherein he says, 'Though I am now informed, by his majesty's ministers, of the ratification, &c. I remain, &c. *not having received any orders* to evacuate the posts which are without the limits,' &c. And this is eighteen months after the signature of the general pacification! Now, is it not fair to conclude, if the order was not arrived on the 13th of August 1783, if it was not arrived on the 10th of May, 1784, nor yet on the 13th of July, in the same year, that, in truth, the order had never been given? And if it had never been given, may we not conclude, that it never had been intended to be given? From what moment is it we are to date this infraction? From that, at which, with convenient speed, the order to evacuate the upper posts might have been given. No legitimate reason can be assigned, why that order might not have been given as early, and at the same time as the order to evacuate New York; and *all delay, after this, was in contravention of the treaty.*

S. 23. Was this delay merely innocent and unimportant as to us, setting aside all considerations but of interest and safety? 1. It cut us off from the fur trade, which before the war had been always of great importance as a branch of commerce, and as a source of remittance for the payment of our debts to Great Britain: for to the injury of

withholding our posts they added the obstruction of all passage along the lakes and their communications. 2. It secluded us from connexion with the north-western Indians. from all opportunity of keeping up with them friendly and neighbourly intercourse, brought on us consequently, from their known dispositions, constant and expensive war, in which numbers of men, women and children have been, and still are daily falling victims to the scalping knife, and to which there will be no period. but in our possession of the posts which command their country.

It may safely be said then, that the treaty was violated in England, before it was known in America, and in America, as soon as it was known, and that too in points so essential, as that without them it would never have been concluded.

S. 29. And what was the effect of these infractions on the American mind? On the breach of any article of a treaty by the one party, the other has its election to declare it dissolved in all its articles, or to compensate itself by withholding execution of equivalent articles; or to wave notice of the breach altogether.

Congress being informed that the British commanding officer was carrying away the negroes from New York, in avowed violation of the treaty, and against the repeated remonstrances of general Washington, they take up the subject on the 26th of May, 1783; they declare that it is contrary to the treaty; direct that the proper papers be sent to their ministers plenipotentiary in Europe to remonstrate, and demand reparation, and that, in the mean time, general Washington continue his remonstrances to the British commanding officer, and insist on the discontinuance of the measure. See document No. 29.

S. 30. The state of Virginia, materially affected by this infraction, because the labourers thus carried away were chiefly from thence, while heavy debts were now to be paid to the very nation which was depriving them of the means, took up the subject in December, 1783, that is to say, seven months after that particular infraction, and four months after the first refusal to deliver up the posts, and instead of arresting the debts absolutely, in reprisal for their negroes carried away, they passed [D. 5.] the

act to revive and continue the several acts for suspending the issuing executions on certain judgments until December, 1783, that is to say, they revived till their next meeting two acts passed during the war, which suspended all *voluntary* and *fraudulent* assignments of debt, and as to *others*, allowed real and personal estate to be tendered in discharge of executions: the effect of which was to relieve the body of the debtor from prison, by authorizing him to deliver property in discharge of the debt. In June following, thirteen months after the violation last mentioned, and after a second refusal by the British commanding officer to deliver up the posts, they came to the resolution No. 30, reciting specially the infraction respecting their negroes, instructing their delegates in Congress to press for reparation; and resolving, that the courts shall be opened to British suits, as soon as *reparation shall be made*, or otherwise, *as soon as Congress shall judge it indispensably necessary*. And in 1787, they passed [C. 7.] the act to repeal so much of all and every act or acts of assembly, as prohibits the recovery of British debts; and at the same time [E. 6.] the act to repeal part of an act for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America. The former was not to be in force, till the evacuation of the posts, and reparation for the negroes carried away. The latter requires particular explanation. The small supplies of European goods, which reached us during the war, were frequently brought by captains of vessels and supercargoes, who, as soon as they had sold their goods, were to return to Europe with their vessels. To persons under such circumstances, it was necessary to give a summary remedy for the recovery of the proceeds of their sale. This had been done by the law for the protection and encouragement of the commerce of nations acknowledging the independence of the United States, which was meant but as a temporary thing, to continue whilst the same circumstances continued: On the return of peace, the supplies of foreign goods were made, as before the war, by merchants resident here. There was no longer reason to continue to them the summary remedy, which had been provided for the transient vender of goods: And indeed it would have been unequal to have given the resident merchant instantaneous judgment

against a farmer or tradesman, while the farmer, or tradesman, could pursue those who owed him money, but in the ordinary way, and with the ordinary delays. The British creditor had no such unequal privilege, while we were under British government, and had no title to it, in justice, or by the treaty, after the war. When the legislature proceeded then to repeal the law, as to other nations, it would have been extraordinary to have continued it for Great Britain.

S. 31. South Carolina was the second state which moved in consequence of the British infractions, urged thereto by the desolated condition in which their armies had left that country, by the debts they owed, and the almost entire destruction of the means of paying them. They passed [D. 7. 20.] 1784, Mar. 26, an ordinance respecting the recovery of debts, suspending the recovery of all actions, as well American as British, for nine months, and then allowing them to recover payment at four equal and annual instalments only, requiring the debtor in the mean time, to give good security for his debt, or otherwise refusing him the benefit of the act—by

[D. 21.] 1787, Mar. 28. An act to regulate the recovery and payment of debts, and prohibiting the importation of negroes, they extended the instalments a year further in a very few cases. I have not been able to procure the two following acts [D. 14.] 1785, Oct. 12, An act for regulating sales under executions, and for other purposes therein mentioned, and

[D. 22.] 1788, Nov. 4. An act to regulate the payment and recovery of debts, and to prohibit the importation of negroes for the time therein limited; and I know nothing of their effect, or their existence, but from your letter, which says, their effect was to deliver property in execution, in relief of the body of the debtor, and still further to postpone the instalments. If, during the existence of material infractions on the part of Great Britain, it were necessary to apologize for these modifications of the proceedings of the debtor, grounds might be found in the peculiar distresses of that state, and the liberality with which they had complied with the recommendatory articles, notwithstanding their sufferings might have inspired other dispositions, having pardoned every body, received every

body, restored all confiscated lands not sold, and the prices of those sold.

S. 32. Rhode Island next acted on the British infractions, and imposed modifications in favour of such debtors as should be pursued by their creditors, permitting them to relieve their bodies from execution by the payment of paper money, or delivery of property. This was the effect of [D. 12.] 1786, Mar. An act to enable any debtor in jail, on execution at the suit of any creditor, to tender real, or certain specifick articles of personal estate, and

[D. 16.] 1786, May, An act making paper money a legal tender. But observe, that this was not till *three years* after the infractions by Great Britain, and repeated and constant refusals of compliance on their part.

S. 33. New Jersey did the same thing, by

[D. 13.] 1786, Mar. 23, An act to direct the modes of proceedings on writs of fieri facias, and for transferring lands and chattels for payment of debts, and

[D. 18.] 1786, May 26, An act for striking, and making current 100,000*l.* in bills of credit, to be let out on loan, and

[D. 17.] 1786, June 1, An act for making bills, emitted by the act for raising a revenue of 31,259*l.* 5*s.* per annum, for twenty-five years, a legal tender, and

S. 34. Georgia, by [D. 19.] 1786, Aug. 14, An act for emitting the sum of 50,000*l.* in bills of credit, and for establishing a fund for the redemption, and for other purposes therein mentioned, made paper money also a legal tender.

These are the only states which appear, by the acts cited in your letter, to have modified the recovery of debts. But I believe that North Carolina also emitted a sum of paper money, and made it a tender in discharge of executions; though, not having seen the act, I cannot affirm it, with certainty. I have not mentioned, because I do not view the act of Maryland [D. 15.] 1786, Nov. C. 29, for the settlement of publick accounts, &c. as a modification of the recovery of debts. It obliged the British subject, before he could recover what was due to him within the state, to give bond for the payment of what he owed

therein. It is reasonable that every one, who asks justice, should do justice; and it is usual to consider the property of a foreigner, in any country, as a fund appropriated to the payment of what he owes in that country, exclusively. It is a care which most nations take of their own citizens, not to let the property, which is to answer their demands, be withdrawn from its jurisdiction, and send them to seek it in foreign countries, and before foreign tribunals.

S. 35. With respect to the obstacles thus opposed to the British creditor, besides their general justification, as being produced by the previous infractions on the part of Great Britain, each of them admits of a special apology. They are, 1st. Delay of Judgment. 2. Liberating the body from execution, on the delivery of property. 3. Admitting executions to be discharged in paper money. As to the 1st, let it be considered, that from the nature of the commerce carried on between these States and Great Britain, they were generally kept in debt; that a great part of the country, and most particularly Georgia, South Carolina, North Carolina, Virginia, New York, and Rhode Island had been ravaged by an enemy, moveable property carried off, houses burnt, lands abandoned, the proprietors forced off into exile and poverty. When the peace permitted them to return again to their lands, naked and desolate as they were, was instant payment practicable? The contrary was so palpable, that the British creditors themselves were sensible, that were they to rush to judgment immediately against their debtors, it would involve the debtor in total ruin, without relieving the creditor. It is a fact, for which we may appeal to the knowledge of one member at least of the British administration of 1783, that the chairman of the North American merchants, conferring on behalf of those merchants with the American ministers then in London, was so sensible that time was necessary, as well to save the creditor as debtor, that he declared there would not be a moment's hesitation, on the part of the creditors, to allow payment by instalments annually for seven years, and that this arrangement was not made, was neither his fault nor ours.

To the necessities for some delay in the payment of debts may be added the British commercial regulations, lessening our means of payment, by prohibiting us from



carrying in our own bottoms our own produce to their dominions in our neighbourhood, and excluding valuable branches of it from their home markets by prohibitory duties. The means of payment constitute one of the motives to purchase, at the moment of purchasing. If these means are taken away, by the creditor himself, he ought not in conscience to complain of a mere retardation of his debt, which is the effect of his own act, and the least injurious of those it is capable of producing. The instalment acts before enumerated have been much less general, and for a shorter term, than what the chairman of the American merchants thought reasonable. Most of them required the debtor to give security, in the mean time, to his creditor, and provided complete indemnification of the delay by the payment of interest, which was enjoined in every case.

S. 36. The second species of obstacle was the admitting the debtor to relieve his body from imprisonment by the delivery of lands or goods to his creditor. And is this idea original, and peculiar to us? or whence have we taken it? From England, from Europe, from natural right and reason. For it may be safely affirmed, that neither natural right nor reason subjects the body of a man to restraint for debt. It is one of the abuses introduced by commerce and credit, and which even the most commercial nations have been obliged to relax in certain cases. The Roman laws, the principles of which are the nearest to natural reason of those of any municipal code hitherto known, allowed imprisonment of the body in criminal cases only, or those wherein the party had expressly submitted himself to it.—The French laws allow it only in criminal or commercial cases. The laws of England, in certain descriptions of cases (as bankruptcy) release the body. Many of the United States do the same in all cases, on a cession of property by the debtor. The *levari facias*, an execution affecting only the *profits of lands*, is the only one allowed in England, in certain cases. The *elegit*, another execution of that and this country, attaches first on a man's chattels, which are not to be sold, but to be *delivered to the plaintiff*, on a *reasonable appraisement*, in part of satisfaction for his debt, and if not sufficient, one half only of his lands are then to be delivered to the plaintiff, till the *profit*.

shall have satisfied him. The tender laws of these states were generally more favourable than the execution by *elegit*, because they not only gave, as that does, the whole property in chattels, but also *the whole property* in the lands, and not merely the *profits* of them. It is, therefore, an execution framed on the model of the English *elegit*, or rather an amendment of that writ, taking away, indeed, the election of the party against the *body* of his debtor, but giving him, in exchange for it, much more complete remedy against his *lands*. Let it be observed too, that this proceeding was allowed against citizens, as well as foreigners; and it may be questioned, whether the treaty is not satisfied, while the same measure is dealt out to British subjects, as to foreigners of all other nations, and to natives themselves. For it would seem, that all a friend can expect, is to be treated as a native citizen.

S. 37. The third obstacle was allowing paper money to be paid for goods sold under execution. The complaint on this head is only against Georgia, South Carolina, Jersey, and Rhode Island: and this obstruction, like the two others, sprung out of the peculiar nature of the war. For those will form very false conclusions, who reason, as to this war, from the circumstances which have attended other wars, and other nations. When any nation of Europe is attacked by another, it has neighbours, with whom its accustomed commerce goes on, without interruption; and its commerce with more distant nations is carried on by sea, in foreign bottoms, at least, under protection of the laws of neutrality. The produce of its soil can be exchanged for money, as usual, and the stock of that medium of circulation is not at all diminished by war; so that property sells as readily and as well, for real money, at the close, as at the commencement of the war. But how different was our case: on the north and south, were our enemies: on the west, deserts inhabited by savages in league with them; on the east, an ocean of one thousand leagues, beyond which, indeed, were nations, who might have purchased the produce of our soil, and have given us real money in exchange, and thus kept up our stock of money, but who were deterred from coming to us by threats of war on the part of our enemies, if they should presume to consider us as a people, entitled to partake the benefit

of that law of war, which allows commerce with neutral nations. What were the consequences? The stock of hard money which we possessed in an ample degree, at the beginning of the war, soon flowed into Europe for supplies of arms, ammunition and other necessaries, which we were not in the habit of manufacturing for ourselves. The produce of our soil, attempted to be carried in our own bottoms to Europe, fell two thirds of it into the hands of our enemies, who were masters of the sea, the other third illly sufficed to procure the necessary implements of war, so that no returns of money supplied the place of that which had gone off. We were reduced then to the resource of a paper medium, and that completed the exile of the hard money: so that, in the latter stages of the war, we were, for years together, without seeing a single coin of the precious metals in circulation. It was closed with a stipulation that we should pay a large mass of debt, in such coin. If the whole soil of the United States had been offered for sale for ready coin, it would not have raised as much as would have satisfied this stipulation. The thing then was impossible, and reason and authority declare, \* "Si l'empêchement est réel, il faut donner du tems; car nul n'est tenu à l'impossible." Vattel, l. 4, s. 51.—We should with confidence have referred the case to the arbiter proposed by another jurist, who lays it down that a party, † "Non ultra obligari, quam in quantum facere potest; et an possit, permittendum alterius principis, qua boni viri arbitrio." Bynk. 2. J. P. l. 2, c. 10. That four of the states should resort, under such circumstances, to very small emissions of paper money, is not wonderful: that all did not, proves their firmness under sufferance, and that they were disposed to bear whatever could be borne, rather than contravene, even by way of equivalent, stipulations, which had been authoritatively entered into by them. And even in the four states, which emitted paper money, it was in such small sums, and so secured, as to suffer only a short lived, and not great depreciation of

\* "If the obstacle be real, time must be given, for no one is bound to the impossibility." Vattel. l. 4, s. 51.

† "No one is bound beyond what he can do, and whether he can, may be left to the decision of the other prince, as an honest man." Bynk. 2. J. P. l. 2, c. 10.

value ; nor did they continue its quality as a tender, after the first paroxysms of distress were over. Here, too, it is to be observed, that natives were to receive this species of payment, equally with British subjects.

So that when it is considered, that the other party had broken the treaty, from the beginning, and that, too, in points which lessened our ability to pay their debts, it was a proof of the moderation of our nation, to make no other use of the opportunity of retaliation presented to them, than to indulge the debtors with that time for discharging their debts, which their distresses called for, and the interests and the reason of their creditors approved.

S. 38. It is to be observed, that, during all this time, Congress, who alone possessed the power of peace and war, of making treaties, and, consequently, of declaring their infractions, had abstained from every publick declaration, and had confined itself to the resolution of May 26th, 1783, and to repeated efforts, through their minister plenipotentiary at the court of London, to lead that court into a compliance on their part, and reparation of the breach they had committed. But the other party now laid hold of those very proceedings of our states, which their previous infractions had produced, as a ground for further refusal, and inverting the natural order of cause and effect, alleged that these proceedings of ours were the causes of the infractions, which they had committed months and years before. Thus the British minister for foreign affairs, in his answer of February 28th, 1786 ; to Mr. Adams's memorial, says, "The engagements entered into by treaty ought to be mutual, and equally binding on the respective contracting parties. It would, therefore, be the height of folly, as well as injustice, to suppose one party alone obliged to a strict observance of the publick faith, while the other might remain free to deviate from its own engagements, as often as convenience might render such deviation necessary, though at the expense of its own national credit and importance : I flatter myself, however, sir, that justice will speedily be done to British creditors ; and I can assure you, sir, that whenever America shall manifest a real intention to fulfil her part of the treaty, Great Britain will not hesitate to prove her sincerity to co-operate in whatever points depend upon her, for carrying every article of

it into real and complete effect." Facts will furnish the best commentary on this letter. Let us pursue them.

The secretary for foreign affairs of the United States, by order of Congress, immediately wrote circular letters to the governours of the several states, dated May 3, 1786, [No. 31.] to obtain information how far they had complied with the proclamation of January 14th, 1784, and the recommendation accompanying it; and April 13, 1787, Congress, desirous of removing every pretext which might continue to cloak the inexecution of the treaty, wrote a circular letter to the several states, in which, in order to produce, more surely, the effect desired, they demonstrate, that Congress alone possess the right of interpreting, restraining, impeding or counteracting, the operation and execution of treaties, which, on being constitutionally made, become, by the confederation, a part of the law of the land, and as such, independent of the will and power of the legislatures; that in this point of view, the state acts, establishing provisions relative to the same objects, and incompatible with it, must be improper; resolving, that all such acts now existing ought to be forthwith repealed, as well to prevent their continuing to be regarded as violations of the treaty, as to avoid the disagreeable necessity of discussing their validity; recommending, in order to obviate all future disputes and questions, that every state, as well those which had passed no such acts, as those which had, should pass an act, repealing, in general terms, all acts and parts of acts repugnant to the treaty, and encouraging them to do this, by informing them that they had the strongest assurances, that an exact compliance with the treaty, on our part, would be followed by a punctual performance of it on the part of Great Britain.

S. 39. In consequence of these letters, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Delaware, Maryland, Virginia and North Carolina, passed the acts, No. 32. 33. 34. 35. 36. 37. 38. 39. 40. New Jersey and Pennsylvania declared that no law existed with them, repugnant to the treaty [see Documents No. 41. 42. 43.]—Georgia had no law existing against the treaty.—South Carolina, indeed, had a law existing, which subjected all persons, foreign or native [No. 44.] to certain modi-

fications of recovery and payment. But the liberality of her conduct, on the other points, is a proof she would have conformed in this also, had it appeared that the fullest conformity would have moved Great Britain to compliance, and had an express repeal been really necessary.

S. 40. For indeed all this was supererogation. It resulted from the instrument of confederation among the states, that treaties made by Congress according to the confederation were superior to the laws of the states. The circular letter of Congress had declared and demonstrated it, and the several states, by their acts and explanations before mentioned, had shown it to be their own sense, as we may safely affirm it to have been the general sense of those, at least, who were of the profession of the law. Besides the proof of this, drawn from the act of confederation itself, the declaration of Congress and the acts of the states before mentioned, the same principle will be found acknowledged in several of the documents hereto annexed for other purposes. Thus, in Rhode Island, governour Collins, in his letter, No. 20, says, "The treaty, in all *its absolute parts*, has been fully complied with, and to those parts, that are merely *recommendatory*, and *depend upon the legislative discretion*, the most candid attention hath been paid." Plainly implying, that the *absolute parts* did not *depend upon the legislative discretion*. Mr. Channing, the attorney for the United States, in that state, No. 19, speaking of an act passed before the treaty, says, "This act was considered by our courts as *annulled by the treaty of peace*, and subsequent to the ratification thereof, no proceedings have been had thereon." The governour of Connecticut, in his letter, No. 18, says, "The sixth article of the treaty was immediately observed on receiving the same with the proclamation of Congress, the courts of justice adopted it *as a principle of law*. No further prosecutions were instituted against any person who came within that article. and all such prosecutions as were then pending, were discontinued." Thus, prosecutions going on, under the law of the state, were discontinued, by the treaty operating as a repeal of the law. In Pennsylvania, Mr. Lewis, attorney for the United States, says, in his letter, No. 60, "The judges have uniformly and without hesitation declared in favour of the treaty, on

the ground of its being the supreme law of the land. On this ground, they have, not only discharged attainted traitors from arrest, but have frequently declared, that they were entitled by the treaty to protection." The case of the commonwealth *v.* Gordon, January, 1788, Dallas's Reports 233, is a proof of this. In Maryland, in the case of *Mildred v. Dorsey*, cited in your letter E. 4. a law of the state, made during the war, had compelled those, who owed debts to British subjects, to pay them into the treasury of that state. This had been done by Dorsey, before the date of the treaty; yet the judges of the *state* general court decided, that the treaty not only repealed the law for the future, but for the past also, and decreed, that the defendant should pay the money over again to the British creditor. In Virginia, Mr. Monroe, one of the senators of that state in Congress, and a lawyer of eminence, tells us, No. 52, that both court and counsel there avowed the opinion, that the treaty would control any law of the state opposed to it. And the legislature itself, in an act of October, 1787, C. 36, concerning moneys carried into the publick loan office, in payment of British debts, use these expressions. "And whereas it belongs not to the legislature to decide particular questions, of which the judiciary have cognizance, and it is, therefore, unfit for them to determine, whether the payments, so made into the loan-office, be good or void between the creditor and debtor." In New York, Mr. Harrison, attorney for the United States, in that district, assures us, No. 45, that the act of 1782, of that state, relative to debts due to persons within the enemy's lines, was, immediately after the treaty, restrained *by the superior courts of the state* from operating on British creditors, and that he did not know a single instance to the contrary: a full proof, that they considered the treaty as a law of the land paramount the law of their state.

S. 41. The very case of *Rutgers v. Waddington*, [E. 3.] which is a subject of complaint in your letter, is a proof that the courts consider the treaty as paramount the laws of the states. Some parts of your information, as to that case, have been inexact. The state of New York had, during the war, passed an act [C. 16.] declaring that, in any action by the proprietor of a house or tenement

against the occupant, for rent or damage, no military order should be a justification: And May 4, 1784, after the refusal of the British to deliver up the posts in the state of New York, that legislature revived the same act [C. 19.] Waddington, a British subject, had occupied a brewhouse in New York, belonging to Rutgers, an American, while the British were in possession of New York. During a part of the time, he had only permission from the quarter master general; for another part, he had an order of the commanding officer, to authorize his possession. After the evacuation of the city, Rutgers, under the authority of this law of the state, brought an action against Waddington, for rent and damages, in the mayor's court of New York. Waddington pleaded the treaty, and the court declared the treaty a justification, in opposition to the law of the state, for that portion of the time authorized by the commanding officer; his authority being competent, and gave judgment for that part, in favour of the defendant. But for the time he held the house, under permission of the quarter master general only, they gave judgment against the defendant, considering the permission of that officer as incompetent, according to the regulations of the existing powers. From this part of the judgment the defendant appealed. The first part, however, was an unequivocal decision of the superior authority of the treaty over the law. The latter part could only have been founded in an opinion of the sense of the treaty in that part of the 6th article, which declares, "There shall be no future prosecutions against any person, for the part he may have taken in the war, and that no person should, on that account, suffer any future loss or damage in their property, &c." They must have understood this as only protecting actions, which were conformable with the laws and authority existing at the time and place. The tenure of the defendant under the quarter master general was not so conformable. That under the commanding officer was. Some may think, that murders and other crimes and offences, characterized as such by the authority of the time and place, where committed, were meant to be protected by this paragraph of the treaty: and, perhaps, for peace sake, this construction may be the most convenient. The mayor's court, however, seems to have revolted at it. The defendant appealed, and the question would have been authori-



tatively decided by the superior court; had not an amicable compromise taken place between the parties. See Mr. Hamilton's statement of this case, No. 46.

S. 42. The same kind of doubt brought on the arrest of John Smith Hatfield, in New Jersey, whose case [E. 9.] is another ground of complaint in your letter. A refugee, sent out by the British as a spy, was taken within the American lines, regularly tried by a court martial, found guilty, and executed. There was one Ball, an inhabitant of the American part of Jersey, who, contrary to the laws of his country, was in the habit of secretly supplying the British camp in Staten Island with provisions. The first time Ball went over, after the execution of the spy, of which it does not appear he had any knowledge, and certainly no agency in his prosecution, John Smith Hatfield, a refugee also from Jersey, and some others of the same description, seized him against the express orders of the British commanding officer, brought him out of the British lines, and Hatfield hung him with his own hands. The British officer sent a message to the Americans, disavowing this act, declaring that the British had nothing to do with it, and that those who had perpetrated the crime ought alone to suffer for it. The right to punish the guilty individual seems to have been yielded by the one party, and accepted by the other, in exchange for that of retaliation on an innocent person; an exchange, which humanity would wish to see habitual. The criminal came afterwards into the very neighbourhood, a member of which he had murdered. Peace, indeed, had now been made; but the magistrate, thinking probably, that it was for the honest soldier and citizen only, and not for the murderer, and supposing, with the mayor's court of New York, that the paragraph of the treaty against future prosecutions meant to cover authorized acts only, and not murders and other atrocities, disavowed by the existing authority, arrested Hatfield. At the court, which met for his trial, the witnesses failed to attend. The court released the criminal from confinement, on his giving the security required by law for his appearance at another court. He fled; and you say that "as his friends doubted the disposition of the court to determine according to the terms of the treaty, they thought it more prudent to suffer

the forfeiture of the recognisances, than to put his life again into jeopardy." But your information in this, sir, has not been exact. The recognisances are not forfeited. His friends, confident in the opinion of their counsel, and the integrity of the judges, have determined to plead the treaty, and not even give themselves the trouble of asking a release from the legislature: and the case is now depending. See the letter of Mr. Boudinot, member of Congress for Jersey, No. 47.

S. 43. In Georgia, Judge Walton, in a charge to a grand jury, says, "The state of Rhode Island having acceded to the federal constitution, the union and government have become complete. To comprehend the extent of the general government, and to discern the relation between that and those of the states, will be equally our interest and duty. The constitution, laws and *treaties* of the Union are *paramount*." And in the same state, in their last federal circuit court, we learn from the publick papers, that in a case wherein the plaintiffs were Brailsford and others, British subjects, whose debts had been sequestered (not confiscated) by an act of the state during the war, the judges declared the treaty of peace a repeal of the act of the state, and gave judgment for the plaintiffs.

S. 44. The integrity of those opinions and proceedings of the several courts should have shielded them from the insinuations hazarded against them. In page 9 and 10, it is said, "That during the war, the legislatures passed laws to confiscate the estates of the loyalists, to enable debtors to pay into the state treasuries paper money, then exceedingly depreciated, in discharge of their debts." And page 24, "The dispensations of law *by the state courts* have been as unpropitious to the subjects of the crown, as the legislative acts of the different assemblies." Let us compare, if you please, sir, these unpropitious opinions of our state courts with those of foreign lawyers writing on the same subject. \* "Quod dixi de actionibus recto publicandis ita demum obtinet: si quod subditi nostri hostibus

\* "What I have said of things in action being rightly confiscated holds thus: If the prince really exacts from his subjects what they owed to our enemies, if he shall have exacted it, it is rightfully paid, if he shall not have exacted it, peace being made, the former right of the creditor re-

nostris debent, princeps a subditis suis revera exegerit. Si exegerit, recte solutum est, si non exegerit, pace facta, reviviscit jus pristinum creditoris"—"secundum haec inter gentes fere convenit, ut nominibus bello publicatis, pace deinde factâ, exacta censeantur perisse, et maneat extincta; non autem exacta reviviscant et restituantur veris creditoribus." Bynk. Q. J. P. l. 1, c. 7. But what said the judges of the state court of Maryland in the case of Mildred and Dorsey? That a debt forced from an American debtor into the treasury of his sovereign is not extinct, but shall be paid over again to his British creditor. Which is most propitious, the unbiassed foreign jurist, or the American judge charged with dispensing justice with favour and partiality? But from this, you say, there is an appeal. Is that the fault of the judge, or the fault of any body? Is there a country on earth, or ought there to be one, allowing no appeal from the first errors of their courts? and if allowed from errors how will those from just judgments be prevented? In England, as in other countries, an appeal is admitted to the party thinking himself injured; and here had the judgment been against the British creditor and an appeal denied, there would have been better cause of complaint than for not having denied it to his adversary. If an *illegal* judgment be ultimately rendered on the appeal, then will arise the right to question its propriety.

S. 45. Again it is said, page 34. "In one state the *supreme federal court* has thought proper to suspend for many months the final judgment on an action of debt, brought by a British creditor. If by the *supreme federal court* be meant the *supreme court of the United States*, I have had their records examined, in order to know what may be the case here alluded to; and I am authorized to say, there neither does, nor ever did exist any cause, before that court, between a British subject and a citizen of the United States. See the certificate of the clerk of the court, No. 43. If by the *supreme federal court* be meant one of the *circuit courts of the United States*, then which

vives—accordingly it is for the most part agreed among nations that things in action being confiscated in war, the peace being made, those which were paid are deemed to have perished, and remain extinct; but those not paid, revive, and are restored to their true creditors."—Bynk. Q. J. P. l. 1, c. 7.

circuit, in which state, and what case is meant? In the course of inquiries I have been obliged to make, to find whether there exists any case, in any district of any circuit court of the United States, which might have given rise to this complaint, I have learnt, that an action was brought to issue, and argued in the circuit court of the United States, in Virginia, at their last term, between Jones, a British subject, plaintiff, and Walker, an American, defendant; wherein the question was the same, as in the case of Mildred and Dorsey, to wit: Whether a payment into the treasury, during the war, under a law of the state, discharged the debtor? One of the judges retiring from court, in the midst of the argument, on the accident of the death of an only son, and the case being *primae impressionis* in that court, it was adjourned, for consideration, till the ensuing term. Had the two remaining judges felt no motive, but of predilection to one of the parties, had they considered only to which party their wishes were propitious or unpropitious, they possibly might have decided that question on the spot. But learned enough in their science to see difficulties which escape others, and having characters and consciences to satisfy, they followed the example so habitually and so laudably set by the courts of your country, and of every country, where law, and not favour, is the rule of decision, of taking time to consider. Time and consideration are favourable to the right cause—precipitation to the wrong one.

S. 46. You say again, p. 29. "The few attempts to recover British debts, in the county courts of Virginia, have *universally* failed, and these are the courts wherein, from the smallness of the sum, a considerable number of debts can only be recovered." And again, p. 34, "In the same state, the county courts (which alone can take cognizance of debts of limited amount) have *uniformly rejected* all suits instituted for the recovery of sums due to the subjects of the crown of Great Britain." In the first place, the county courts, till of late, have had exclusive jurisdiction only of sums below 10*l.* and it is known, that a very inconsiderable proportion of the British debt, consists in demands below that sum. A late law, we are told, requires, that actions below 30*l.* shall be commenced in those courts; but allows, at the same time, an appeal to

correct any errors into which they may fall. In the second place, the evidence of gentlemen who are in the way of knowing the fact [No. 52. 53.] is that though there have been accidental checks in some of the subordinate courts, arising from the chicanery of the debtors, and sometimes, perhaps, a moment of error in the court itself, yet these particular instances have been immediately rectified, either in the same or the superior court, while the great mass of suits for the recovery of sums due to the subjects of the crown of Great Britain, have been uniformly sustained to judgment and execution.

S. 47. A much broader assertion is hazarded, page 29. "In some of the southern states, there does not exist a single instance of the recovery of a British debt in their courts, though many years have expired since the establishment of peace between the two countries." The particular states are not specified. I have, therefore, thought it my duty to extend my inquiries to all the states which could be designated under the description of southern, to wit: Maryland, and those to the south of that.

As to Maryland, the joint certificate of the senators and delegates of the state in Congress, the letter of Mr. Tilghman, a gentleman of the law in the same state, and that of Mr. Gwinn, clerk of their general court, prove that British suits have been maintained in the superior and inferior courts throughout the state without any obstruction, that British claimants have, in every instance, enjoyed every facility in the tribunals of justice equally with their own citizens; and have recovered in due course of law, and remitted large debts, as well under contracts previous, as subsequent to the war.

In Virginia, the letters of Mr. Munroe and Mr. Giles, members of Congress from that state, and lawyers of eminence in it, prove that the courts of law in that state have been open and freely resorted to by the British creditors, who have recovered and levied their moneys without obstruction: for we have no right to consider as obstructions the dilatory pleas of here and there a debtor, distressed perhaps for time, or even an accidental error of opinion in a subordinate court, when such pleas have been overruled, and such errors corrected in a due course of proceeding marked out by the laws in such cases. The general fact

suffices to show that the assertion under examination cannot be applied to this state.

In North Carolina, Mr. Johnston, one of the senators for that state, tells us he has heard indeed but of few suits brought by British creditors in that state: but that he never heard that any one had failed of a recovery because he was a British subject; and he names a particular case of *Elmesly v. Lee's executors*, 'of the recovery of a British debt in the superior court at Edenton.' See Mr. Johnston's letter No. 54.

In South Carolina, we learn from No. 55 of particular judgments rendered, and prosecutions carried on, without obstacle, by British creditors, and that the courts are open to them there as elsewhere. As to the modifications of the execution heretofore made by the state law, having been the same for foreigner and citizen, a court would decide whether the treaty is satisfied by this equal measure; and if the British creditor is privileged by that against even the same modifications to which citizens and foreigners of all other nations were equally subjected, then the law imposing them was a mere nullity.

In Georgia, the letter of the senators and representatives in Congress, No. 56, assures us that though they do not know of any recovery of a British debt, in their state, neither do they know of a denial to recover since the ratification of the treaty; the creditors having mostly preferred amicable settlement; and that the federal court is open and unobstructed to British creditors there, as in any other of the United States; and this is further proved by the late recovery of Brailsford and others before cited.

S. 48. You say more particularly of that state, page 25. "It is to be lamented, that in a more distant state, (Georgia) it was a received principle, inculcated by an opinion of the highest judicial authority there, that as no legislative act of the state existed, confirming the treaty of peace with Great Britain, war still continued between the two countries; *a principle which may perhaps still continue in that state.*" No judge, no case, no time, is named. Imputations on the judiciary of a country are too serious to be neglected. I have thought it my duty therefore to spare no endeavours to find on what fact this censure was meant to be affixed. I have found that judge Walton, of Georgia,

in the summer of 1783, the definitive treaty not yet signed in Europe, much less known and ratified here, set aside a writ in the case of Thompson, a British subject *v.* Thompson, assigning for reasons, 1st. "That there was no law authorizing a subject of England to sue a citizen of that state; 2d. That the war had not been *definitively* concluded; or 3d. If concluded, the treaty not *known to, or ratified by*, the legislature; nor 4th. Was it in any manner ascertained how those debts were to be liquidated." With respect to the last reason, it was generally expected that some more specifick arrangements, as to the manner of liquidating and times of paying British debts would have been settled in the definitive treaty. No. 58, shows that such arrangements were under contemplation. And the judge seems to have been of opinion that it was necessary the treaty should be *definitively* concluded, before it could become a law of the land, so as to change the legal character of an *alien enemy*, who cannot maintain an action. into that of an *alien friend*, who may. Without entering into the question, whether between the provisional and definitive treaties, a subject of either party could maintain an action in the courts of the other (a question of no consequence, considering how short the interval was, and this, probably, the only action essayed) we must admit that if the judge was right in his opinion, that a *definitive* conclusion was necessary, he was right in his consequence that it should be *made known* to the legislature of the state, or in other words to the state, and that, till that *notification*, it was not a law authorizing a subject of England to sue a citizen of that state. The subsequent doctrine of the same judge Walton, with respect to treaties, *when duly completed*, that they are paramount the laws of the several states, as has been seen in his charge to a grand jury before spoken of (s. 43.) will relieve your doubts whether the "principle still continues in that state of the *continuance of war between the two countries.*"

S. 49. The latter part of the quotation before made merits notice also, to wit, where, after saying not a single instance exists of the recovery of a British debt, it is added, "Though many years have expired since the establishment of peace between the two countries." It is evident from the preceding testimony, that many suits

have been brought, and with effect: yet it has often been matter of surprise that more were not brought, and earlier, since it is most certain that the courts would have sustained their actions and given them judgments. This abstinence on the part of the creditors has excited a suspicion that they wished rather to recur to the treasury of their own country; and to have colour for this, they would have it believed that there were obstructions here to the bringing their suits. Their testimony is in fact the sole, to which your court till now, has given access. Had the opportunity now presented been given us sooner, they should sooner have known that the courts of the United States whenever the creditors would choose that recourse, and would press, if necessary, to the highest tribunals, would be found as open to their suits, and as impartial to their subjects, as theirs to ours.

S. 50. There is an expression in your letter, page 7, that "British creditors have not been countenanced or supported, either by the respective legislatures, or by the state courts, in their endeavours to recover the full value of debts contracted antecedently to the treaty of peace." And again, in p. 8, "In many of the states, the subjects of the crown, in endeavouring to obtain the restitution of their forfeited estates and property, have been treated with indignity." From which an inference might be drawn, which I am sure you did not intend, to wit: That the creditors have been deterred from resorting to the courts by popular tumults, and not protected by the laws of the country. I recollect to have heard of one or two attempts, by popular collections, to deter the prosecution of British claims. One of these is mentioned in No. 49. But these were immediately on the close of the war, while its passions had not yet had time to subside, and while the ashes of our houses were still smoking. Since that, say for many years past, nothing like popular interposition, on this subject, has been heard of in any part of our land. There is no country, which is not sometimes subject to irregular interpositions of the people. —There is no country able, at all times, to punish them. There is no country, which has less of this to reproach itself with, than the United States, nor any, where the laws have a more regular course, or are more habitual-



ly and cheerfully acquiesced in. Confident that your own observation and information will have satisfied you of this truth, I rely that the inference was not intended, which seems to result from these expressions.

S. 51. Some notice is to be taken, as to the great deficiencies in collection urged on behalf of the British merchants. The course of our commerce with Great Britain was ever for the merchant there to give his correspondent here a year's credit : So that we were regularly indebted from a year to a year and a half's amount of our exports. It is the opinion of judicious merchants, that it never exceeded the latter term, and that it did not exceed the former at the commencement of the war. Let the holders then of this debt be classed into, 1st. Those who were insolvent at that time. 2d. Those solvent then, who became insolvent during the operations of the war, a numerous class. 3d. Those solvent at the close of the war, but insolvent now. 4th. Those solvent at the close of the war, who have since paid or settled satisfactorily with their creditors, a numerous class also. 5th. Those solvent then and now, who have neither paid, nor made satisfactory arrangements with their creditors. This last class, the only one now in question, is little numerous, and the amount of their debts but a moderate proportion of the aggregate which was due at the commencement of the war ; insomuch, that it is the opinion, that we do not owe to Great Britain, at this moment, of separate debts, old and new, more than a year, or a year and a quarter's exports, the ordinary amount of the debt resulting from the common course of dealings.

S. 52. In drawing a comparison between the proceedings of Great Britain and the United States, you say, page 35, " The conduct of Great Britain, in all these respects, has been widely different from that which has been observed by the United States. In the courts of law of the former country, the citizens of the United States have experienced, *without exception*, the same protection and *impartial* distribution of justice, as the subjects of the crown." No nation can answer for perfect exactitude of proceedings in all their inferior courts. It suffices to provide a supreme judicature, where all error and partiality will be ultimately corrected. With this qualification, we

have heretofore been in the habit of considering the administration of justice in Great Britain as extremely pure. With the same qualification, we have no fear to risk every thing, which a nation holds dear, on the assertion, that the administration of justice here will be found equally pure. When the citizens of either party complain of the judiciary proceedings of the other, they naturally present but one side of the case to view, and are, therefore, to be listened to with caution. Numerous condemnations have taken place in your courts of vessels taken from us after the expirations of the terms of one and two months stipulated in the armistice. The state of Maryland has been making ineffectual efforts, for nine years, to recover a sum of 55,000*l.* sterling, lodged in the bank of England previous to the war. A judge of the king's bench lately declared, in the case of Greene, an American citizen, *v.* Buchanan and Charnock, British subjects, that a citizen of the United States, who has delivered 43,000*l.* sterling worth of East India goods to a British subject at Ostend, receiving 12,000*l.* in part payment, is not entitled to maintain an action for the balance in a court of Great Britain, though his debtor is found there, is in custody of the court, and acknowledges the facts. These cases appear strong to us. If your judges have done wrong in them, we expect redress. If right, we expect explanations. Some of them have already been laid before your court. The others will be so, in due time. These, and such as these, are the smaller matters between the two nations, which, in my letter of Dec. 15, I had the honour to intimate, that it would be better to refer for settlement through the ordinary channel of our ministers, than embarrass the present important discussions with them. Such cases will be constantly produced by a collision of interests in the dealings of individuals, and will be easily adjusted by a readiness to do right on both sides, regardless of party.

S. 53. It is made an objection to the proceedings of our legislative and judiciary bodies, that they have refused to allow interest to run on debts during the course of the war. The decision of the right to this rests with the judiciary alone, neither the legislative nor the executive having any authority to intermeddle.

The administration of justice is a branch of the sovereignty over a country, and belongs exclusively to the nation inhabiting it. No foreign power can pretend to participate in their jurisdiction, or that their citizens received there are not subject to it. When a cause has been adjudged according to the rules and forms of the country, its justice ought to be presumed. Even error in the highest court which has been provided as the last means of correcting the errors of others, and whose decrees are therefore subject to no further revisal, is one of those inconveniences flowing from the imperfection of our faculties, to which every society must submit; because there must be somewhere a last resort, wherein contestations may end. Multiply bodies of revisal as you please, their number must still be finite, and they must finish in the hands of fallible men as judges. If the error be evident, palpable, \* *et in re minime dubiâ*, it then indeed assumes another form, it excites presumption that it was not mere error, but premeditated wrong: and the foreigner, as well as native, suffering by the wrong, may reasonably complain, as for a wrong committed in any other way. In such case, there being no redress in the ordinary forms of the country, a foreign prince may listen to complaint from his subjects injured by the adjudication, may inquire into its principles to prove their criminality, and, according to the magnitude of the wrong, take his measures of redress by reprisal, or by a refusal of right on his part. If the denial of interest, in our case, be justified by law, or even if it be against law, but not in that gross, evident, and palpable degree, which proves it to flow from the wickedness of the heart, and not error of the head in the judges, then is it no cause for just complaint, much less for a refusal of right, or self redress in any other way. The reasons on which the denial of interest is grounded shall be stated summarily, yet sufficiently to justify the integrity of the judge, and even to induce a presumption that they might be extended to that of his science also, were that material to the present object.

S. 54. The treaty is the text of the law in the present case, and its words are that there shall be no lawful in-

\* In a matter susceptible of no doubt.

pediment to the recovery of bona fide *debts*. Nothing is said of *interest* on those debts: and the sole question is whether, where a *debt* is given, *interest* thereon flows from the general principles of the law? Interest is not a part of the debt, but something added to the debt by way of damage for the detention of it. This is the definition of the English lawyers themselves, who say "Interest is recovered by way of *damages* \* *ratione detentionis debiti*." 2 Salk. 622, 623. Formerly all interest was considered as unlawful, in every country of Europe: It is still so in Roman Catholick countries, and countries little commercial. From this, as a general rule, a few special cases are excepted. In France particularly the exceptions are those of minors, marriage portions, and money, the price of lands. So thoroughly do their laws condemn the allowance of interest, that a party who has paid it voluntarily, may recover it back again whenever he pleases. Yet this has never been taken up as a gross and flagrant denial of justice, authorizing national complaint against those governments. In England also all interest was against law, till the Stat. 37. H. 8. C. 9. The growing spirit of commerce, no longer restrained by the principles of the Roman church, then first began to tolerate it. The same causes produced the same effect in Holland, and, perhaps, in some other commercial and catholick countries. But even in England the allowance of interest is not given by *express law*, but rests on the *discretion of judges and juries* as the arbiters of damages. Sometimes the judge has enlarged the interest to 20 per cent. per annum (1 Chan. Rep. 57.) In other cases he fixes it habitually one per cent. lower than the legal rate (2 Te. Atk. 343) and in a multitude of cases he refuses it altogether. As for instance, no interest is allowed,

1. On arrears of rents, profits, or annuities (1 Chan. Rep. 124. 2. P. W. 163. Ca. temp. Talbot 2.)
2. For maintenance, Vin. Abr. Interest. C. 10.
3. For moneys advanced by Ex'rs. 2. Abr. eq. 531. 15.
4. For goods sold and delivered. 3. Wilson 206.
5. On book debts, open accounts, or simple contracts. 3. Chan. Rep. 64. Freem. ch. rep. 133. Dougl. 376.

\* On account of the detention of the debt.

6. For money lent without a note. 2. Stra. 910.
7. On an inland bill of exchange, if no protest is taken. 2. Stra. 910.
3. On a bond after 20 years. 2. Vern. 458. or after a tender.
9. On a decree in certain cases. Freem. ch. rep. 181.
10. On judgments in certain cases, as battery and slander. Freem. ch. rep. 37.
11. On any decrees or judgments in certain courts, as the exchequer chamber. Douglass, 753.
12. On costs. 2. Abr. eq. 530. 7.

And we may add, once for all, that there is no instrument or title to debt so formal and sacred, as to give a right to interest on it under all possible circumstances. The words of Lord Mansfield, Dougl. 753, where he says "That the question was, what was to be the rule for assessing the *damage*, and that in this case, the *interest* ought to be the *measure of the damage*, the action being for a *debt*, but in a case of another sort *the rule might be different*: his words, Dougl. 376. 'That interest might be payable in cases of delay, if a jury, *in their discretion*, shall think fit to allow it.' And the doctrine in *Giles. v. Hart*. 2. Salk. 622. that damages, or interest, are but an accessory to the debt, which may be barred by circumstances, which do not touch the debt itself, suffice to prove that interest is not a part of the debt, neither comprehended in the thing, nor in the term, that words, which pass the debt, do not give interest necessarily, that the interest *depends altogether on the discretion of the judges and jurors*, who will govern themselves by all existing circumstances, will take the legal interest for the measure of their damages, or more, or less, as they think right, will give it from the date of the contract, or from a year after, or deny it altogether, according as the fault or the sufferings of the one or the other party shall dictate. Our laws, are generally, an adoption of yours; and I do not know that any of the states have changed them in this particular. But there is one rule of your and our law, which, while it proves that every title of debt is liable to a disallowance of interest under special circumstances, is so applicable to our case, that I shall cite it as a text, and apply to it the cir-

cumstances of our case. It is laid down in Vin. Abr. Interest. C. 7. and 2. Abr. eq. 5293. and elsewhere in these words, 'Where, by a *general and national calamity*, nothing is made out of lands, which are assigned for payment of interest, it ought not to run on *during the time of such calamity*.' This is exactly the case in question. Can a more *general national calamity* be conceived, than that universal devastation, which took place in many of these states during the war? Was it ever more exactly the case any where, *that nothing was made out of the lands which were to pay the interest?* The produce of those lands, for want of the opportunity of exporting it safely, was down to almost nothing in real money, e. g. Tobacco was less than a dollar the hundred weight. Imported articles of clothing or consumption, were from 4 to 8 times their usual price. A bushel of salt was usually sold for 100lb. of tobacco. At the same time these lands and other property, in which the money of the British creditors was vested, were paying high taxes for their own protection, and the debtor, as nominal holder, stood ultimate insurer of their value to the creditor, who was the real proprietor, because they were bought with his money. And who will estimate the value of this insurance, or say what would have been the forfeit, in a contrary event of the war? Who will say that the risk of the property was not worth the interest of its price? *general calamity* then prevented profit, and consequently stopped interest, which is in lieu of profit. The creditor says indeed he has laid out of his money; he has therefore lost the use of it. The debtor replies that if the creditor has lost, he has not gained it: that this may be a question between two parties, both of whom have lost. In that case the courts will not double the loss of the one, to save all loss from the other. That it is a rule of natural, as well as municipal law, that in questions *de damno evitanda melior est conditio possidentis*. If this maxim be just, where each party is equally innocent, how much more so, where the loss has been produced by the act of the creditor? For a nation as a society, forms a moral person, and every member of it is personally responsible for his society. It was the act of the lender, or of his nation, which annihilated the profits of the money lent; he cannot then demand profits which he either prevented from coming into existence, or burnt or otherwise destroyed after they

were produced. If then, there be no instrument or title of debt so formal and sacred as to give right to interest under all possible circumstances, and if circumstances of exemption, stronger than in the present case, cannot possibly be found, then no instrument or title of debt, however formal or sacred, can give right to interest under the circumstances of our case. Let us present the question in another point of view. Your own law forbade the payment of interest when it forbade the receipt of American produce into Great Britain, and made that produce fair prize on its way from the debtor to the creditor, or to any other for his use and reimbursement. All personal access between creditor and debtor was made illegal; and the debtor who endeavoured to make a remittance of his debt, or interest, must have done it three times, to answer its getting once to hand; for two out of three vessels were generally taken by the creditor nation, and sometimes by the creditor himself, as many of them turned their trading vessels into privateers. Where no place has been agreed on for the payment of a debt, the laws of England oblige the debtor to seek his creditor wheresoever he is to be found *within the realm*. Coke Lit. 210. b. but do not bind him to go out of the realm in search of him. This is our law too. The first act, generally, of the creditors and their agents here, was to withdraw from the United States with their books and papers. The creditor thus withdrawing from his debtor, so as to render payment impossible, either of the principal or interest, makes it like the common case of a tender and refusal of money, after which interest stops both by your laws and ours. We see too from the letter of Mr. Adams, June 16, 1786, No. 57. that the British secretary for foreign affairs was sensible, that a British statute having rendered criminal all intercourse between the debtor and creditor, had placed the article of interest on a different footing from the principal. And the letter of our plenipotentiaries to Mr. Hartley, the British plenipotentiary for forming the definitive treaty, No. 53. shows that the omission to express *interest* in the treaty was not merely an oversight of the parties; that its allowance was considered by our plenipotentiaries as a thing not to be intended in the treaty, was declared against by Congress, and that declaration communicated to Mr. Hartley. After such an explanation,

the omission is a proof of acquiescence, and an intention not to claim it. It appears then, that the *debt* and *interest* on that debt, are separate things in every country, and under separate rules. That in every country a *debt* is recoverable, while, in most countries, interest is refused in all cases; in others, given, or refused, diminished, or augmented, at the discretion of the judge; no where given in all cases indiscriminately, and consequently no where so incorporated with the *debt*, as to pass with that exvitermini, or otherwise to be considered as a determinate and vestat thing.

While the taking *interest on money* has thus been considered in some countries, as morally wrong in all cases, in others made legally right but in particular cases, the taking *profits from lands* or rents in lieu of profits, has been allowed every where, and at all times, both in morality and law. Hence it is laid down as a general rule Wolf, S. 229\* 'Si quis fundum alienum possidet, domini est quantum valet usus fundi, et possessoris quantum valet ejus cultura et cura.' But even in the case of lands restored by a treaty, the *arrears* of profits or rents are never restored, unless they be particularly stipulated. † 'Si res vi pacis restituendae, restituendi quoque sunt fructus a die concessionis,' says Wolf, S. 1224. And Grotius 'cui pace res conceditur, ei et fructus conceduntur à tempore concessionis: NON RETRO.' L. 3. C. 20. S. 22. To place the right to interest on money on a level with the right to profits on land, is placing it more advantageously than has been hitherto authorized; and if, as we have seen, a stipulation to restore *lands* does not include a stipulation to restore the *back profits*, we may certainly conclude a fortiori that the restitution of debts does not include an allowance of *back interest* on them.

These reasons and others like these, have probably operated on the different courts to produce decisions that 'no

\* 'If any one is in possession of another's land, so much belongs to the owner as the use of the land is worth, and so much to the possessor as his labour and care are worth.'

† 'If things are to be restored by virtue of the peace, the profits are also to be restored from the day of the cession.'

'To whomsoever a thing is conceded by the peace, to him also the profits are conceded, from the time of the concession, BUT NOT BACK.'



interest should run during the time this general and national calamity lasted.' And they seem sufficient, at least to rescue their decisions from that flagrant denial of right, which can alone authorize one nation to come forward with complaints against the judiciary proceedings of another.

S. 55. The states have been uniform in the allowance of interest before and since the war, but not of that claimed during the war. Thus we know by [E. 1.] the case of Neate's executors *v.* Sands in New York, and Mildred *v.* Dorsey in Maryland, that in those states, interest during the war is disallowed by the courts. By [D. 8.] 1784, May, the act relating to debts due to persons who have been, and remained within the enemy's power or lines during the late war. That Connecticut left it to their court of chancery to determine the matter according to the rules of equity, or to leave it to referees; by [E. 2.] the case of Osborne *v.* Mifflin's executors, and [E. 3.] Hare *v.* Allen, explained in the letter of Mr. Rawle, attorney of the United States, No. 59. And by the letter of Mr. Lewis, judge of the district court of the United States, No. 60, that in Pennsylvania the rule is that where neither the creditor nor any agent, was within the state, no interest was allowed; where either remained, they gave interest. In all the other states I believe it is left discretionary in the courts and juries. In Massachusetts, the practice has varied. In November, 1784, they instruct their delegates in Congress to ask the determination of Congress, whether they understood the word 'debts' in the treaty as including interest? and whether it is their opinion, that interest during the war should be paid? and at the same time they pass [D. 9.] the act directing the courts to suspend rendering judgment for any interest that might have accrued between April 19, 1775, and Jan. 20, 1783. But in 1787, when there was a general compliance enacted through all the United States, in order to see if that would produce a counter compliance, their legislature passed the act repealing all laws repugnant to the treaty, No. 33, and their courts, on their part, changed their rule relative to interest during the war, which they have uniformly allowed since that time. The circuit court of the United States, at their sessions at \_\_\_\_\_ in 1790, determined in like manner that interest should be allowed

during the war. So that on the whole we see that, in one state, interest during the war is given in every case, in another it is given wherever the creditor, or any agent for him, remained in the country, so as to be accessible; in the others, it is left to the courts and juries to decide according to their discretion and the circumstances of the case.

TO RECAPITULATE.

S. 56. I have, by way of *preliminary*, placed out of the present discussion, all acts and proceedings *prior* to the *treaty of peace*, considering them as settled by that instrument, and that the then state of *things* was adopted by the parties,

With such alterations only as that instrument provided.

I have then taken up the *subsequent acts and proceedings*, of which you complain, as infractions, distributing them according to their subjects, to wit:

I. Exile and confiscations.

II. Debts.

III. Interest.

I. Exile and confiscations. After premising, that these are lawful acts of war, I have shown that the 5th article was *recommendatory* only, its stipulations being, not to *restore* the confiscations and exiles, but to *recommend* to the state legislatures to restore them.

That this word, having but one meaning, establishes the intent of the parties; and moreover, that it was particularly explained by the American negotiators, that the legislatures would be free to comply with the recommendation or not, and probably would not comply.

That the British *negotiators* so understood it:

That the British *ministry* so understood it:

And the members of both houses of *parliament*, as well those who approved, as who disapproved the article.

I have shown, that Congress did recommend earnestly and *bona fide*:

That the states refused or complied, in a greater or less degree, according to circumstances, but more of them, and in a greater degree, than was expected.

And that compensation, by the British treasury, to British sufferers, was the alternative of her own choice, our negotiators having offered to do that, if she would compensate such losses as we had sustained by acts unauthorized by the modern and moderate principles of war.

11. Before entering on the subject of *debts*, it was necessary

1. To review the British infractions, and refer them to their exact dates.

To show, that the carrying away of the *negroes* preceded the 6th of May, 1783.

That instead of evacuating the *upper posts with all convenient speed*, no order had been received for the evacuation, August 13, 1783.

None had been received May 10, 1784.

None had been received July 13, 1784.

From whence I conclude none had ever been *given*,

And thence, that none had ever been *intended*.

In the latter case, this infraction would date from the signature of the treaty. But founding it on the *not giving the order with convenient speed*, it dates from April, 1783, when the order for evacuating New York was given, as there can be no reason why it should have been inconvenient to give this order as early.

The *infraction* then, respecting the *upper posts*, was before the treaty was known in America.

That respecting the *negroes*, was as soon as it was known. I have observed that these infractions were highly injurious.

The first, by depriving us of our *fur trade*, profitable in itself, and valuable as a means of remittance for paying the debts; by intercepting our friendly and neighbourly intercourse with the Indian nations, and consequently keeping us in constant, expensive, and barbarous war with them.

The second, by withdrawing the cultivators of the soil, the produce of which was to pay the debts.

2. After fixing the date of the British infractions, I have shown.

That as they *preceded*, so they *produced*, the acts on our part complained of, as obstacles to the recovery of the debts :

That when one party breaks any stipulation of a treaty, the other is free to break it also, either in the whole, or in equivalent parts, at its pleasure.

That Congress having made no elections,

Four of the states assumed, separately, to modify the recovery of debts.

1. By indulging their citizens with longer and more practicable times of payment.
2. By liberating their bodies from execution, on their delivering property to the creditor, to the full amount of his demand, on a fair appraisement, as practised always under the *elegit*.
3. By admitting, during the first moments of the non-existence of coin among us, a discharge of executions, by payment in paper money.

That the first of these acts of retaliation, was in December 1783, nine months after the infractions committed by the other party.

And all of them were so moderate, of so short duration, the result of such necessities, and so produced, that we might, with confidence, have referred them *alterius principis, qua boni viri, arbitrio*.

3. That induced, at length, by assurances from the British court, that they would concur in a fulfilment of the treaty,

Congress, in 1787, declared to the states, its will, that even the appearance of obstacle, raised by their acts, should no longer continue,

And required a formal repeal of every act of that nature : and to avoid question, required it as well from those who had not, as from those who had passed such acts : which was complied with so fully, that no such laws remained in any state of the Union, except one ;

And even that one could not have forborne, if any symptom of compliance from the opposite party, had rendered a reiterated requisition from Congress important.

4. That, indeed, the requiring such a repeal, was only to take away pretext :

For that it was, at all times, perfectly understood, that *treaties controlled* the laws of the states.

The confederation having made them obligatory on the whole;

Congress having so declared and demonstrated them :

The legislatures and executives of most of the states, having admitted it :

And the judiciaries, both of the separate and general governments, so deciding.

That the courts are open every where, upon this principle :

That the British creditors have, for some time, been in the habit and course of recovering their debts at law.

That the class of separate and unsettled debts contracted before the war, forms now but a small proportion of the original amount.

That the integrity and independence of the courts of justice, in the United States, are liable to no reproach.

Nor have popular tumults furnished any ground for suggesting, that either courts or creditors are overawed by them in their proceedings.

111. Proceeding to the article of interest, I have observed, That the decision, whether it shall or shall not be allowed *during the war*, rests, by our constitution, with the courts altogether.

That if these have generally decided against the allowance, the reasons of their decision appear so weighty, as to clear them from the charge of that palpable degree of wrong, which may authorize national complaint, or give a right of refusing execution of the treaty, by way of reprisal.

To vindicate them, I have stated shortly, some of the reasons which support their opinion.

That *interest during the war*, was not *expressly* given by the treaty :

That the revival of *debts* did not *ex vitermini* give interest on them :

That interest is not a part of the debt, but damages for the detention of the debt :

That it is disallowed habitually in most countries ;

Yet has never been deemed a ground of national complaint against them :

That in England also. it was formerly unlawful in all cases :

- That at this day it is denied there, in such a variety of instances, as to protect from it a great part of the transactions of life :
- That, in fact, there is not a single *title* to debt, so formal and sacred, as to give a right to *interest*, under all possible circumstances, either there or here :
- That of these circumstances, judges and jurors are to decide, *in their discretion*, and are accordingly in the habit of augmenting, diminishing, or refusing interest, in every case, according to their discretion :
- That the circumstances against the allowance, are unquestionably of the strongest in our case :
- That a *great national calamity* rendering the lands unproductive, which were to pay the interest, has been adjudged a sufficient cause, of itself, to suspend interest :
- That were both plaintiff and defendant equally innocent of that cause,
- The question, Who should avoid loss ? would be in favour of the party in possession :
- And a fortiori in his favour, where the calamity was produced by the act of the demandant :
- That, moreover, the laws of the party creditor had cut of the *personal* access of his debtor :
- And the transportation of his *produce or money* to the country of the creditor, or to any other for him :
- And where the creditor prevents payment both of *principal and interest* the latter, at least, is justly extinguished :
- That the *departure* of the creditor, leaving no agent in the country of the debtor, would have stopped interest of itself :
- The debtor not being obliged to go out of the country to seek him :
- That the British minister was heretofore sensible of the weight of the objections to the claim of interest :
- That the declarations of Congress and our plenipotentiaries, *previous to the definitive treaty*, and the silence of that instrument, afford proof that interest was not intended, on our part, nor insisted on, on the other :
- That were we to admit interest on money, to equal favour with profits on land, arrears of profits would not be demandable in the present case. nor consequently arrears of interest :

And, on the whole, without undertaking to say what the law is, which is not the province of the Executive,  
 We say, that the reasons of those judges, who deny interest during the war, *appear sufficiently cogent.*  
 To account for their opinion on honest principles :  
 To exempt it from the charge of palpable and flagrant wrong, in re minimé dubiâ :  
 And to take away all pretence of withholding execution of the treaty, by way of reprisal for that cause.

S. 57. I have now, sir, gone through the several acts and proceedings enumerated in your appendix, as infractions of the treaty, omitting, I believe, not a single one, as may be seen by a table hereto subjoined, wherein every one of them, as marked and numbered in your appendix, is referred to the section of this letter, in which it is brought into view, and the result has been, as you have seen,

1. That there was no absolute stipulation to restore *antecedent* confiscations, and that none *subsequent* took place.

2. That the recovery of the debts was obstructed *validly* in none of our states, *invalidly* only in a few, and that not till long after the infractions committed on the other side ; and

3. That the decisions of courts and juries against the claims of interest, are too probably founded, to give cause for questioning their integrity. These things being evident, I cannot but flatter myself, after the assurances received from you of his Britannick Majesty's desire to remove every occasion of misunderstanding from between us, that an end will now be put to the disquieting situation of the two countries, by as complete execution of the treaty as circumstances render practicable at this late day : That it is to be done so late, has been the source of heavy losses, of blood and treasure to the United States. Still our desire of friendly accommodation is, and has been constant. No '*lawful impediment* has been opposed to the prosecution of the just rights of your citizens.' And if any instances of *unlawful* impediment have existed in any of the inferior tribunals, they would, like other unlawful proceedings, have been overruled on an appeal to the

higher courts. If not overruled there, a complaint to the government would have been regular, and their interference probably effectual. If your citizens would not prosecute their rights, it was impossible they should recover them, or be denied recovery; and till a denial of right through all the tribunals, there is no ground for complaint, much less for a refusal to comply with solemn stipulations, the execution of which is too important to us ever to be dispensed with. These difficulties being removed from between the two nations, I am persuaded the interests of both will be found in the strictest friendship. The considerations which lead to it are two numerous and forcible to fail of their effect; and that they may be permitted to have their full effect, no one wishes more sincerely, than he, who has the honour to be, &c.

TH: JEFFERSON.

Philadelphia, May 29. 1792.

A. 1. §2.	A. 20. §2.	B. 5. §11.	C. 14. §20.	D. 14. §31.
2. 2.	21. 2.	6. 11.	15. 2.16.	15. 34.
3. 2.	22. 2.	7. 10.	16. 2.41.	16. 2.32.
4. 2.	23. 2.	8. 10.	17. 2.	17. 33.
5. 19.	24. 2.	9. 14.	18. 2.	18. 33.
6. 2.	25. 2.	10. 14.	19. 41.	19. 34.
7. 2.	26. 2.	C. 1. 12.	D. 1. 2.	20. 31.
8. 2.	27. 2.	2. 21.	2. 2.	21. 31.
9. 2.	28. 2.	3. 10.	3. 2.	22. 31.
10. 2.	29. 2.	4. 18.	4. 2.	E. 1. 55.
11. 2.	30. 2.10.	5. 13.	5. 30.	2. 55.
12. 2.	31. 11.	6. 13.	6. 2.	3. 55.
13. 2.	32. 2.	7. 12.	7. 31.	4. 40.44.
14. 2.	33. 17.	8. 8.	8. 55.	5. 2.
15. 2.	34. 2.	9. 11.	9. 55.	6. 30.
16. 2.	B. 1. 21.	10. 2.	10. 2.	7. 30.
17. 2.	2. 12.	11. 20.	11. 12.14.	8. 41.
18. 2.	3. 12.	12. 20.	12. 32.	9. 42.
19. 2.	4. 10.	13. 20.	13. 33.	

APPENDIX, NO. I.

AN act for the better securing and preserving his majesty's dockyards, magazines, ships, ammunition and stores. See 1. Journal Congress, 68, "persons *charged* with committing any offence therein described, in any place out of the realm, may be tried any where within the realm.



whereby inhabitants of these colonies, may in sundry cases by that statute made capital, be deprived of a trial by peers of the vicinage."

An act to discontinue, in such manner, and for such time as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares and merchandise, at the town, and within the harbour of Boston, in the province of Massachusetts Bay, in North America.

An act for the impartial administration of justice in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults in the province of the Massachusetts Bay, in New England.

An act to restrain the trade and commerce of the provinces of Massachusetts Bay and New Hampshire, and colonies of Connecticut, and Rhode Island and Providence Plantations, in North America, to great Britain, Ireland, and the British islands in the West Indies, and to prohibit such provinces and colonies from carrying on any fishery on the banks of Newfoundland, or other places therein mentioned, under certain conditions and limitations.

An act to amend and render more effectual in his majesty's dominions in America, an act passed in the present session of parliament, entitled an act for punishing mutiny and desertion, and for the better payment of the army, and their quarters, and for extending the provisions of the said act to his majesty's marine forces in America.

An act to prohibit all trade and intercourse with the colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties on Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia, during the continuance of the present rebellion, with the said colonies respectively; for repealing an act made in the 14th year of the reign of his present majesty, to discontinue the landing and discharging, lading or shipping of goods, wares and merchandise, at the town, and within the harbour of Boston, in the province of Massachusetts Bay, and also two acts made in the last session of parliament for restraining the trade and commerce of the colonies, in the said acts respectively mentioned, and to enable any person or persons appointed, and authorized by

his majesty to grant pardons, to issue proclamations in the cases and for the purposes therein mentioned.

An act for enabling the commissioners for executing the office of lord high admiral of Great Britain, to grant commissions to the commanders of private ships and vessels employed in trade, or retained in his majesty's service to take and make prize of all such ships and vessels, and their cargoes as are therein mentioned, for a limited time.

An act to empower his majesty to secure and detain persons charged with, or suspected of the crime of high treason, committed in any of his majesty's colonies or plantations in America, or on the high seas, or the crime of piracy.

No. 2.,

16 G. III. C. 5. § 4.

AND be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said flag officers, captains and commanders respectively, to cause to be taken or put on board any of his majesty's ships or vessels of war, or on board any other ships or vessels, all and every the masters, crews and other persons, who shall be found on board such ship and ships as shall be seized and taken as prize as aforesaid, and also to enter the names of such of the said mariners and crews, upon the book or books of his majesty's said ships or vessels, as they the said flag officers, captains and commanders, shall respectively think fit; from the time and times of which said entries respectively, the said mariners and crews shall be considered, and they are hereby declared to belong to, and be as much in the service of his majesty, to all intents and purposes, as if the said mariners and crews had entered themselves voluntarily to serve on board his majesty's said ships and vessels respectively, and also that it shall and may be lawful to and for the said flag officers, captains and commanders respectively, to detain, or cause to be detained and kept, the masters and other persons, and also such others of the mariners and crews of the said prize ships as shall not be entered upon the books of his majesty's ships or vessels of war as aforesaid, in and on board any ship or ships, vessel or vessels whatso-

ever, until the arrival of such last mentioned ships or vessels in some port of Great Britain or Ireland, or in any port of America, not in rebellion, and upon the arrival of those ships or vessels in any such port the commanders thereof are hereby respectively authorized and required immediately to set the said last mentioned mariners and crews, and also the said masters and other persons, at liberty on shore there.

## No. 3.

*New York, March 19, 1783.*

SIR,—By the Halifax packet, we have received a despatch, from Mr. Townshend, one of his majesty's principal secretaries of state, dated the 31st of December, 1782, enclosing a treaty signed at Paris, on the 30th of November, which we are directed to transmit to Congress.—Having been thrown, sir, into the course of making all communications to Congress through your excellency, we know not how, with more propriety, to make the communication required, than through the accustomed channel; we therefore enclose in the present letter this instrument, and are to request of your excellency that you will in the most speedy manner forward the same to Congress.

We are, sir, &c.

GUY CARLETON.

ROBT. DIGBY.

His Excellency Gen. Washington.

## No. 4.

*Extract of a Letter from Sir Guy Carleton to Robert R. Livingston, Esq. dated New York, March 26, 1783.*

SIR,—I have received your letter of the 24th instant, enclosing a resolution of Congress of the same date, taken in consequence of the arrival of the cutter *Triumphe*, commanded by lieutenant Duquesne, with orders of the 10th of February last, given at Cadiz, by vice admiral D'Estaing, for him to put to sea, and cruise on such stations as he shall judge most likely to meet with ships of his nation, and inform them of the happy reconciliation of the belligerent powers, and to order all their ships of war to

cease hostilities against those of Great Britain, the preliminary articles of a general peace being signed the 20th of January: you thereupon are pleased to express your expectation that I would think the information thus conveyed, "sufficiently authentick to justify my taking immediate measures to stop the further effusion of blood."

To adopt a measure of this importance, it is necessary I should receive orders from home, which I may reasonably expect every hour, as a cruiser sent out on other purposes, is already arrived at Philadelphia, and I assure you, sir, I only wait the official certainty of this great event, to assume the language, and the spirit too, of the most perfect conciliation and peace.

## No. 5.

*Copy of a Letter from Admiral Digby to Robert R. Livingston, Esq. New York, March 27, 1783.*

SIR,—I have received your letter enclosing me the resolve of Congress, with a copy of a letter to his excellency Sir Guy Carleton; but as I have as yet received no official accounts from England, I must wait till you on your side relieve our prisoners, before I give that general relief to yours I so much wish. There can be no reason for detaining our prisoners one moment, as Congress must suppose the peace signed. I shall take every precaution in my power, consistent with my duty, to stop any further mischief upon the seas, but should recommend the preventing any vessels sailing, as I have not yet received sufficient authority to enable me to withdraw my cruisers.

I am, &c.

ROBT. DIGBY.

## No. 6.

Appendix				
B. 10.	bel.	war	Mar.	Act compelling creditors to take the debtor's land at an appraised value.
16.	1775	May, June.	R. I.	Paper money made a legal tender.
		October.	R. I.	Act to confiscate and sequester estates, and banish persons of certain descriptions.
	1776	Jan. July, } Sept.	R. I.	Paper money made a legal tender.

## Append.

4. A.	1777	Feb. March, } May, June, } July, Aug. } October. }	R. I.	Act to confiscate, sequester, and banish as before, Oct. 1775
10.		Oct. 4.	N. J.	Act to punish traitors and disaffected persons.
D. 16. A. 20.		Feb. October.	R. I. Virg.	Paper money made a legal tender. Act for sequestering British property, enabling those indebted to British subjects to pay off such debts.
26.		November.	N. C.	Act for confiscating the property of all such persons as are inimical to the United States.
D. 1.		November.	N. C.	Act for establishing courts of law, and for regulating the proceedings therein, Sect. 101.
A. 2.	1778		Mass.	Act to prevent return of certain persons therein named, and others who had left that state or either of the United States, and joined the enemies thereof.
A. 4.	1778	Feb. Oct.	R. I.	Act to confiscate, sequester and banish as 1775, October.
15.		February 5.	Del.	Act declaring estates of certain persons forfeited, and themselves incapable of being elected to any office.
14.		March 6.	Pen.	Act for the attainder of divers traitors, and for vesting their estates in the commonwealth, if they render not themselves by a certain day.
11.		April 13.	N. J.	Act for taking charge of and leasing the real estates, and for forfeiting personal estates of certain fugitives and offenders.
1.		November 23.	N. H.	Act to confiscate estates of sundry persons therein named.
12.		December 11.	N. J.	Act for forfeiting to, and vesting in the state, the real estates of certain fugitive offenders.
3.	1779		Mass.	Act to confiscate the estates of certain notorious conspirators against the government and liberties of the inhabitants of the late province, now state of Massachusetts Bay.
27.		January.	N. C.	Act to carry into effect the act of November, 1777, for confiscating, &c.
4.	1779	Feb. May, } Aug. Sept. } Oct. }	R. I.	Act to confiscate, sequester, and banish as before, in October, 1775.
21.		May.	Virg.	Act concerning escheats and forfeitures from British subjects.
22.		May.	Virg.	Act to amend the act concerning escheats, &c.
32.		May.	Virg.	Act for the removal of the seat of government.
6.		October 22.	N. Y.	Act for the forfeiture and sales of the estates of persons who have adhered to the enemies of the state.

Append. 23.		October.	Virg.	Act to amend the act concerning escheats and forfeitures.
E. 5.		October.	Virg.	Act for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America.
A. 7.	1780	March 10.	N. Y.	Act for the immediate sale of part of the confiscated estates.
8.		June 15.	N. Y.	Act approving the act of Congress relative to finance of the United States, and making provision for redeeming that state's proportion of bills of credit.
4.		July, Sept. Oct.	R. I.	Act to confiscate, sequester, and banish, as in October, 1775.
9.		October 7.	N. Y.	Act to procure a sum of specie for the purpose of redeeming the bills emitted, &c.
16.		October.	Mar.	Act for calling out of circulation the quota of the state of the bills of credit issued by Congress. Sect. 11.
17.		October.	Mar.	Act to seize, confiscate and appropriate all British property within the state.
18.		October.	Mar.	Act to appoint commissioners to preserve confiscated British property.
A. 19.	1780	October.	Mar.	Act to procure a loan and for the sale of escheat lands and the confiscated British property therein mentioned.
4.	1781	Jan. May.	R. I.	Act to confiscate, sequester, and banish, as in October---75.
24.		November.	Vir.	Act to adjust and regulate pay and account of officers of Virginia line.
D. 2.		November.	Vir.	Act for directing the mode of adjusting and settling the payment of certain debts and contracts.
A. 29. } C. 10. }	1782	February 26.	S. C.	Act for disposing of certain estates, and banishing certain persons therein mentioned.
D. 6.		April.	Mar.	Act to prevent suits on certain debts, for a limited time.
A. 30.		May 4.	Geo.	Act for inflicting penalty on, and confiscating the estates of, such persons as are therein declared guilty of treason, and for other purposes therein mentioned.
25.		May.	Vir.	Act for providing more effectual funds for redemption of certificates.
D. 3.		May.	Vir.	Act to repeal so much of former act, as suspends the issuing executions upon certain judgments until Dec. 1783.
A. 31.		June 15.	Mar.	Act for the benefit of the children of major Andrew Leitch.
4.		June, Oct. Nov.	R. I.	Act to confiscate, sequester, and banish, as in Oct. 1775.

Append. 13.	October 3.	N. J.	Act supplemental to the act of Oct. 4, 1776, to punish traitors and disaffected persons.
D. 4.	October.	Vir.	Act to amend an act, entitled, "An act to repeal so much of a former act as suspends the issuing executions on certain judgments till December, 1783." November 30, the provisional articles between the United States and Great Britain are signed at Paris.
	1783		Jan. 20, preliminary articles between France and Great Britain are signed at Paris, also epochs fixed for cessation.
C. 15.	January 31.	Pen.	Act to attain H. Gordon, unless he surrender himself before a given day (July 24, 1783,) and the seizure of his estates by the agent of forfeited estates confirmed.
17.	February 17.	Geo.	Act to point out the mode for the recovery of property unlawfully acquired under the British usurpation, and withheld from the right owners, and for other purposes.
A. 4.	February, } May, June, } October. }	R. I.	Act to confiscate, sequester, and banish, as in Oct. 1775 [This of Oct. 1783, is the same probably as C. 14.] March 15, the provisional articles are in Oswald's paper, Philadelphia.
29.	March 16.	S. C.	To amend the act of Feb. 26, 1782.
C. 16.	March 17.	N. Y.	Act for granting a more effectual relief in cases of certain trespasses.
18.	March 21.	N. Y.	Act for suspending the prosecutions therein mentioned.

## No. 7.

*Paris, Nov. 4, 1782.*

GENTLEMEN,—You may remember, that from the very first beginning of our negotiation for settling a peace between Great Britain and America, I insisted that you should positively stipulate for the restoration of the property of all those persons under the denomination of the loyalists or refugees, who have taken part with Great Britain in the present war; or if the property had been resold, and passed into such a variety of hands as to render the restoration impracticable (which you asserted to be the case in many instances) you should stipulate for a compensation or indemnification to those persons adequate to their losses. To these propositions you said you could not accede. Mr. Strachey, since his arrival at Paris, has most strenuously

joined me in insisting upon the said restitution, compensation or indemnification, and in laying before you every argument in favour of those demands, founded upon national honour, and upon the true principles of justice.

These demands you must have understood to extend not only to all persons of the above mentioned description who have fled to Europe, but likewise to all those who may be now in any parts of North America, dwelling under the protection of his majesty's arms, or otherwise.

We have also insisted upon a mutual stipulation for a general amnesty on both sides, comprehending thereby an enlargement of all persons who on account of offences committed, or supposed to be committed, since the commencement of hostilities, may be now in confinement, and for an immediate repossession of their properties and peaceable enjoyment thereof under the government of the United States. To this you have not hitherto given a particular or direct answer.

It is however incumbent upon me, as commissioner of the king of Great Britain, to repeat those several demands, and without going over those arguments upon paper which we have so often urged in conversation, to press your immediate attention to these subjects, and to urge you to enter into proper stipulations for the restitution, compensation, and amnesty above mentioned, before we proceed further in this negotiation.

I have the honour to be, &c.

RICHARD OSWALD.

To J. Adams, B. Franklin, and J. Jay, Esqs. Commissioners from the thirteen United States of America, for treating of peace between the said States and the king of Great Britain.

No. 3.

1782.

SIR,—In answer to the letter you did us the honour to write on the 4th instant, we beg leave to repeat what we often said in conversation, viz. that the restoration of such of the estates of refugees as have been confiscated is impracticable, because they were confiscated by laws of particular states, and in many instances have passed, by legal titles, through several hands. Besides, sir, as this is a matter evidently appertaining to the internal polity of



the separate states, the Congress, by the nature of our constitution, have no authority to interfere with it.

As to your demand of compensation to those persons, we forbear enumerating our reasons for thinking it ill founded: In the moment of conciliatory overtures it would not be proper to call certain scenes into view, over which a variety of considerations should induce both parties at present to draw a veil. Permit us, therefore, only to repeat, that we cannot stipulate for such compensation, unless on your part it be agreed to make retribution to our citizens for the heavy losses they have sustained by the unnecessary destruction of private property.

We have already agreed to an amnesty more extensive than justice required, and full as extensive as humanity could demand: We can therefore only repeat, that it cannot be extended farther. We should be sorry if the absolute impossibility of our complying further with your propositions should induce Great Britain to continue the war for the sake of those who caused and prolonged it: but if that should be the case, we hope that the utmost latitude will not be again given to its rigours.

Whatever may be the issue of this negotiation, be assured, sir, that we shall always acknowledge the liberal, manly, and candid manner in which you have conducted it, and that we shall remain with the warmest sentiments of esteem and regard, sir, yours, &c.

JOHN ADAMS,  
B. FRANKLIN,  
JOHN JAY.

To Richard Oswald, Esq. his Britannick Majesty's  
Commissioner for treating of peace with the Com-  
missioners of the United States of America.

No. 9.

*Extract from Mr. Adams's Journal respecting Peace.*

MONDAY, NOV. 11, 1782.

Mr. Whitefoord, the secretary of Mr. Oswald, came a second time. We fell soon into politicks. I told him the French minister at Philadelphia had made some representations to Congress in favour of a compensation to the

royalists, and the Count de Vergennes no longer than yesterday said much to me in their favour. The Count probably knows, that we are instructed against it—that Congress are instructed against it, or rather have not constitutional authority to do it—that we can only write about it to Congress, and they to the states, who may, and probably will, deliberate upon it eighteen months before they all decide, and then every one of them will determine against it.

*Friday, Nov. 15, 1782.*

Mr. Oswald came to visit me, and entered, with some freedom, into conversation.—He said he had been reading Mr. Paine's answer to the Abbe Raynal, and had found there an excellent argument in favour of the tories. Mr. Paine says, that before the battle of Lexington, we were so blindly prejudiced in favour of the English, and so closely attached to them, that we went to war at any time and for any object, when they bid us. Now this being habitual to the Americans, it was excusable in the tories to behave upon this occasion, as all of us had ever done upon all others. He said if he were a member of Congress, he would show a magnanimity upon this occasion, and would say to the refugees, take your property—we scorn to make any use of it in building up our system.

I replied, that we had no power, and Congress had no power, and therefore we must consider how it would be reasoned upon in the several legislatures of the separate states, if, after being sent by us to Congress, and by them to the several states, in the course of twelve or fifteen months it should be there debated. You must carry on the war six or nine months certainly for this compensation, and consequently spend, in the prosecution of it, six or nine times the sum necessary to make the compensation—for I presume this war costs every month to Great Britain a larger sum than would be necessary to pay for the forfeited estates.

England means by insisting on our compensating these worst of enemies, to obtain from us a tacit acknowledgment of the right of the war, an implicit acknowledgment that the tories have been justifiable, or at least excusable,

and that we, only by a fortunate coincidence of events, have carried a wicked rebellion into a complete revolution.

At the very time when Britain professes to desire peace, reconciliation, perpetual oblivion of all past unkindnesses, can she wish to send in among us a number of persons whose very countenances will bring fresh to our remembrance the whole history of the rise and progress of the war, and of all its atrocities? Can she think it conciliatory, to oblige us to lay taxes upon those whose habitations have been consumed, to reward those who have burned them? Upon those, whose property has been stolen, to reward the thieves? Upon those whose relations have been cruelly destroyed, to compensate the murderers?

*Sunday, Nov. 17, 1782.*

Mr. Vaughan came to me yesterday, and said that Mr. Oswald had that morning called upon Mr. Jay, and told him, if he had known as much the day before, as he had since learned, he would have written to go home. Mr. V. said, Mr. Fitzherbert had received a letter from Lord Townshend, that the compensation would be insisted on. Mr. Oswald wanted Mr. Jay to go to England—thought he could convince the ministry. Mr. Jay said he must go with or without the knowledge and advice of the court, and in either case it would give rise to jealousies. He could not go. Mr. Vaughan said he had determined to go, on account of the critical state of his family, his wife being probably abed; he should be glad to converse freely with me, and obtain from me all the lights and arguments against the tories, even the history of their worst actions—that in case it should be necessary to run them down it might be done, or at least expose them, for their true history was little known in England. I told him, I must be excused; it was a subject that I had never been desirous of obtaining information upon; that I pitied those people too much, to be willing to aggravate their sorrows and sufferings, even of those who had deserved the worst. It might not be amiss to reprint the letters of Bernard, Hutchinson, and Oliver, to show the rise—it might not be amiss to read the history of Wyoming in the Annual Register for

1778 or 9, to recollect the prison ships, and the churches at New York, where the garrisons of Fort Washington were starved, in order to make them enlist in refugee corps; it might not be amiss to recollect the burning of cities, and the thefts of plate, negroes, and tobacco.

I entered into the same arguments with him that I had used with Mr. Oswald, to show that we could do nothing—Congress nothing—the time it would take to consult the states, and the reasons to believe, that all of them would at last decide against it. I showed him that it would be a religious question with some—a moral one with others, and a political one with more—an economical one with very few. I showed him the ill effect which would be produced upon the American mind by this measure—how much it would contribute to perpetuate alienation against England, and how French emissaries might, by means of these men, blow up the flames of animosity and war. I showed him how the whig interest and the opposition might avail themselves of this subject in parliament, and how they might embarrass the minister.

He went out to Passy for a passport, and in the evening called upon me again—he said, he found Dr. Franklin's sentiments to be the same with Mr. Jay's and mine, and hoped he should be able to convince lord Shelburne—he was pretty confident it would work right—the ministry and nation were not informed upon the subject. Lord Shelburne had told him that no part of his office gave him so much pain as the levee he held for these people, and hearing their stories of their families and estates, their losses, sufferings, and distresses. Mr. Vaughan said he had picked up here a good deal of information about these people, from Mr. Allen and other Americans.

*Friday, November 29, 1782.*

Met Mr. Fitzherbert, Mr. Oswald, Mr. Franklin, Mr. Jay, Mr. Laurens, and Mr. Strachey, at Mr. Jay's Hotel d'Orleans, and spent the whole day in discussions about the fishery and tories. I proposed a new article concerning the fishery—it was discussed and turned in every light. Mr. Fitzherbert said, the argument is in your favour. I must confess, your reasons appear to be good; but Os-

wald's instructions were such, that he did not see how he could agree with us. I replied to this—the time is not so pressing upon us, but that we can wait till a courier goes to London with your representations upon this subject, and others that remain between us, and I think the ministers must be convinced.

Mr. Fitzherbert said, to send again to London, and have all laid loose before parliament, was so uncertain a measure, it was going to sea again.

Upon this doctor Franklin said, that if another messenger was to be sent to London, he ought to carry something more respecting a compensation to the sufferers in America. He produced a paper from his pocket, in which he had drawn up a claim, and he said the first principle of the treaty was equality and reciprocity. Now they demanded of us payment of debts, and restitution or compensation to the refugees. If a draper had sold a piece of cloth to a man upon credit, and then sent a servant to take it from him by force, and after bring his action for the debt, would any court of law or equity give him his demand without obliging him to restore the cloth? Then he stated the carrying off of goods from Boston, Philadelphia, and the Carolinas, Georgia, Virginia, &c. and the burning of the towns, &c. and desired that this might be sent with the rest.

Upon this I recounted the history of general Gage's agreement with the inhabitants of Boston, that they should remove with their effects, upon condition that they would surrender their arms: but as soon as the arms were secured, the goods were forbid to be carried out, and were finally carried off in large quantities to Halifax. Doctor Franklin mentioned the case of Philadelphia, and the carrying off effects there—even his own library. Mr. Jay mentioned several other things, and Mr. Laurens added the plunders in Carolina of negroes, plate, &c.

After hearing all this, Mr. Fitzherbert, Mr. Oswald, and Mr. Strachey retired for some time, and returning, Mr. Fitzherbert said, that upon consulting together, and weighing every thing as maturely as possible, Mr. Strachey and himself had determined to advise Mr. Oswald to strike with us according to the terms we had proposed as our ultimatum respecting the fishery and the loyalists. Accordingly we all sat down and read over the whole treaty.

and corrected it, and agreed to meet to-morrow at Mr. Oswald's house, to sign and seal the treaties, which the secretaries were to copy fair in the mean time.

*Saturday, November 30, St. Andrew's day.*

We met first at Mr. Jay's, then at Mr. Oswald's, examined and compared the treaties. Mr. Strachey had left out the limitation of time, the twelve months, that the refugees were allowed to reside in America; in order to recover their estates if they could. Doctor Franklin said this was a surprise upon us. Mr. Jay said so too—we never had consented to leave it out, and they insisted upon putting it in, which was done. Then the treaties were signed, sealed, and delivered.

No. 10.

*Extracts of Letters from Doctor Franklin, to the Honourable R. R. Livingston, Esq. Secretary for Foreign Affairs. Passy, Oct. 14, 1782.*

SOMETHING has been mentioned about the refugees and English debts, but not insisted on, as we declared at once that whatever confiscations had been made in America being in virtue of the laws of particular states, the Congress had no authority to repeal those laws, and therefore could give us none to stipulate for such repeal.

*Passy, December 5, 1782.*

THE British minister struggled hard for two points, that the favours granted to the royalists should be extended, and our fishery contracted. We silenced them on the first by threatening to produce an account of the mischiefs done by those people, and as to the second, when they told us they could not possibly agree to it, as we required it, and must refer it to the ministry in London, we produced a new article to be referred at the same time, with a note of facts in support of it, which you have, No. 3. Apparently, it seemed, that to avoid the discussion of this, they suddenly changed their minds, dropt the design of

recurring to London, and agreed to allow the fishery as demanded.

*Extract of a Letter from Doctor Franklin to Richard Oswald, Esq. Passy, Nov, 26, 1782.*

SIR,—You may well remember, that in the beginning of our conferences, before the other commissioners arrived, on your mentioning to me a retribution for the loyalists whose estates had been forfeited, I acquainted you that nothing of that kind could be stipulated by us, the confiscation being made by virtue of laws of particular states, which the Congress had no power to contravene or dispense with, and therefore could give us no such authority in our commission. And I gave it as my opinion and advice, honestly and cordially, that if a reconciliation was intended, no mention should be made, in our negotiations, of those people; for they having done infinite mischief to our properties, by wantonly burning and destroying farm houses, villages and towns; if compensation for their losses were insisted on, we should certainly exhibit against it an account of all the ravages they had committed, which would necessarily recall to view scenes of barbarity that must inflame instead of conciliating, and tend to perpetuate an enmity that we all profess a desire of extinguishing. Understanding however from you, that this was a point your ministry had at heart, I wrote concerning it to Congress, and I have lately received the following resolution—viz.

*“By the United States in Congress assembled. September 10, 1782.*

“RESOLVED, That the secretary for foreign affairs be, and he is hereby directed to obtain, as speedily as possible, authentick returns of the slaves and other property which have been carried off or destroyed in the course of the war by the enemy, and to transmit the same to the ministers plenipotentiary for negotiating peace.”

“RESOLVED, That in the mean time the secretary for foreign affairs inform the said ministers, that many thousands of slaves and other property to a very great amount

have been carried off or destroyed by the enemy; and that, in the opinion of Congress, the great loss of property which the citizens of the United States have sustained by the enemy will be considered by the several states, as an insuperable bar to their making restitution, or indemnification to the former owners of property, which has been, or may be forfeited to, or confiscated, by any of the states."

In consequence of these resolutions, and the circular letters of the secretary, the assembly of Pennsylvania, then sitting, passed the following act, viz.

"An act for procuring an estimate of the damages sustained by the inhabitants of Pennsylvania from the troops and adherents of the king of Great Britain, during the present war."

We have not yet had time to hear what has been done by the other assemblies, but I have no doubt that similar acts will be made by all of them, and that the mass of evidence produced by the execution of those acts, not only of the enormities committed by those people, under the direction of British generals, but of those committed by the British troops themselves, will form a record that must render the British name odious in America to the latest generations. In that authentick record will be found the burning of the fine towns of Charlestown, near Boston, of Falmouth just before winter, when the sick, the aged, the women and children were driven to seek shelter where they could hardly find it. Of Norfolk in the midst of winter. Of New London, of Fairfield, of Esopus, &c. &c. besides near a hundred and fifty miles of well settled country laid waste, every house and barn burnt, and many hundred of farmers, with their wives and children butchered and scalped.

The present British ministers when they reflect a little, will certainly be too equitable to suppose, that their nation has a right to make an *unjust* war (which they have always allowed this against us to be) and to do all sorts of unnecessary mischief, unjustifiable by the practice of any civilized people, which those they make war with, are to suffer without claiming any satisfaction: but that if Britons or their adherents, are in return deprived of any property.



it is to be restored to them, or they are to be indemnified. The British troops can never excuse their barbarities. They were unprovoked. The loyalists may say in excuse of theirs, that they were exasperated by the loss of their estates, and it was revenge. They have then had their revenge. Is it right they should have both?

Some of these people may have a merit with regard to Britain, those who espoused her cause from affection; these it may become you to reward. But there are many of them who were waverers, and were only determined to engage in it by some occasional circumstances or appearances; these have not much of either merit or demerit, and there are others who have abundance of demerit, respecting your country, having by their falsehoods and misrepresentations, brought on and encouraged the continuance of the war. These instead of being recompensed, should be punished.

It is usual among christian people at war, to profess always a desire of peace. But if the ministers of one of the parties choose to insist particularly on a certain article which they have known the others are not and cannot be empowered to agree to, what credit can they expect should be given to such professions?

Your ministers require that we should receive again into our bosom, those who have been our bitterest enemies, and restore their properties who have destroyed ours; and this, while the wounds they have given us are still bleeding. It is many years since your nation expelled the Stuarts and their adherents, and confiscated their estates. Much of your resentment against them may by this time be abated; yet if we should propose it, and insist on it as an article of our treaty with you, that that family should be recalled and the forfeited estates of its friends restored, would you think us serious in our professions of earnestly desiring peace?

I must repeat my opinion, that it is best for you to drop all mention of the refugees. We have proposed indeed nothing but what we think best for you as well as ourselves. But if you will have them mentioned, let it be in an article which may provide, that they shall exhibit accounts of their losses, to commissioners hereafter to be appointed, who shall examine the same together with the accounts now preparing in America, of the damage done

by them, and state the account, and that if a balance appears in their favour it shall be paid by us to you, and by you divided among them, as you shall think proper. And if the balance is found due to us, it shall be paid by you.

Give me leave, however, to advise you to prevent the necessity of so dreadful a discussion, by dropping the article, that we may write to America, and stop the inquiry.

I have the honour to be, &c.

B. FRANKLIN.

#### ARTICLE V. (*proposed.*)

IT is agreed that his Britannick majesty will earnestly recommend it to his parliament to provide for and make compensation to the merchants and shopkeepers of Boston whose goods and merchandise were seized and taken out of the stores, warehouses and shops, by order of general Gage, and others of his commanders or officers there : and also to the inhabitants of Philadelphia for the goods taken away by his army there, and to make compensation also for the tobacco, rice, indigo and negroes, &c. seized and carried off by his armies under generals Arnold, Cornwallis, and others, from the states of Virginia, North and South Carolina and Georgia : and also for all vessels and cargoes belonging to the inhabitants of the said United States, which were stopt, seized, or taken, either in the ports or on the seas, by his governours, or by his ships of war, before the declaration of war against the said States.

And it is further agreed that his Britannick majesty will also earnestly recommend it to his parliament to make compensation for all the towns, villages and farms, burnt and destroyed by his troops or adherents in the said United States.

#### FACTS.

THERE existed a free commerce, upon mutual faith, between Great Britain and America. The merchants of the former credited the merchants and planters of the latter with great quantities of goods, on the common expectation that the merchants having sold the goods would

make the accustomed remittances; that the planters would do the same by the labour of their negroes, and the produce of that labour, tobacco, rice, indigo, &c.

England, before the goods were sold in America, sends an armed force, seizes those goods in the stores, some even in the ships that brought them, and carries them off; seizes also and carries off the tobacco, rice, and indigo, provided by the planters to make returns, and even the negroes, from whose labour they might hope to raise other produce for that purpose.

Britain now demands that the debts shall nevertheless be paid.

Will she, can she, justly refuse making compensation for such seizures?

If a draper who had sold a piece of linen to a neighbour on credit, should follow him, take the linen from him by force, and then send a bailiff to arrest him for the debt, would any court of law or equity award the payment of the debt, without ordering restitution of the cloth?

Will not the debtors in America cry out that if this compensation be not made, they were betrayed by the pretended credit, and are now doubly ruined:—first by the enemy, and then by the negotiators at Paris; the goods and negroes sold them being taken from them, with all they had besides, and they are now to be obliged to pay for what they have been robbed of.

#### No. 11.

*Extracts from Dr. Franklin's Journal of Negotiations for Peace with Great Britain.*

MR. OSWALD also gave me a copy of a paper of memorandums written by Lord Shelburne, viz.

That an establishment for the loyalists must always be upon Mr. Oswald's mind, as it is uppermost in Lord Shelburne's, besides other steps in their favour, to influence the several states to agree to a fair restoration or compensation for whatever confiscations have taken place.

As to the loyalists I repeated what I had said to him when first here, that their estates had been confiscated by the laws made in the particular states, where the delinquents had resided, and not by any law of Congress, who

indeed had no power either to make such laws, or to repeat them, or to dispense with them; and therefore could give no power to their commissioners to treat of a restoration for those people: that it was an affair appertaining to each state. That if there were justice in compensating them, it must be due from England rather than from America; but in my opinion, England was not under any very great obligations to them, since it was by their misrepresentations and bad counsels that she had been drawn into this miserable war—and that if an account was to be brought against us for their losses, we should more than balance it by an account of the ravages they had committed all along the coasts of America. Mr. Oswald agreed to the reasonableness of all this, and said he had before he came away, told the ministers that he thought no recompense to those people was to be expected from us.

No. 12.

*Extract of a Letter from the Commissioners of the United States for negotiating Peace with Great Britain, to the President of Congress, dated Passy, Sept. 10, 1783.*

PERMIT US to observe, that in our opinion the recommendations of Congress, promised in the 5th article, should immediately be made in the terms of it and published; and that the states should be requested to take it into consideration as soon as the evacuation by the enemy shall be completed. It is also much to be wished that the legislatures may not involve all the tories in banishment and ruin, but that such discriminations may be made as to entitle the decisions to the approbation of disinterested men, and dispassionate posterity.

No. 13.

*Virginia, to wit.*

GENERAL Assembly, begun and held at the publick buildings in the city of Richmond, on Monday, the eighteenth day of October, in the year of our Lord, 1784.

*An Act respecting future Confiscations.*

Whereas it is stipulated by the sixth article of the treaty of peace between the United States, and the king of Great Britain, that there shall be no future confiscations made;

Be it enacted, That no future confiscations shall be made, any law to the contrary notwithstanding.—Provided that this act shall not extend to any suit depending in any court which commenced prior to the ratification of the treaty of peace.

ARCHIBALD CARY, Speaker of the Senate.

JOHN TYLER, Speaker H. Dels.

Certified as a true copy from the enrolment.

JOHN BECKLEY, Clk. H. Dels.

## No. 14.

*By his Excellency Benjamin Harrison, Esquire, Governour of the Commonwealth of Virginia, a Proclamation.*

WHEREAS I have received information, that there are, in different parts of this commonwealth, combinations formed by a number of persons, who, impelled by a turbulent spirit, have manifested a disposition to treat with outrage some of those who have returned to this state under the sanction of the definitive treaty of peace, and the acts of assembly passed in October last. And whereas such a disposition, unless early suppressed by the interposition of government, might grow into a dangerous evil, disturb the quiet of the commonwealth, and involve a violation of the publick faith and honour, so solemnly pledged for preserving sacred the articles of the treaty, as signed and ratified: To prevent, therefore, effectually, the dangerous consequences to be apprehended from the licentiousness of such persons, I have thought fit, by and with the advice of the council of state, to issue this my proclamation, strictly enjoining all magistrates and other civil officers to use their utmost vigilance in the preservation of the peace. And particularly to extend the earliest protection to all those who come within the description of the said acts of assembly, and have reason to apprehend danger from such riotous persons: And to secure to them the enjoyment of those rights which they derive both from the treaty and

acts of assembly aforesaid : And that no person, or description of persons, may presume hereafter, on the hope of escaping with impunity, to do any act which shall contravene the one, or oppose the other, I do farther declare, that government being resolved inviolably to support the publick honour, and to enforce a pointed execution of the law, will not fail to take the most effectual measures for bringing to condign punishment all those who, senseless to the obligation of a solemn treaty, and unmindful of the dignity and honour of their country, pledged for its support, shall be hardy enough to offend herein.

Given under my hand and the seal of the commonwealth in the council chamber at Richmond, this 26th day of July, in the year of our Lord 1784, and of the commonwealth the ninth.

[L. s.]

BENJAMIN HARRISON.

Attest,

A. BLAIR, C. C.

A copy from the original proclamation in the office of the Executive.

Attest,

SAM. COLEMAN, A. C. C.

No. 15.

*Extract of a Letter from George Read, jun. Attorney of the United States, for the district of Delaware, to the Secretary of State, dated New Castle, on Delaware, Nov. 4, 1790.*

FROM the result of all my inquiries on the subject of your letter, I am induced to believe that no proceedings of any kind have taken place within this state, since the treaty of peace, tending in any manner to affect the persons or property of British subjects or American refugees, in contravention to that treaty. Whatever property any British subject might have had within this state, at or after the declaration of independence, the same hath been in nowise altered or diminished by any act of the state legislature ; the confiscations of property specially declared by law extended only to citizens and subjects of the state ; and such outstanding debts which British subjects might have had within the state. I have generally understood have been settled by such their debtors as had ability to pay, in a way satisfactory to the creditors, or their agents ;

and almost the only suits which have been brought were against persons whose circumstances were declining, or against the representatives of deceased persons; but in no instance that hath come to my knowledge, hath the least clamour or complaint been made or raised against any man of the law for commencing such suits, or any distinction urged, during their pendency in the courts. As to the American refugees, I do not know that the property of any other of them than specially named in the act of Assembly of this state, of the 26th of June, 1778, and transmitted with this, was seized upon and taken as forfeited; and several of those persons have returned since the peace, and resided without disturbance in the neighbourhood of their former dwellings, though no instances of any restitution of their property, within my knowledge. As to the state it derived no benefit from the sales of their estates, they being made for continental paper; and the court of claims which was established some time after, in favour of the creditors of such whose property had been declared to be forfeited under the act aforesaid, having allowed the debts of those creditors in specie to an amount exceeding the specie value of the paper received for that property.

From every information I have heretofore had of alleged infractions of the treaty, I never understood the government in this state, or any executive department thereof, or the conduct of its citizens, with regard to British subjects or American refugees, were at any time included, and such I am told was the decided opinion of the legislature of this state. At the time of their passing the act of the 2d of February, 1783, herewith also transmitted "for repealing all acts or parts of acts repugnant to the treaty of peace between the United States and his Britannick majesty, or any article thereof." As that act was framed by the late Congress, in the terms in which it is expressed, and passed by our legislature, upon the special requisition of that body, which was made circular to all the states then in the Union.

I have the honour to be, &c.

GEO: READ, JUN.

The Hon. THOMAS JEFFERSON, Esq.

## No. 16.

*In Council, Philadelphia, Thursday Dec. 16, 1790.*

UPON the report of the committee to whom was referred the letter from the Comptroller General of the 15th September last, informing council, that the following lots "in the city of Philadelphia, forfeited to the commonwealth by the attainder of Harry Gordon for high treason, viz. a corner lot on the south side of Walnut street and east side of Fourth street from Delaware river, being in front on Walnut street, 16 1-2 feet, and in depth on Fourth street, 37 feet, with the privilege of a three feet alley at the south end of the lot, subject to a ground rent of 13 dollars and 3-8 of a dollar annually, and considerable arrears. And one other lot adjoining the above lot, bounded on the north by Walnut street, on the east by ground late of Robert Morris, Esq. on the west by Charles Moore's ground, and part by the above described lot and alley, being 16 1-2 feet in front, and 47 feet 10 inches and a half deep, more or less, subject to an annual rent charge of 5l. 0s. 3d. with arrearages thereof," remains unsold, and submitting it to council, whether it would not be proper, at this time, to direct the sale of the said lots.

Resolved, that the lots before described be exposed to publick sale, according to law.

## No. 17.

*In Assembly, January 31, 1784.*

A MESSAGE from his excellency the governour to the legislature. (transmitted to this house by the honourable the Senate,) was read, and is in the words following, to wit:

GENTLEMEN,---It is with pleasure I embrace the earliest opportunity of laying before you a proclamation of the United States, in Congress assembled, under their seal, dated the fourteenth day of January instant, announcing the ratification of the definitive articles of peace and friendship between these states and his Britannick majesty, and enjoining a due observance thereof.



I also submit to your consideration, the recommendation of the United States, in Congress assembled, in conformity to the said articles, contained in their resolution of the said fourteenth day of January instant.

GEORGE CLINTON.

New York, Jan. 30, 1784.

The papers which accompanied the said message of his excellency the governour, were also read.

Ordered, That the said message of his excellency the governour, and the papers which accompanied the same, be committed to a committee of the whole house.

*In Assembly, March 31, 1784.*

A copy of certain resolutions of the honourable the Senate, delivered by Mr. Schuyler, were read, and are in the words following, viz.

“Resolved, (if the honourable the House of Assembly concur herein,) that it appears to this legislature, that in the progress of the late war, the adherents of the king of Great Britain, instead of being restrained to fair and mitigated hostilities, which are only permitted by the laws of nations, have cruelly massacred, without regard to age or sex, many of our citizens, and wantonly desolated and laid waste a very great part of this state, by burning not only single houses, and other buildings, in many parts of this state, but even whole towns and villages, and destroying other property throughout a great extent of country, and in enterprises which had nothing but vengeance for their object.

“And that, in consequence of such unwarrantable operations, great numbers of the citizens of this state have, from affluent circumstances, been reduced to poverty and distress.

“Resolved, that it appears to this legislature, that divers of the inhabitants of this state, have continued to adhere to the king of Great Britain, after these states were declared free and independent, and persevered in aiding the said king, his fleets and armies to subjugate these United States to bondage.

“Resolved, that as on the one hand, the rules of justice do not require, so on the other, the publick tranquillity will not permit that such adherents who have been attained, should be restored to the rights of citizenship.

“And that there can be no reason for restoring property which has been confiscated or forfeited, the more especially as no compensation is offered on the part of the said king and his adherents for the damages sustained by this state and its citizens, from the desolation aforesaid.

“Resolved therefore, that while this legislature entertain the highest sense of national honour, of the sanction of treaties, and of the deference which is due to the advice of the United States, in Congress assembled, they find it inconsistent with their duty to comply with the recommendation of the said United States, on the subject matter of the fifth article of the definitive treaty of peace.”

Resolved, that this House do concur with the honourable the Senate in the said resolutions.

Ordered, that Mr. Gordon and Mr. Lott, deliver a copy of the last preceding resolution of concurrence to the honourable the Senate.

*State of New York, ss.*

I certify that the foregoing are true extracts from the journals of the Assembly, this 19th day of July, 1786.

ISAAC VAN VLECK,

for JOHN M'KESSON, Clerk.

No. 13.

*Copy of a Letter from his Excellency Samuel Huntington, Governour of Connecticut, to the Honourable John Jay, Secretary for Foreign Affairs. Council Chamber, Hartford, June 12, 1786.*

SIR,—Your letter of the 3d ultimo, addressed to the governour of Connecticut, requesting information whether and how far this state has complied with the recommendation of Congress, pursuant to the treaty of peace with Great Britain, hath been received.

In compliance with your request, I have the satisfaction to inform, that the statutes of this state have all been re-

## No. 28. B.

*Copy of a Letter from his Excellency General Haldimand to Major General Knox, dated Quebec, July 13, 1784.*

SIR,—I have had the honour to receive your letter dated New York, 13th of last June, by lieutenant colonel Hull, acquainting me you was directed by Congress, the sovereign authority of the United States, to write to me, in order to ascertain the precise time when each of the posts within the United States, now occupied by the troops of his Britannick majesty, shall be delivered, agreeable to the definitive treaty of peace, and to propose, as a matter of mutual convenience, an exchange of certain cannon and stores, now at these posts, for others to be delivered at West Point, upon Hudson's river, New York, or some other convenient place.

I have the honour to enclose for your information, copies of letters which passed between his excellency governour Clinton and me, upon the first part of your proposition. Though I am now informed, by his majesty's ministers, of the ratification of the definitive treaty of peace, I remain, in other respects, in the same situation I then was, not having received any orders to evacuate the posts which are without the limits assigned by the treaty of peace to this province.

It is therefore impossible for me to ascertain the time when the evacuation of these posts shall commence. I can only assure your excellency, that I shall lose no time in carrying into execution his majesty's orders on that head, when I shall have the honour to receive them.

In the mean time I have to acquaint you, that however desirous I am to consult mutual convenience, I am not at present empowered (and have reason to think I will not in future be empowered) to make the exchange of cannon and stores proposed by you, and for which lieutenant colonel Hull was authorized to make the proper arrangements.

I have the honour to be, &c.

FRED. HALDIMAND.

His Excellency Maj. Gen. Knox.

## No. 29.

*The United States, in Congress assembled, May 26, 1783.*

WHEREAS by the articles agreed upon on the 30th of November last, by and between the commissioners of the United States of America for making peace and the commissioner on the part of his Britannick majesty, it is stipulated that his Britannick majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes, or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and from every port, place, and harbour, within the same; and whereas a considerable number of negroes, belonging to the citizens of these states, have been carried off therefrom, contrary to the true intent and meaning of the said articles:

Resolved, That copies of the letters between the commander in chief and sir Guy Carleton, and other papers on this subject, be transmitted to the ministers plenipotentiary of these states for negotiating a peace in Europe; and that they be directed to remonstrate thereon to the court of Great Britain, and take proper measures for obtaining such reparation as the nature of the case will admit.

Ordered, That a copy of the foregoing resolve be transmitted to the commander in chief; and that he be directed to continue his remonstrances to sir Guy Carleton, respecting the permitting negroes belonging to the citizens of these states to leave New York, and to insist on the discontinuance of that measure.

## No. 30.

*Virginia, to wit: In General Assembly, June 22, 1784.*

It appearing to the general assembly, from a letter from his excellency general Washington, dated the 7th day of May, 1783, that in obedience to a resolution of Congress, he had a conference with general Carleton on the subject of delivering up the slaves and other property belonging to the citizens of the United States, in com-

pliance with the articles of the provisional treaty; that he (general Carleton) appeared to evade a compliance with the said treaty, by a misconstruction of the same, and permitted a large number of the said slaves to be sent off to Nova Scotia. It further appearing to the general assembly, from the testimony of Thomas Walke, Esq. that he, together with several other persons from the counties of Norfolk and Princess Anne, in or about the month of April, 1783, went to New York, with a view of recovering the slaves which had been taken from them by the British troops during the war; that not being permitted to take possession of those slaves which they found in that city, the said Walke made a personal application to general Carleton, and requested a delivery of the said slaves, in compliance with the 7th article of the treaty, which prohibits the carrying off negroes, or other property, belonging to the inhabitants of the United States; this he peremptorily refused, alleging that he was not authorized to do it, without particular instructions from the British government; that at the time of this application the said Walke was informed by an aid-de-camp of general Carleton, that an agent was appointed to superintend the embarkation, and keep a register of slaves sent to Nova Scotia, and that he afterwards saw the said register, and also saw a large number of negroes embarked to be sent to that country. It farther appearing to the general assembly, from the testimony of Mr. John Stewart, of the state of Maryland, as well as from a variety of other circumstances, that many applications were made to general Carleton by citizens of America for the restitution of property, which were invariably rejected:

Resolved, That there has been an infraction, on the part of Great Britain, of the 7th article of the treaty of peace between the United States of America and Great Britain, in detaining the slaves and other property of the citizens of the United States.

Resolved, That the delegates representing this state in Congress be instructed to lay before that body the subject matter of the preceding information and resolution, and to request from them a remonstrance to the British court, complaining of the aforesaid infraction of the treaty of peace, and desiring a proper reparation of the injuries

consequent thereupon ; that the said delegates be instructed to inform Congress that the general assembly has no inclination to interfere with the power of making treaties with foreign nations, which the confederation hath wisely vested in Congress ; but it is conceived that a just regard to the national honour and interest of the citizens of this commonwealth obliges the assembly to withhold their co-operation in the complete fulfilment of the said treaty, until the success of the aforementioned remonstrance is known, or Congress shall signify their sentiments touching the premises.

Resolved, That so soon as reparation is made for the aforesaid infraction, or Congress shall judge it indispensably necessary, such acts of the legislature passed during the late war, as inhibit the recovery of British debts, ought to be repealed, and payment thereof made in such time and manner as shall consist with the exhausted situation of this commonwealth.

Extract from the Journal of Assembly,

JOHN BECKLEY, Clk. H. D.

No. 31.

*Circular Letter to the Governours of the several States,  
Office for Foreign Affairs, May 3, 1786.*

SIR,—Congress has been pleased to order, that I should “report particularly and specially how far the several states have complied with the proclamation of Congress, of the 14th January, 1784, and the recommendation accompanying the same pursuant to the definitive treaty of peace, between the United States of America and Great Britain.”

In order that I may be able to fulfil the expectations of Congress, I must request the favour of your excellency, to inform me whether, and how far the state (or commonwealth) of \_\_\_\_\_ has complied with the recommendation in question.

I have the honour to be, &c.

JOHN JAY.

No. 32,

## STATE OF NEW HAMPSHIRE.

*In the year of our Lord, one thousand seven hundred and eighty-six.*

An act in compliance with the treaty of peace, between the United States and his Britannick majesty, and [L. s.] with the recommendation of Congress, of the 14th of January, 1784, founded thereon.

WHEREAS several acts and laws, during the late war with Great Britain, were passed by this state, which are found to be incompatible with the definitive treaty of peace and friendship. And whereas Congress did, on the 14th day of January, 1784, earnestly recommend to the legislatures of the respective states, to reconsider and revise all their acts and laws respecting the premises, so as to render such acts and laws perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which, on the return of the blessings of peace should universally prevail.

Therefore—Be it enacted by the Senate and House of Representatives in general court convened, That the fourth article of the said definitive treaty, viz. It is agreed that the creditors on either side, shall meet with no lawful impediment to the recovery of the full value, in sterling money, of all bona fide debts heretofore contracted, be complied with, as far as it respects this state; and that the subjects of his Britannick majesty, shall meet with no lawful impediment to the recovery of any such debts, but shall have a right to recover the same, in the manner and way solemnly stipulated in said article.

And be it further enacted, that in case any of the estates, rights and properties of any real British subjects, or any of the estates, rights and properties of any person or persons resident in any district or districts which were in the possession of his Britannick majesty's arms, between the 30th day of November, 1782, and the 14th day of January, 1784, and who have not borne arms against the United States, shall have been confiscated, the act or acts so confiscating, shall be, and hereby are repealed; and persons of any other description, shall have free liberty to go to

any part or parts of this state, (provided that within fourteen days after their first arrival, they lodge their names in the secretary's office) and to reside in any town, place or district herein, during the space of one year, to commence from the day of their first arrival in this state, and no longer; and to remain unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as have been confiscated.

And be it further enacted by the authority aforesaid, that the act of this state, passed the 19th day of November, 1778, entitled "An act to prevent the return to this state, of certain persons, therein named, and of others who have left or shall leave this state or either of the United States of America, and have joined or shall join the enemies thereof," so far as the same militates with the said articles of peace; also the act passed the 28th day of November, 1778, entitled "An act to confiscate the estates of sundry persons therein named," together with the additional acts to the said two acts, and all other acts and resolves of this state, so far as they militate with or are repugnant to the spirit and meaning of said treaty of peace and friendship between the United States and his Britannick majesty, shall be and hereby are repealed and made void.

*State of New Hampshire.*

In the House of Representatives, Sept. 15, 1786.

The foregoing bill having been read a third time, voted that it pass to be enacted. Sent up for concurrence,

JOHN LANGDON, Speaker.

In Senate, the 15th of Sept. 1786.

This Bill having been read a third time, voted that the same be enacted.

JNO: SULLIVAN, President.

Copy examined, per

JOSEPH PEARSON, Sec'y.



## No. 33.

## COMMONWEALTH OF MASSACHUSETTS.

*In the year of our Lord one thousand seven hundred and eighty-seven.*

AN act for repealing any acts or parts of acts, heretofore passed by the legislature of this commonwealth, which may militate with, or infringe the treaty of peace entered into by the United States of America and Great Britain.

Whereas certain laws or statutes, made and passed in some of the United States, are regarded and complained of, as repugnant to the treaty of peace with Great Britain, by reason whereof not only the good faith of the United States, pledged by that treaty, has been drawn into question, but their essential interests under that treaty greatly affected.

And whereas, justice to Great Britain as well as regard to the honour and interests of the United States, require, that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do, or may be construed to proceed from the laws of this commonwealth, be effectually removed, therefore,

Be it enacted by the Senate and House of Representatives in general court assembled, and by the authority of the same, that such of the acts or parts of acts of the legislature of this commonwealth, as may be repugnant to the treaty of peace between the United States and his Britannick majesty, or any article thereof, and so far as they may be repugnant thereto, shall be and hereby are repealed; and further, that the courts of law and equity within this commonwealth be, and they hereby are directed and required, in all causes and questions cognizable by them respectively, and arising from or touching the said treaty, to decide and adjudge according to the tenour, true intent and meaning of the same, any thing in the said acts or parts of acts to the contrary thereof, in any wise notwithstanding.

In the House of Representatives. April 30, 1787.

This bill, having had three several readings, passed to be enacted.

ARTEMAS WARD. Speaker.

In Senate, April 30, 1787.

This bill, having had two several readings, passed to be enacted.

SAMUEL PHILLIPS, JR. President.

By the Governour approved.

JAMES BOWDOIN.

A true copy. Attest,

JOHN AVERY, JR. Secretary.

No. 34.

*State of Rhode Island and Providence Plantations. In General Assembly, September session, A. D. 1787.*

Be it enacted by the general assembly, and by the authority thereof it is hereby enacted, that the treaty of peace entered into between the United States of America and his Britannick majesty, is fully binding upon all the citizens of this state as a law of the land, and is not in any respect to be receded from, misconstrued, or violated.

A true copy, witness,

HY. SHERBURNE, Deputy Secretary.

No. 35.

[L. S.] *At a General Assembly of the State of Connecticut, holden at Hartford, on the second Thursday of May, Anno Dom. 1787.*

WHEREAS the United States, in Congress assembled, have, by their resolution of the 13th of April, 1787, recommended to the several states to repeal all such acts and parts of acts of their several legislatures, as may be now existing in any of the said states, repugnant to the treaty of peace between the United States and Great Britain, and that each state pass such act of repeal, whether any such exceptional act is existing in such state or not, and that rather by describing than reciting such act, for the purpose of obviating all disputes and questions between the United States and Great Britain relative to said treaty; and although there hath been no complaint or suggestion, officially or otherwise, that there is any act or part of an

act existing in this state repugnant to said treaty, yet this assembly, being at all times disposed to conform to the true intent and spirit of the articles of confederation, and to prevent and remove (so far as to this assembly doth appertain) all causes of dispute and contention, and every just ground of complaint, have thought fit to enact, and

Be it enacted by the governour, council, and representatives, in general court assembled, and by the authority of the same, That such of the acts, or parts of acts, of the legislature of this state, as are repugnant to the treaty of peace between the United States and his Britannick majesty, or any article thereof, shall be, and hereby are, repealed.

And be it further enacted by the authority aforesaid, That the courts of law and equity within this state be, and they hereby are directed and required, in all causes and questions cognizable by them respectively, and arising from or touching said treaty, to decide and adjudge according to the tenour, true intent and meaning of the same, any thing in the said acts, or parts of acts to the contrary thereof in any wise notwithstanding.

A true copy of record, examined by

GEORGE WYLLYS, Secretary.

No. 36.

*Copy from the second volume of the laws of the State of New York, published according to an act of the Legislature.*

An act in the form of the act recommended by the resolution of the United States in Congress assembled, of the 21st day of March, 1787, to be passed by the several states, relative to the treaty of peace between the United States and the king of Great Britain. Passed February 22, 1788.

WHEREAS certain laws or statutes, made and passed in some of the United States, are regarded and complained of as repugnant to the treaty of peace with Great Britain. by reason whereof not only the good faith of the United States, pledged by that treaty, has been drawn into question, but their essential interests, under that treaty, greatly affected. And whereas justice to Great Britain, as well as regard to the honour and interests of the United States, require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do, or may

be construed to proceed from the laws of this state, be effectually removed: Therefore,

Be it enacted, by the people of the state of New York, represented in senate and assembly, and it is hereby enacted by the authority of the same, That such of the acts and parts of acts of the legislature of this state, as are repugnant to the treaty of peace between the United States and his Britannick majesty, or any article thereof, shall be and hereby are repealed. And further, that the courts of law and equity, within this state, be, and they hereby are directed and required, in all causes and questions, cognizable by them respectively, and arising from, or touching, the said treaty, to decide and adjudge according to the tenour, true intent and meaning of the same; any thing in the said acts, or parts of acts, to the contrary thereof, in any wise, notwithstanding.

#### No. 37.

*In the twelfth year of the independence of the Delaware state. At a session of the General Assembly, commenced at Dover, on the twentieth day of October, 1787, and continued, by adjournment, to the 2d day of February following, inclusive, the following acts were passed, that is to say:*

An act for repealing all acts, or parts of acts, repugnant to the treaty of peace between the United States and his Britannick Majesty, or any article thereof.

WHEREAS certain laws or statutes, made and passed in some of the United States, are regarded and complained of, as repugnant to the treaty of peace with Great Britain; by reason whereof, not only the good faith of the United States, pledged by that treaty, has been drawn into question, but their essential interests, under that treaty, greatly affected.

And whereas justice to Great Britain, as well as regard to the honour and interests of the United States, require, that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do or may be construed to proceed from the laws of this state, be effectually removed: Therefore,

1. Be it enacted, by the general assembly of Delaware, and it is hereby enacted by the authority of the same, That such of the acts, or parts of acts, of the legislature of this state, as are repugnant to the treaty of peace between the United States and his Britannick majesty, or any article thereof, shall be and hereby are repealed.

And further, That the courts of law and equity, within this state, be, and they hereby are directed and required, in all causes and questions cognizable by them respectively, and arising from, or touching the said treaty, to decide and adjudge according to the tenour, true intent and meaning of the same; any thing in the said acts, or parts of acts, to the contrary thereof, in any wise, notwithstanding.

Signed, by order of the House of Assembly,  
JEHU DAVIS, Speaker.

Signed by order of the Council,  
THOMAS M'DONOUGH, Speaker.

Passed at Dover, Feb. 2, 1783.

No. 38.

*An act declaring the treaty of peace between the United States and his Britannick Majesty, the supreme law within this state.*

BE it enacted by the general assembly of Maryland, and it is hereby declared, That the treaty of peace made between the United States of America, and his Britannick majesty, is the supreme law within this state, and shall be so considered and adjudged in all courts of law and equity, and all causes and questions cognizable by the said courts, respectively ought, and shall be determined according to the said treaty, and the tenour, true intent and meaning thereof.

By the Senate, May 14th, 1787.

Read and assented to.

By order,  
J. DORSEY, Clerk.

By the House of Delegates, May 15, 1787.

Read and assented to.

By order,

WM. HARWOOD, Clerk.

W. SMALLWOOD.

[The great Seal, in wax appendant.]

In testimony, that the foregoing is a true copy from the original act of the general assembly of Maryland, remaining in the general court, I have hereto set my hand, and affixed the seal of office, this 29th day of June, in the year of our Lord 1787.

[L. S.]

THOS. B. HODGKIN,

Clerk G. Ct. W. Shore.

No. 39.

Copy of an act of the General Assembly of Virginia, passed  
December 12, 1787.

*An act to repeal so much of all and every act or acts of  
Assembly, as prohibits the recovery of British debts.*

WHEREAS it is stipulated by the fourth article of the treaty of peace between the king of Great Britain and the United States of America, in Congress assembled, that creditors on either side shall meet with no lawful impediment in the recovery of the full value, in sterling money, of all bona fide debts heretofore contracted. Be it therefore enacted by the general assembly, that such of the acts or parts of acts, of the legislature of this commonwealth, as have prevented, or may prevent the recovery of debts due to British subjects, according to the true intent and meaning of the said treaty of peace shall be, and are hereby repealed.

Provided, That this act shall be suspended, until the governour, with the advice of council, shall by his proclamation notify to this state, that Great Britain hath delivered up to the United States, the posts therein now occupied by British troops, which posts were stipulated by treaty to be given up to Congress immediately after the conclusion of peace; and is also taking measures for the further fulfilment of the said treaty, by delivering up the negroes belonging to the citizens of this state.

taken away contrary to the seventh article of the treaty, or by making such compensation for them, as shall be satisfactory to Congress.

## No. 40.

*An act declaring the treaty of peace between the United States of America and the king of Great Britain, to be part of the law of the land.*

BE it enacted by the general assembly of the state of North Carolina, and it is hereby enacted by the authority of the same, That the articles of the definitive treaty between the United States of America and the king of Great Britain, are hereby declared to be part of the law of the land.

And be it further enacted by the authority aforesaid, That the courts of law and equity, are hereby directed in all causes and questions, cognizable by them, respecting the said treaty, to judge accordingly.

Read three times, and ratified in general assembly, the 22d day of December, 1787.

ALEX. MARTIN, S. S.

JNO. SITGREAVES, S. C.

## No. 41.

*Copy of a Letter from his Excellency William Livingston, Governour of New Jersey, to the Honourable John Jay, Secretary for Foreign Affairs. Elizabethtown, 15th June, 1786.*

SIR,—I have been honoured with your letter of the 3d of May, informing me, that Congress has been pleased to order, that you should “report particularly and specially, how far the several states have complied with the proclamation of Congress, of the 14th January, 1784, and the recommendation accompanying the same, pursuant to the definitive treaty of peace between the United States of America and Great Britain;” and requesting me to inform you, “whether, and how far, the state of New Jersey has complied with the recommendation in question.” In answer to which, I can only inform you, in general, that I do

not know of a single instance, in which this state has not strictly complied with the said proclamation, as well as with the said recommendation, as far as, by the said treaty, the United States were bound to comply with such recommendation.

I have the honour to be, &c.

WIL. LIVINGSTON.

The Hon. John Jay, Esq.

No. 42.

*Extract of a Letter from Richard Stockton, Esq. Attorney of the United States for New Jersey district, to the Honourable Thomas Jefferson, Secretary of State, dated 11th December, 1790.*

I AM happy in being able to inform you, that no laws have been enacted in New Jersey, contravening the treaty of peace.

The only judiciary decision, affecting the rights of British subjects, in the state courts, was the opinion of a single judge (without the point coming solemnly before the court upon argument) delivered in a charge to a jury; by which he directed the jury to make a deduction of interest upon an old bond, during the period of the late war.

How far this may be said to infringe the rights of British subjects, you will judge.

I have the honour to be, &c.

RD. STOCKTON, Attorney  
of the New Jersey District.

His Excellency Thomas Jefferson.

No. 43.

*In General Assembly. Monday, March 3, 1788, P. M.*

THE report of the committee, on that part of the message from council, which respects the resolution of Congress, of the 21st of March last, read March 1st, was read the second time: Whereupon,

RESOLVED, That his excellency the president, and the honourable the supreme executive council, be informed, that this house, having, by their committee, carefully examined into the subject matter of that part of the said



message, which recommends to the notice of this house the resolution of Congress, passed March 21st, 1787, and suggests the propriety of passing a declaratory act to answer the end intended by the said resolution; they cannot find, that there is any act or acts, or any part or parts of any act or acts, passed by the legislature of Pennsylvania, now in force, which are repugnant to the treaty of peace between the United States and his Britannick majesty, or to any articles thereof, or that at all tend to restrain, limit, or in any manner impede, retard, or counteract, the operation and execution thereof, or to explain the same.

No. 44.

*Copy of a Letter from his Excellency William Moultrie, Governour of South Carolina, to the Hon. John Jay, Secretary for Foreign Affairs. Charleston, South Carolina, June 21, 1786.*

SIR,—I have been honoured with your favour of 3d May, requesting to know, for the information of Congress, how far this state has complied with the proclamation and recommendation of Congress of the 14th January, 1784.

The subjects of Great Britain have encountered no other difficulties or impediments than have the citizens of America, in the recovery of their debts; such was the situation of the state, that the legislature conceived it necessary to pass laws tantamount to the shutting the courts; and in this case, even British subjects, who had property among us, were saved from ruin equally as those of America.

Agreeably to the 5th article of the treaty, which Congress earnestly recommended, this state, upon serious consideration, very liberally complied with that recommendation, and restored most of the estates that were under confiscation: the property carried off by the British, and belonging to the citizens of the state, far exceeded in value the property which, by our laws, has been confiscated and sold: and no subsequent act of confiscation has taken place to the above recommendation of Congress.

This state passed an act, February 26th, 1782, to prevent the recovery of debts: and this being done prior to the treaty of peace, and since continued, from time to time,

in force, could not possibly have in view to distress the British subjects.

The treaty of peace also required twelve months to be allowed banished persons, and others attached to British government, to settle their affairs. This state has generously added three months more to the twelve; and in some instances, upon application, it has been further extended by the executive. I have the honour to be, &c.

WILLIAM MOULTRIE.

Hon. John Jay, Esq.

No. 45.

*Extract of a Letter from Richard Harrison, Esq. Attorney of the United States for the District of New York, to the Secretary of State, dated New York, Dec. 4, 1790.*

THE act relative to debts due to persons within the enemy's lines appears to have been passed even before the provisional articles were concluded between Great Britain and the United States. It cannot therefore be considered as an infraction of a treaty not existing until several months after, which at most could only be contemplated as probable, and was perhaps considered as barely possible.

Whatever, therefore, might be the nature or tendency of this act, its origin was not exceptionable, as interfering with any national compact. The act, besides a temporary restraint upon commencing any suits by persons who had been with the enemy (which was removed soon after the peace) subjected such persons to the loss of interest upon their debts, from 1st January, 1776, made them liable to any farther abatement, even of the principal, which referees might think proper, and obliged them to receive the balance in publick securities.

The operation of this act became, soon after the peace, a subject of much complaint, grounded upon that article of the treaty which forbids any impediment to the recovery of the full value in sterling money of all bona fide debts, and that which declares that no person shall suffer any future loss in his person, liberty, or property.

With regard to British creditors, who were supposed to be the proper objects of the 4th article of the treaty, the

superior courts of the state soon restrained the operation of the act, and I do not know a single instance where they have been held to be affected by it.

No. 46.

The following are the material facts in relation to the case of Rutgers against Waddington, as far as they are now recollected, and a confidence is entertained that the statement is substantially accurate.

THE suit was brought in the mayor's court of the city of New York, for the occupation and injury of a brew-house in that city, during the possession of it by the British army, founded upon an act of the state of New York, entitled, "An act for granting a more effectual relief in cases of certain trespasses," which gives remedy by action of trespass to all citizens who had resided without the enemy's lines, against those who had resided within those lines, wherever the property of the former had been occupied, injured, destroyed, purchased, or received by the latter, declaring, "that no defendant should be admitted to plead in justification any military order or command whatever of the enemy for such occupancy, injury, destruction, purchase or receipt, nor to give the same in evidence on the general issue." This act was passed subsequent to the provisional, but prior to the definitive treaty. The fact was, that the defendant had occupied the brewhouse in question, under regular authority of the British army, proceeding, for a part of the time, immediately from the commander in chief, and for another part of it from the quarter master general, and had even paid rent for the use of it.

Several pleas were pleaded for the different portions of time corresponding with the state of the fact, one alleging the occupation under the immediate order of the commander in chief, the other under that of the quarter master general.

The particulars of the pleas appear to be accurately stated in Mr. Hammond's memorial.

The court allowed the plea which alleged the occupation under the immediate authority of the commander in

chief, and overruled the other, giving judgment for the plaintiff for the portion of time covered by the latter. The ground of distinction was, that it could not be in the course of service for a quarter master general to let out brewhouses.

The force of the treaty to overrule the inhibition against pleading a military order was admitted by the decision, which allowed in fact the validity of such an order, when proceeding from the commander in chief.

But a writ of error was brought by the defendant to reverse the judgment in the supreme court, and pending that writ, a *voluntary compromise* between the parties took place, which superseded its prosecution to a final decision. A sum of money was paid by the defendant in consequence of this compromise.

It is however but candour to acknowledge, that from the uncertainty of the event, the desire of the defendant to compromise as a prudential course was not discouraged by his counsel.

It is not recollected that any decision ever took place in the supreme court of the state, giving effect to the inhibition above mentioned. It is believed that none ever did.—The exceptionable clause was repealed, by an act of the 4th of April, 1787, which put an end to the question. I acted as attorney and counsel for the defendant.

ALEXANDER HAMILTON.

Philadelphia, April 19, 1792.

No. 47.

Philadelphia, April 11, 1792.

SIR,—Having been accidentally present at the examination of the witnesses against John Smith Hatfield, taken before the proper magistrate, in New Jersey, on a *hab. corpus* brought by Hatfield to obtain an order for bail or discharge, I have taken the liberty to give the substance of the testimony. Hatfield was an inhabitant of Elizabethtown, in New Jersey, and went over to the British in 1778. A certain Mr. Ball, also an inhabitant of New Jersey, used to supply the British on Staten Island with provisions by stealth, it being contrary to our law. A spy having been taken in our lines who had been a refugee.

was tried by a court martial and executed. The next time Ball went over to the island with provisions, the refugees, of whom Smith Hatfield was one, seized him, and threatened to execute him in retaliation. The British commanding officer expressly forbade it, on which they determined to take him out of the British lines, and within ours, and there execute him. The commanding officer sent for the witness, and after inquiring into the character of Ball, told the witness that he had forbade it, but still feared that they would put their threats into execution by removing Ball without his jurisdiction. But if they should, the officer desired witness to inform our people that the British had nothing to do with it, and that the persons guilty of the crime must answer alone for it. On witness's return, he saw a boat with a number of men, among whom Hatfield was one, passing over to Bergen shore, he saw them land, take a man who was tied out of the boat, and lead him to a tree, place him on a table, and one of the number tie a rope that was round his neck to a limb of the tree, and take the table from under him, whereby he was left hanging. Witness waited at the tavern till their return, when he heard Hatfield say, that he had hanged Ball, and wished he had many more rebels, he would repeat it with pleasure.

Sometime afterwards Hatfield showed witness the tree on which he said he had hanged Ball, and where he was buried.—On this evidence, and other corroborating testimony, the magistrate took the matter into consideration, but on examining the hab. corpus and finding it had issued at common law, and not under the statute, and knowing that he acted merely in a summary way, determined that it would be highly imprudent for him to decide so great a question, and one in which the treaty of peace was involved, on so slight a consideration, when the court was near at hand, he concluded to remand the prisoner to Newark gaol, where he had nearly lost his life by his debaucheries.

At the meeting of the court in Bergen county (in which the crime was committed) the evidence did not attend, whereupon the court adjourned the business till the next court, and considering the peculiar situation of the prisoner, thought proper to bail him, but Hatfield immediately ran away and never again returned.

The bail have applied to the legislature for relief against their recognisance, and I believe have been discharged.

These are the facts, in short, as far as my memory will serve me, my colleagues not knowing of this matter, but from general report, could say nothing but what arose therefrom.—I cannot ascertain the year this happened with certainty, but believe it was in 1788. If it should be necessary the affidavits may be produced, as they are with the judge, or among the files of the court.

I have the honour to be, &c.

ELIAS BOUDINOT.

The Hon. the Secretary of State.

Since writing the above, Mr. Boudinot is well informed that Hatfield's counsel has advised his bail to plead to the action against them on the recognisance, as they consider them as not legally bound to pay the forfeiture, and not to apply to the legislature for redress. This has been done some time past, since which the attorney general has not moved the question.

No. 48.

I do hereby certify, that there never has been either originally instituted in the supreme court of the United States or removed there, from any inferior court of the United States, any suit or claim between a subject of the king of Great Britain on the one part and a citizen or citizens of the United States on the other. As witness my hand,

SAMUEL BAYARD, Clk. of the supreme court of  
the United States.

Philadelphia, April 25, 1792.

No. 49.

THE subscribing senators and representatives of the state of Maryland in the Congress of the United States, in reply to the inquiries addressed to them by the Secretary of State, not having in this city the necessary documents, to which they might particularly refer, can only inform him generally.

That soon after the pacification between these states and Great Britain, complaints of an obstruction to the recovery of British debts in some of the states, by his Britannick majesty's minister Mr. Pitt, were transmitted by Congress to the several states, accompanied by a requisition of that honourable body, that laws should be passed to secure the effectual observance of the treaty. The legislature of Maryland in consequence thereof enacted a law declaring the treaty the supreme law of the land, which was in reality but a compliance in form with what had in effect taken place, immediately after the exchange of the ratifications of the definitive treaty. British suits having been maintained from that period in the superior and inferior tribunals throughout the state, without any obstruction whatever, to our knowledge, except in one instance in the county of Charles, wherein a lawyer thought it advisable to withdraw some actions of this description, from a dread of popular interference. But on the speedy interposition of authority those suits were all restored, and the persons concerned brought to a proper sense of their misconduct: from that event to the present, British claimants, as well under contracts previous to the late war, as since, have in every instance enjoyed every facility in the tribunals of justice of Maryland, equally with her own citizens. They have recovered in due course of law and remitted to Great Britain large debts of either description.

It is however to be understood, that the cases of persons who during the late war paid debts, contracted previously thereto, into the treasury of Maryland, by virtue of and in conformity with two acts of that state of 1780, chapter 5th and 45th, have presented to the courts of that country an important question involving principles of much nicety and extensive national importance, which if not analogous to, and expressly protected by the laws of nations, and precedents drawn from other countries, were yet of novel impression in America, and required much deliberation. A variety of such suits were brought; the usual steps were regularly and without interruption pursued; the gentlemen at the bar of the supreme common law court were nearly equally divided, on the different sides of these claims, and it was finally agreed between them to select some one case for trial, on the fate of which the rest should depend. The

case of Mildred against Dorsey, which is particularly mentioned by the Secretary, was the individual case so selected, and after a full hearing, the court determined against the American citizens in favour of the British claimants; on which an appeal was entered, as is usual in all cases of consequence, and that cause together with all others similarly circumstanced, wherein new security could be procured by the defendant, removed to the high court of appeals of Maryland, where it now remains for final decision, and where it will be tried as soon as the accustomed légal forms are complied with. Throughout the whole progress of this suit, there has been no delay on the part of the courts or the defendants; all the forms have been conducted upon the principle of mutual agreement between the counsel on either party.

With respect to the case of Harrison's representatives:—On the disclosure of facts made by the trustees of the will of Harrison on oath, in chancery, in consequence of the claim made by the attorney general, in behalf of the state, the chancery court determined it in favour of the state, it is believed on this principle, that however Great Britain might consider the *antenati*, as subjects born, and that they could not divest themselves of inheritable qualities, yet that the principle did not reciprocate on America, as those *antenati* of Great Britain could never be considered as subjects born of Maryland.

The legislature however took the matter up and passed an act relinquishing any right of the state, and directing the intention of the testator to take effect, notwithstanding such right. It is conceived, that this was a liberal and voluntary interposition, on the part of the legislature, in behalf of the representatives of Harrison, who are at liberty to pursue their claim.

John Henry, Ch. Carroll, of Carrollton. John F. Mercer, Samuel Sterret, Josa. Seney, W. V. Murray, Philip Key, Upton Sheredine.

No. 50.

*Extract of a Letter from William Tilghman, Esq. to  
dated Chester Town, April 26, 1792.*

DEAR SIR,—YOUR favour of the 15th instant found me at Easton. There is no doubt but British subjects have



uniformly been permitted to recover from the citizens of Maryland their debts due on causes of action existing before the late war.—The only dispute has been about the interest which accrued *during the war*. Our courts have decided the point of interest against the British creditor.—But this decision has been founded on general principles, and not on any act of assembly contravening the treaty of peace.

We have recognised that treaty as the law of the land by a particular act of assembly, and our judges have given one very striking proof of their impartiality in the construction of it. I allude to the decision of the general court in favour of British creditors against a number of Maryland citizens, who, during the war, deposited paper money in the treasury, under the sanction of a law at that time existing, in satisfaction of their debts. Whether the treaty should have such retrospect as to avoid these payments, was certainly a doubtful point.

It would be endless to enumerate the particular instances of British debts recovered. One or two I will mention, of a stronger nature than common, which have fallen within my own knowledge. Cn. Christie, whose estate (except his debts) was confiscated, for adhering to the British army, recovered upwards of 1200*l.* sterling from Col. Richard Graves, of this county, on a judgment obtained before the revolution.—Mr. George Rome, of London, received *from the state of Maryland* upwards of 1700*l.* currency, on a claim which he had against Col. Chalmers of the British army, whose estate had been seized by the state on an attainder of treason. In short, it is notorious that we have complied with the true spirit of the treaty, and that our government has thrown no legal impediment in the way of the recovery of debts due to British subjects from our citizens, prior to the revolution.

I am, dear sir, &c.

WM. TILGHMAN.

No. 51.

*Annapolis, April 23, 1792.*

DEAR SIR,—Your favour of the 15th instant came safe to hand, and on examining the records of our court, I find

a number of suits, commenced by British merchants, against citizens of this state, for debts contracted before the revolution, in which judgments have been universally rendered, and carried into execution; the plaintiffs in every case released the interest during the war. James Gordon and others have brought at least a hundred suits, since the year eighty-five, for old debts, and recovered judgments: John Buchanan and Co. have also brought a number of suits, in which they have also obtained judgments; one in particular, against Charles Ridgely, son of William of Baltimore county, for a very considerable debt, in which a payment into the treasury was plead, and proven to have been made agreeably to our act of assembly; in this, and several other similar cases, the court on a case stated, gave judgment for the plaintiffs for the full sum due, with interest, except the interest during the war, computed from the 4th July, 1776, to the 3d September, 1783. Spears, French, and Co. James Russell's administrator, and several other British merchants, have brought suits for debts of the above description, and recovered judgments with as much facility as one citizen against another could do. I could with ease give you the parties names, in all the judgments rendered in our court, of the description you mention, but from your letter, I imagine a few will answer. I have therefore only selected such as you will observe at the foot of this letter. I am, dear sir, &c.

JNO. GWINN.

James Gordon, formerly the house of John Glassford and Co. vs. Judith Chase. James Gordon, formerly of the house of John Glassford and Co. vs. George Dent. John Buchanan and Co. vs. Charles Ridgely, of William. John Buchanan and Co. vs. Samuel Lane. Cunningham, Findlay, and Co. vs. John Belt. Cunningham, Findlay, and Co. vs. Nicholas L. Sewell. George and Andrew Buchanan, vs. Randolph Brandt. George and Andrew Buchanan, vs. Richard Brandt. James Clerke, admr. of Jas. Russell, vs. Joseph Davis. James Clerke, admr. of Jas. Russell, vs. Joseph Wilkinson. Thomas Stewardson, admr. of Daniel Mildred, vs. Edward Dorsey, son of Jno. Thomas Stewardson, admr. of Daniel Mildred, vs. John F. Bowie. Spears, French, and Co. vs. Robert Warfield. Spears, French, and Co. vs. John Plummer. James Brown

and Co. vs. Henry Stonestreet. James Brown and Co.  
vs. John Thompson.

Hon. William V. Murray, Esq.

No. 52.

*Philadelphia, May 1, 1792.*

SIR,—In April, 1791, in the district court of Fredericksburg, the case Mitchell against Wallis, in which the law of the state was plead, in bar of the debt, the following were the circumstances :

Mitchell, a native of Great Britain, residing and trading in Virginia, having debts due him, to great amount, conveyed them, with other property, just before the war, to the use of his creditors, in Great Britain, and of one creditor in Virginia. In this situation the debts remained through the war, and the action was brought in favour of the British creditors, in 1788, or 89, and judgment rendered for the plaintiffs. Several other judgments were entered in favour of the same parties, in that and the subsequent term. This must be deemed such a debt as was supposed to be prohibited and provided for by the treaty: It was so argued on the part of the defendant, whose counsel I was, and yet judgment was given against him.

I have not known of any other instances, wherein the right to recover was regularly contested. It was, however, always the opinion of the ablest counsel at the bar, that those debts were recoverable, that no law prohibited it, and if it were otherwise, that the treaty would control it. Since the establishment of the present government, upon the presumption there would be no further doubt on the subject, I have likewise heard several of the state judges say they had entertained the same opinion.

'Tis true the British merchants declined generally bringing suits prior to that event, nor indeed have any great number been since brought in the federal courts. For the motive to this conduct, 'tis not necessary to hazard a conjecture, as your inquiries respect only the law and the decisions under it. Certain it is, they have been progressing, and with great success since the peace, in the amicable adjustment of their accounts with their debtors, which has perhaps been more effectual (admitting that there was

no dispute about the recovery otherwise than other debts) than any other course would have been.

The county courts, until very lately, have had exclusive jurisdiction of sums under ten pounds only. Upon all sums above that amount their decisions have been subject to the revision and control of the superior courts. A late modification gives them original jurisdiction of sums under 30*l.*—but, as well as I remember, subject as before to correction of the superior courts by appeal or supersedeas. I believe there are but few debts under that sum of the kind referred.

In the federal court no cause had been put at issue, until the last November term, at which time, that of Jones and Walker was argued, but continued over to the present upon account of the absence of judge Blair, who left the bench in consequence of the death of his son.

I have the honour to be, &c.

JAS. MONROE.

No. 53.

*The Secretary of State. Philadelphia, May 6, 1792.*

SIR,—A written request from you was some days since presented to me as one of the delegation in Congress for the state of Virginia, to communicate to you such information respecting the present state of debts due to British subjects in that state, as had come to my knowledge; in compliance with which request, I now furnish you with the following state of facts.

Previously to my election to Congress, I had been engaged for several years in the practice of law in the state of Virginia. In the prosecution of that business, I was often applied to upon the subject of debts due to British subjects, and had an opportunity of observing the proceedings of several of the courts, in suits brought for the recovery of such debts.

The rules of several of the county courts were not entirely uniform. In some of the counties, suits of that description were generally continued upon the dockets without trial; but they were such as were not much pressed by the plaintiff's counsel. In other counties they were brought to trial, and in all the cases within my recol-

lection, in which the debts were established by competent testimony, judgments were rendered for the plaintiffs; except in one instance, in the court for the county of Chesterfield, where, upon an *issue of fact* upon the plea of a *British debt*, the jury found the plaintiffs to be British subjects, which finding caused some delay, but judgment was afterwards rendered in the same court for the same debt, and the money since paid under the judgment.

The plaintiffs in this suit were formerly British merchants, under the firm of Robert Donald, jun. and Co. I was counsel for the company in that suit, and have been concerned as counsel for them, or for some of the members under other firms, in at least one hundred cases, in which the plaintiffs have received judgments in their favour, and I believe have been as successful in collecting moneys under judgments as is usually the case with citizens of the state of Virginia. I recollect a case in the court of the county of Cumberland, in which Robert Donald was plaintiff against Rolfe Eldridge defendant, upon a bond, judgment was given for the plaintiff. The defendant obtained an injunction from the chancery side of the same court to stay proceedings, &c. upon the suggestion, that the debt was originally due to British subjects, who were merchants and partners, and had been changed by obtaining a bond to Donald, in his individual capacity, who was an American citizen. Upon application the suit was brought before the chancellor by *certiorari*, and the injunction dissolved; during the same time, the money for which judgment was rendered, has been since paid I believe to my agent and passed in account with me, to the credit of the company of which Donald was a member.

I am now concerned in several suits in the high court of chancery, for the purpose of foreclosing mortgages executed to British subjects; they have not yet come to a decision. I entertain no doubt however, but that the decrees will be for foreclosing the mortgages and the payment of the money secured by them. It may be observed upon the whole, that there have been temporary delays in some of the courts, attending the recovery of debts, of the description before mentioned, but it is certain, that many judgments have been rendered for them, and moneys paid, by means of compulsory process in pursuance of those

judgments. I am now in great haste. If any further information within my knowledge be necessary, I shall take pleasure in communicating it upon request.

I am, sir, &c.

WM. B. GILES.

No. 54.

*Senate Chamber, April 13, 1792.*

SIR,—I have heard of but few suits brought by British creditors since the peace, for the recovery of debts in the state of North Carolina, and never heard that any one had failed of a recovery, because he was a British subject. In one instance, where a suit was instituted, and in my direction, for the recovery of a debt, contracted in 1768, at which time the plaintiff returned to Great Britain, and has been resident in London from that time, a recovery was had, in the superior court at Edenton, in April last, for the full value, nor was it any part of the defence, that the plaintiff was a British subject, though the fact was notorious. The parties were Alexander Elmsly against Steven Lee's executors.

The case of Bayard against Singleton, as I recollect it, was this: Mr. Cornell, the father of Mr. Bayard, was a merchant in the town of Newbern, in North Carolina; some time previous to the declaration of independence, he went to Europe, leaving his family in Newbern, and after that returned from Europe to New York, then a British garrison. From New York, he came to Newbern in a flag of truce, but the assembly, then sitting, refused to permit him to come on shore, unless he would take an oath of allegiance to the state, which he refused. While on board the vessel, in the harbour of Newbern, he conveyed the whole of his estate in North Carolina, to his children respectively, by several deeds of gift, which were duly proved and registered. Mr. Cornell then, with the permission of the executive, removed his wife and children to New York. All Mr. Cornell's estate was afterwards declared to be confiscated, by act of assembly, and all the property which Mr. Cornell had conveyed to his children, was seized, and sold by commissioners appointed for the sale of confiscated estates.

Mr. Singleton became a purchaser of part of it. Under this sale, one of Mr. Cornell's daughters, who claimed that part under one of the above mentioned conveyances, instituted an ejectment for the recovery of it, and on trial, a verdict was given for the defendant.

I should have done myself the pleasure sooner to have answered your queries, had I not parted with your notes immediately, and did not get them back till this morning.

I am. &c.

SAML. JOHNSTON.

No. 55.

SIR,—In answer to your questions relating to the recovery of certain debts in South Carolina, I have the honour of informing you, that it is thought that several instances of judgment for British debts have occurred, but for want of time to procure direct official information from South Carolina, the only instance which can now be ascertained here, is of the house of Powel, Hopton and Co. having obtained judgment against a citizen of South Carolina, for a debt contracted previous to the war.

Mr. Brailsford, one of the partners in this company, resided during the war in Great Britain, but is now a resident in South Carolina; the other partners, Messrs. Powell and Hopton both withdrew themselves, during the war, to the British dominions, and are now subjects of his Britannick majesty. An instance of a suit in chancery having been commenced and now pending between the British house of Shubrick, and a citizen of South Carolina, for a discovery of assets, can likewise be ascertained here; and will tend to prove, that British subjects have free access to the courts of South Carolina. Neither can any act of the legislature, making a discrimination between their own citizens and the subjects of Great Britain, in this particular be adduced, except on the question of interest during the war, which by their act is reserved for judicial determination. They seem therefore to have considered the 4th article of the treaty of peace as importing nothing more, than that the subjects of his Britannick majesty should receive as ample and as speedy justice in the recovery of their debts as their own citizens:—in conformity

to which principle, their regulations concerning the recovery of debts have been established.

The new federal constitution is now however adopted by that state, and the federal courts are in the exercise of their powers.

Paper money is no longer a tender in payment of debts, and the 2d section of the 9th article of their state constitution formed in June, 1790, declares that no law impairing the obligation of contracts, shall ever be passed by the legislature of the state.

I have the honour to be, &c.

THOMAS PINCKNEY.

Philadelphia, 9th May, 1792.

The Secretary of State.

No. 55. B.

*Extract of a Letter from Edward Rutledge, Esq. dated Charleston, May 26, 1792.*

You know I am not fond of the attorney's business, and do but little of it; however, in my own practice I can furnish several instances of actions having been brought by British subjects, for debts due to them before the war, by American citizens, and carried to judgment.

The Rev. Mr. Cowper, who in the first commencement of the war refused to take the oath, and went off, brought an action against Melchier Garner, executor of William Garner. I brought it, prosecuted it to judgment, and issued execution—the estate insolvent because his moveable property was carried off or destroyed by the British during the war.

Powel, Hopton and Co. vs. Gaillard—I carried this to judgment, idem vs. Godfrey, I carried to judgment and execution, and the party satisfied—i. e. received satisfactory payments.

James Simpson vs. executors of Major Huger, Bay attorney, judgment and execution—Ross and Mills vs. John Deas—debt on bond in 1773, for a real British debt with British merchants who were never in this country. I carried it to judgment. After the death of Deas, the executors applied to Mr. Penman, who was the agent of Ross and Mills, for permission to sell—he gave permission—



they sold—he bought a plantation, which Mr. Lowndes took off his hands and gave the bonds of John Middleton in payment, the balance of the debt was discharged to the satisfaction of Mr. Penman, and I as attorney on record entered up satisfaction—this case goes the whole length of the business.

And I aver that there is not a single instance to be produced, wherein a British creditor of any description has met with more impediment in the recovery of his debt, than our own citizens. The question of interest has not yet been tried, but we were ever ready to try it.

## No. 56.

SIR,—In answer to your note of the 16th instant, we must say that we know of no instance of a recovery in the state of Georgia by a British creditor against his debtor; we say with equal truth, that we know no instance of any judgment against such recovery since the ratification of the treaty of peace, as the creditors, instead of resorting to the law, have settled, or are in a course of settling in an amicable way with their debtors: and we are still further able to assure you, that the federal court is as open and unobstructed to British creditors in Georgia, as in any other of the United States. With great respect, we are, &c.

W. FEW,  
J. GUNN,  
ABR. BALDWIN,  
FRANS. WILLIS.

April 25, 1792.

Thos. Jefferson, Esq.

## No. 57.

*Extract of a Letter from the Hon. John Adams, Esq. Minister Plenipotentiary of the United States of America, at the court of Great Britain, to the Hon. John Jay, Esq. Secretary for Foreign Affairs—dated Grosvenor Square, Jun 16, 1785.*

LORD CARMARTHEN told me yesterday "That he had letters from Mr. Anstey, mentioning his civil reception:?" A long conversation ensued upon the subject of the posts, debts, &c. little of which, being new, is worth repeating.

The policy of giving up the interest during the war, and of agreeing to a plan of payment by instalments, was again insisted on, from various considerations, particularly from the evident injustice of demanding interest for that period. It was urged that the claim of interest, in most cases, was grounded upon custom, and the mutual understanding of the parties : but that it never had been the custom, nor had it ever been understood or foreseen, that an act of parliament should be passed, casting the American debtor out of the protection of the crown, cutting off all correspondence, and rendering all intercourse criminal ; for that was the result and the legal construction during the whole war.

Here his lordship fully agreed with me, and even outwent me, saying that "It was very true, that by construction of the law of this land, it was high treason in a creditor in Great Britain to receive a remittance from his debtor in America during the war." His lordship added some slight expressions concerning the interest, and wished that the courts were opened for recovering the principal : We might leave the interest for an after consideration.

No. 53.

*Extract of a Letter from the Commissioners of the United States for negotiating a peace with Great Britain, to D. Hartley, Esq.—dated Passy, July 17, 1783.*

WE are also instructed to represent to you, that many of the British debtors in America, have in the course of the war, sustained such considerable and heavy losses by the operation of the British arms in that country, that a great number of them have been rendered incapable of immediately satisfying those debts : We refer it to the justice and equity of Great Britain, so far to amend the article on that subject, as that no execution shall be issued on a judgment to be obtained in any such case, but after the expiration of three years from the date of the definitive treaty of peace. Congress also think it reasonable that such part of the interest which may have accrued on such debts during the war, shall not be payable, because all intercourse between the two countries, had during that period become impracticable as well as improper ; it does not appear just that individuals in America should pay for

delays in payment, which were occasioned by the civil and military measures of Great Britain.

In our opinion the interest of the creditors as well as the debtors, requires that some tenderness be shown to the latter, and that they should be allowed a little time to acquire the means of discharging debts, which in many instances exceed the whole amount of their property.

## No. 59.

*Extract of a Letter from William Rawle, Esq. Attorney of the United States for the District of Pennsylvania, to the Secretary of State—dated April 9, 1792.*

I ENCLOSE a copy of the docket entries in the case of Hoare v. Allen, which show that the plaintiff acquiesced in the verdict given, and that the whole mortgaged property did not sell for half his debt. The plaintiff in this case was and is also a subject of and resident in Great Britain.

The court in this, as they have done in every similar case, directed the jury to deduct seven and a half years' interest. The jury, however, deducted eight and a half years' interest. If the plaintiff had moved the court on the return of the *postea*, a new trial would have been granted, or as the sum was certain, it is probable the court would have recommended and the parties have made the necessary alteration in the judgment.

I have the honour to be, &c.

W. RAWLE.

SAMUEL HOARE, v.

ANDREW ALLEN, jun. and the  
True tenants of Pikeland.

} In the Supreme Court of  
Pennsylvania.

Removed by certiorari from the Common Pleas of Chester county—returnable to January term, 1788.

At nisi prius at West Chester, 8th May, 1789, tried verdict for the plaintiff, and jury certified to the court that the debt due on this action by the defendants to the plaintiff, amounted to thirty-seven thousand one hundred and nine pounds and one penny, and found six pence damages and six pence costs, besides the costs expended.

2d July, 1789. Judg. nisi, from the records pr.

GEO. DAVIS, for  
EDW. BURD, Prothon.

I certify that a levam facias issued upon the above judgment returnable to September term, one thousand seven hundred and eighty-nine, and by virtue thereof, the sheriff seized and took in execution ten thousand one hundred and sixteen acres of land, being the premises mortgaged, and afterwards sold the same at publick vendue for the sum of fifteen thousand pounds, lawful money of Pennsylvania, to Samuel Hoare, he being the highest and best bidder.

Witness my hand, the 7th April, 1792.

GEO. DAVIS, for  
EDW. BURD, Prothon.

No. 60.

*Extract of a Letter of March 15, 1788, from the British Consul at Philadelphia, to the Governour of Pennsylvania.*

“THE settlement of interest on debts due to British merchants here, antecedent to the late troubles, has already been a subject of some discussion in the courts, and will I presume be deemed by your excellency and the council a matter of so much importance, as to require some particular legislative interposition to define its nature and extent.”

*Observations on the preceding Extract by William Lewis, Esq. Attorney of the District of Pennsylvania for the United States.*

THE legislature of the year 1788 did not think themselves authorized by any principles of sound policy or good government to pass a law to define the nature and extent of contracts entered into more than a dozen years before, and it is reasonable to presume that such a law would have been complained of as an infraction of the treaty. Every person has been left to pursue his remedy at law, without any particular act being made for the allowance or abatement of interest; and as the question has altogether depended on the laws of England, the consul's acknowledgment that “the channels of justice flow with great purity, and impartiality in Pennsylvania, and that the laws are faithfully and diligently administered.”

seems to be a full refutation of his own objection. Since, however, the objection is so much insisted on, I will take the liberty of mentioning some facts, a knowledge whereof may be necessary to form a judgment respecting it.

I believe it is truly stated by the consul, that "The terms of contracts between British and American merchants are for the most part of this sort. Goods are sent hither to be paid for in one year; after which interest becomes due at the yearly rate of 5 per cent." This, having been a long established usage, has so far received the sanction of our courts, as that interest has been allowed in such cases from the end of the year; but as there is no positive law for the allowing of interest on an account, as the claim of interest by British merchants from their American debtors was founded on this usage alone; and as no instance has before happened of the intercourse between the people of Great Britain and of America being interrupted by war, our courts held the case to be a new one, to which the usage did not extend, and as there was neither law or usage for allowing interest during the war, that is from the battle of Lexington, in April, 1775, until the provisional articles between the United States and his Britannick majesty, in November, 1782, it has been generally disallowed during that period.

If the debt had been contracted more than a year before the battle of Lexington, interest has been allowed, I believe in all cases, from the time of the debt becoming due until the battle of Lexington, and from the provisional articles until the time of payment. The rule has been reciprocal. It prevailed in a trial in our Supreme court, wherein a citizen of a neighbouring state was plaintiff and a British subject defendant, although the debt had been contracted long before the war. It has been observed in other cases, and I very much doubt if a different one has prevailed at Westminster Hall, in actions brought on running accounts.

The judges have uniformly and without hesitation declared in favour of the treaty, on the ground of its being the supreme law of the land. On this ground they have not only discharged attainted traitors from arrest, but have frequently declared, that they were entitled by the treaty to protection. I am, with the highest esteem, &c.

WILLIAM LEWIS.

The Hon. THOMAS JEFFERSON, Esq.  
Secretary of State of the United States.

*Mr. Hammond, Minister Plenipotentiary of Great Britain,  
to Mr. Jefferson, Secretary of State of the United States.  
Philadelphia, June 2, 1792.*

SIR,—I have the honour of acknowledging the receipt of your letter of the 29th ult. which I shall transmit without delay to my court, for the consideration of his majesty's ministers.

The matter contained in your letter being so various and extensive, I fear that much time must elapse, before I can be enabled to communicate to you my observations upon it. You may however be assured, that I will use every exertion to avoid unnecessary procrastination.

To this observation you will permit me, sir, to add that some of the principles, which you have advanced, do not appear to me, at the present moment, to be entirely relevant to the subjects actually under discussion between our respective countries: And the difference between us in our statement of positive facts is so essential as to render it an act of duty to my own character to vindicate the purity of the sources, from which I have derived my information, by recurring to them for corroborating testimony. If there exist any points upon which I have been misinformed, I will most readily acknowledge my error; but I trust upon the whole that the additional evidence, with which I expect to be furnished, will fully substantiate the allegations I have made, and effectually protect me from the imputation of negligence, or the suspicion of intentional deception.

Although it is by no means in my power to enter into an immediate examination of the general contents of your letter, my design of sending it to England induces me to request an explanation of one part of it, which refers to a transaction that you state to have taken place in that country. Towards the conclusion of your letter, you cite two cases, which in your opinion controvert my position that "in the courts of law, in Great Britain, the citizens of the United States have experienced, without exception, the same protection and impartial distribution of justice as the subjects of the crown."—With respect to the former of those cases (that of the sum of money, the property of the state of Maryland, and detained in England) I have

some general notion of the particulars of it. But in regard to the latter case, I have no knowledge of it whatsoever. I therefore entreat you, sir, to have the goodness to inform me whether the judge of the court of King's bench, to whom you allude, delivered the opinion of the court, in the general terms which you have employed, viz. "that a citizen of the United States, who has delivered 43,000*l.* sterling worth of East India goods to a British subject at Ostend, receiving only 18,000*l.* in part payment, is not entitled to maintain an action for the balance, in a court of Great Britain, though his debtor be found there, is in custody of the court, and acknowledges the facts."

I must own, sir, that even from your statement I am inclined to infer, that the circumstance of Greene's being a citizen of the United States had no connection with the decision of the question; and that the same judgment would have been given in an action of a similar nature, depending between two subjects of the crown of Great Britain. I have the honour to be, sir, &c.

GEO: HAMMOND.

*To the Minister Plenipotentiary of Great Britain. Philadelphia, June 19, 1793.*

SIR,—I had the honour to address you a letter, on the 29th of May was twelvemonth, on the articles still unexecuted of the treaty of peace between the two nations. The subject was extensive and important, and therefore rendered a certain degree of delay, in the reply, to be expected. But it has now become such, as naturally to generate disquietude. The interest we have in the western posts, the blood and treasure which their detention costs us daily, cannot but produce a correspondent anxiety on our part. Permit me, therefore, to ask, when may I expect the honour of a reply to my letter, and to assure you of the sentiments of respect, with which I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Hammond, Minister Plenipotentiary of Great Britain,  
to Mr. Jefferson, Secretary of State. Philadelphia, June  
20, 1793.*

SIR,—I have duly received your letter of yesterday.

In a written communication, which I had the honour of addressing to you on the 2d of June, 1792, and also, in a conversation which I had with you on the following day, I assured you, that I should lose no time in conveying to the king's ministers in England your representation, dated the 29th of May; and it was, in fact, forwarded to them in the course of some few days afterwards.

On the receipt of that paper, I was informed, by his majesty's principal secretary of state, that it would be taken into immediate consideration, and that after it had been thoroughly examined, I should receive some farther instructions relative to it. The transmission of those instructions, which I daily expect, has, I presume, hitherto been delayed, in consequence of the very interesting events, which, since the receipt of it, have occurred in Europe, and which have been of a nature so pressing and important, as probably to have attracted the whole attentions of his majesty's ministers, and thus to have diverted it from objects that are more remote; and that may, perhaps, have been regarded as somewhat less urgent. Whenever I shall learn his majesty's pleasure on the subject of your representation, you may depend, sir, on speedily receiving my reply; to the preparation of which but little time will be requisite on my part, as, in consequence of my exertions for the purpose, I have already collected, in this country, the evidence necessary to substantiate most of the principal facts advanced in my statement of the 5th of March, to which that representation was intended as an answer.

There is one passage in your letter of yesterday, sir, of which it becomes me to take some notice.—The passage I allude to is that wherein you mention “the blood and treasure which the detention of the western posts costs the United States daily.” I cannot easily conjecture the motives in which this declaration has originated. After the evidence that this government has repeatedly received of the strict neutrality observed by the king's governours



of Canada, during the present contest between the United States and the Indians, and of the disposition of those officers to facilitate, as far as may be in their power, any negotiations for peace, I will not, for a moment, imagine, that the expression I have cited was intended to convey the insinuation of their having pursued a different conduct, or that it had any reference to those assertions, which have been lately disseminated, with more than usual industry, through the publick prints in this country, that the western posts have been used, by the government of Canada, as the medium of supplying military stores to the Indians now engaged in war with the United States.

I can assure you, sir, that if the delay, on the part of my country, in the execution of certain articles of the treaty of peace, is such as to create disquietude in this government, I also experience similar impressions with respect to those articles which have, hitherto, not been carried into effect by the United States; as I am perpetually receiving complaints from the British creditors, and their agents in this country, of their inability to procure legal redress in *any* of the courts of law in one or two of the southern states; in which states the greatest part of the debt remaining due to the subjects of Great Britain still continues to exist in the same condition as that in which it was at the conclusion of the war.

I have the honour to be, &c.

GEO: HAMMOND.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. Germantown. November 13, 1793.*

Sir,—In a letter which I had the honour of addressing you on the 19th of June last I asked for information, when we might expect an answer to that which I had written you, on the 29th of May was twelvemonth, on the articles still unexecuted of the treaty of peace between the two nations.

In your answer of the next day you were pleased to inform me, that you had forwarded the letter of the 29th of May, 1792, in the course of a few days after its date, and that you daily expected instructions on the subject: that

you presumed these had been delayed in consequence of the very interesting events which had occurred in Europe, and which had been of a nature so pressing and important, as probably to have attracted the whole attention of your ministers, and thus to have diverted it from objects more remote, and that might, perhaps, have been regarded as somewhat less urgent.

I have it again in charge, from the President of the United States, to ask, whether we can now have an answer to the letter of May 29, before mentioned?

I have the honour to be, &c.

TH: JEFFERSON.

*Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State. Landsdown, November 22, 1793.*

SIR,—In answer to your letter of the 13th current, I have the honour of informing you, that I have not yet received such definitive instructions, relative to your communication of the 29th of May, 1792, as will enable me immediately to renew the discussions upon the subject of it, which have been for some time suspended.

I can, however, repeat with confidence my conviction, that the continuance of the cause, to which I alluded in my letter of the 20th of June last, and no other, has protracted this delay to the present period.

I have the honour to be, &c.

GEO: HAMMOND.

*Mr. Jefferson, Secretary of State, to Mr. Pinckney, Minister Plenipotentiary from the United States with Great Britain. Philadelphia, Sept. 7, 1793.*

SIR,—We have received, through a channel which cannot be considered as authentick, the copy of a paper, styled, “Additional instructions to the commanders of his majesty’s ships of war and privateers, &c.” dated at St. James’s, June 8, 1793. If this paper be authentick, I have little doubt but that you will have taken measures to forward it to me. But as your communication of it may miscarry, and time, in the mean while, be lost, it has been

thought better that it should be supposed authentick ; that, on that supposition, I should notice to you its very exceptionable nature, and the necessity of obtaining explanations on the subject from the British government ; desiring, at the same time, that you will consider this letter as provisionally written only, and as if never written, in the event that the paper, which is the occasion of it, be not genuine.

The first article of it permits all vessels, laden wholly or in part with corn, flour, or meal, bound to any port in France, to be stopped, and sent into any British port, to be purchased by that government, or to be released only on the condition of security given by the master, that he will proceed to dispose of his cargo in the ports of some country *in amity with his majesty*.

This article is so manifestly contrary to the law of nations, that nothing more would seem necessary, than to observe that it is so. Reason and usage have established, that when two nations go to war, those who choose to live in peace retain their natural right to pursue their agriculture, manufactures, and other ordinary vocations ; to carry the produce of their industry, for exchange, to all nations, belligerent or neutral, as usual ; to go and come freely, without injury or molestation ; and, in short, that the war among others shall be, for them, as if it did not exist. One restriction on their natural rights has been submitted to by nations at peace ; that is to say, that of not furnishing to either party implements merely of war, for the annoyance of the other, nor any thing whatever to a place blockaded by its enemy. What these implements of war are, has been so often agreed, and is so well understood, as to leave little question about them at this day. There does not exist, perhaps, a nation in our common hemisphere, which has not made a particular enumeration of them, in some or all of their treaties, under the name of contraband. It suffices, for the present occasion, to say, that corn, flour, and meal, are not of the class of contraband, and consequently remain articles of free commerce. A culture, which, like that of the soil, gives employment to such a proportion of mankind, could never be suspended by the whole earth, or interrupted for them, whenever any two nations should think proper to go to war.

The state of war, then, existing between Great Britain and France, furnishes no legitimate right to either to interrupt the agriculture of the United States, or the peaceable exchange of its produce with all nations; and consequently, the assumption of it will be as lawful hereafter as now, in peace as in war. No ground, acknowledged by the common reason of mankind, authorizes this act now, and unacknowledged ground may be taken at any time and all times. We see, then, a practice begun, to which no time, no circumstances, prescribe any limits, and which strikes at the root of our agriculture, that branch of industry which gives food, clothing, and comfort, to the great mass of the inhabitants of these states. If any nation whatever has a right to shut up, to our produce, all the ports of the earth, except her own, and those of her friends, she may shut up these also, and so confine us within our own limits. No nation can subscribe to such pretensions; no nation can agree, at the mere will or interest of another, to have its peaceable industry suspended, and its citizens reduced to idleness and want. The loss of our produce, if destined for foreign markets, or that loss which would result from an arbitrary restraint of our markets, is a tax too serious for us to acquiesce in. It is not enough for a nation to say, we and our friends will buy your produce. We have a right to answer, that it suits us better to sell to their enemies as well as their friends. Our ships do not go to France to return empty; they go to exchange the surplus of one produce, which we can spare, for surpluses of other kinds, which they can spare, and we want; which they can furnish on better terms, and more to our mind, than Great Britain or her friends. We have a right to judge for ourselves what market best suits us, and they have none to forbid to us the enjoyment of the necessaries and comforts which we may obtain from any other independent country.

This act too tends directly to draw us from that state of peace, in which we are wishing to remain. It is an essential character of neutrality, to furnish no aids (not stipulated by treaty) to one party, which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it, would be a partiality which might lead to war with France, and.

between restraining it ourselves, and permitting her enemies to restrain it unrightfully, is no difference. She would consider this as a mere pretext, of which she would not be the dupe, and on what honourable ground could we otherwise explain it? Thus we should see ourselves plunged, by this unauthorized act of Great Britain, into a war, with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties will enable us to avoid it. In the case where we found ourselves obliged, by treaty, to withhold from the enemies of France the right of arming in our ports, we thought ourselves in justice bound to withhold the same right from France also, and we did it. Were we to withhold from her supplies of provisions, we should, in like manner, be bound to withhold them from her enemies also, and thus shut to ourselves all the ports of Europe, where corn is in demand, or make ourselves parties in the war. This is a dilemma, which Great Britain has no right to force upon us, and for which no pretext can be found in any part of our conduct. She may, indeed, feel the desire of starving an enemy nation; but she can have no right of doing it at our loss, nor of making us the instrument of it.

The President therefore desires that you will immediately enter into explanations on this subject with the British government. Lay before them, in friendly and temperate terms, all the demonstrations of the injury done us by this act, and endeavour to obtain a revocation of it. and full indemnification to any citizens of these states, who may have suffered by it in the mean time. Accompany your representations with every assurance of our earnest desire to live on terms of the best friendship and harmony with them, and to found our expectations of justice on their part on a strict observance of it on ours.

It is with concern, however, I am obliged to observe, that so marked has been the inattention of the British court to every application which has been made to them on any subject, by this government (not a single answer. I believe, having ever been given to one of them, except in the act of exchanging a minister) that it may become unavoidable in certain cases, where an answer of some sort is necessary, to consider their silence as an answer—perhaps this is their intention. Still, however, desirous of furnishing no colour of offence, we do not wish you to

name to them any term for giving an answer. Urge one as much as you can without commitment, and on the 1st day of December be so good as to give us information of the state in which this matter is, that it may be received during the session of Congress.

The 2d article of the same instruction allows the armed vessels of Great Britain to seize, for condemnation, all vessels on their first attempt to enter a blockaded port, except those of Denmark and Sweden, which are to be prevented only, but not seized on their first attempt. Of the nations inhabiting the shores of the Atlantick ocean and practising its navigation, Denmark, Sweden, and the United States alone are neutral. To declare then all *neutral* vessels (for as to the vessels of the *belligerent* powers, no order was necessary) to be legal prize, which shall attempt to enter a blockaded port, except those of *Denmark and Sweden*, is exactly to declare that the *vessels of the United States* shall be lawful prize, and those of Denmark and Sweden shall not. It is of little consequence, that the article has avoided naming the United States, since it has used a description applicable to them, and to them alone, while it exempts the others from its operation, by name. You will be pleased to ask an explanation of this distinction, and you will be able to say, in discussing its justice, that in every circumstance we treat Great Britain on the footing of the most favoured nation, where our treaties do not preclude us, and that even these are just as favourable to her as hers are to us. Possibly she may be bound by treaty to admit this exception, in favour of Denmark and Sweden, but she cannot be bound by treaty to withhold it from us; and if it be withheld merely because not established with us by treaty, what might not we, on the same ground, have withheld from Great Britain during the short course of the present war, as well as the peace which has preceded it?

Whether these explanations with the British government, shall be verbal or in writing, is left to yourself. Verbal communications are very insecure, for it is only to deny them or to change their terms, in order to do away their effect at any time; those in writing have many and obvious advantages, and ought to be preferred unless there be obstacles of which we are not apprized.

I have the honour to be, &c.

TH: JEFFERSON.

*Additional instructions to the commanders of his majesty's ships of war, and privateers that have or may have letters of marque against France. Given at our [L. S.] court at St. James's, the eighth day of June, 1793, and in the 33d year of our reign.*

1st. THAT it shall be lawful to stop and detain all vessels loaded wholly or in part with corn, flour or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as shall be most convenient, in order that such corn, meal or flour, may be purchased on behalf of his majesty's government, and the ships be released after such purchase, and after a due allowance for freight, or that the masters of such ships on giving due security, to be approved of by the court of admiralty, be permitted to proceed to dispose of their cargoes of corn, meal or flour, in the ports of any country in amity with his majesty.

2d. That it shall be lawful for the commanders of his majesty's ships of war and privateers, that have or may have letters of marque against France, to seize all ships whatever be their cargoes, that shall be found attempting to enter any blockaded port, and to send the same for condemnation, together with their cargoes, except the ships of Denmark and Sweden, which shall only be prevented from entering on the first attempt. but on the second shall be sent in for condemnation likewise.

3d. That in case his majesty shall declare any port to be blockaded, the commanders of his majesty's ships of war and privateers that have or may have letters of marque against France. are hereby enjoined if they meet with ships at sea, which appear from their papers to be destined to such blockaded port, but to have sailed from the ports of their respective countries, before the declaration of the blockade shall have arrived there, to advertise them thereof, and to admonish them to go to other ports, but they are not to molest them afterwards, unless it shall appear, that they have continued their course with intent to enter the blockaded port, in which case they shall be subject to capture and condemnation, as shall likewise all ships wheresoever found, that shall appear to have sailed from their ports, bound to any port which his majesty shall

have declared to be blockaded, after such declaration shall have been known in the country from which they sailed, and all ships which in the course of the voyage shall have received notice of the blockade in any manner, and yet shall have pursued their course with intent to enter the same.

G. R.

*Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State. Philadelphia, September 12, 1793.*

SIR,—I have the honour of transmitting to you a copy of an additional instruction, given by his majesty's order in council, to the commanders of the British armed vessels, respecting the commerce of neutral nations with France, in the articles of grain, and also with regard to such French ports as may in the course of the war, be blockaded by the vessels of his majesty, or of the other powers engaged in the war.

In communicating to you this paper, it is necessary for me to remark, that by the law of nations, as laid down by the most modern writers, it is expressly stated, that all provisions are to be considered as contraband, and as such liable to confiscation; in the case where the depriving an enemy of these supplies, is one of the means intended to be employed for reducing him to reasonable terms of peace.—The actual situation of France, is notoriously such, as to lead to the employing this mode of distressing her by the joint operations of the different powers engaged in the war, and the reasoning which in these authors applies to *all* cases of this sort, is certainly much more applicable to the *present* case, in which the distress results from the unusual mode of war, employed by the enemy himself, in having armed almost the whole labouring class of the French nation, for the purpose of *commencing* and supporting hostilities against all the governments of Europe—But this reasoning is most of all applicable to the circumstances, of a trade, which is now in a great measure entirely carried on by the actually ruling party of France itself, and which is therefore no longer to be regarded, as a mercantile speculation of individuals, but as an immediate operation of the very persons who have declared war.



and are now carrying it on against Great Britain—On these considerations therefore the powers at war, would have been perfectly justifiable if they had considered all provisions as contraband; and had directed them as such to be brought in for confiscation.

But the present measure pursued by his majesty's government, so far from going to the extent, which the law of nations and the circumstances of the case would have warranted, only has prevented the French from being supplied with *corn*, omitting all mention of *other* provisions, and even with respect to corn, the regulation adopted is one, which instead of confiscating the cargoes, secures to the proprietors, supposing them neutral, a full indemnification for any loss they may possibly sustain.

With respect to the rule that has been adopted relative to ports blockaded, it is conformable to the general law and practice of all nations, and the exception there mentioned as to Denmark and Sweden, has reference to existing treaties with those powers: and cannot therefore give any just grounds of umbrage or jealousy to other powers, between whom and Great Britain, no such treaties subsist.

Before I conclude this letter, I deem it proper to express my hope that you, sir, will perceive in the communication itself of this paper, a proof of my willingness, to furnish this government with any intelligence that may be interesting to it, and thereby to anticipate the necessity of inquiries on the subject, and I cannot avoid farther adding my conviction that the explanation I have now given of this measure, will satisfactorily evince the propriety of recurring to it in the present instance.

I have the honour to be. &c.

GEO. HAMMOND.

*Mr. Jefferson, Secretary of State, to Mr. Hammond, Minister Plenipotentiary of Great Britain. September 22. 1793.*

SIR,—I have yet to acknowledge the receipt of your favour of the 12th instant, covering an additional instruction to the commanders of British armed vessels, and explaining its principles; and I receive it readily as a proof of your willingness to anticipate our inquiries on subjects interesting to us. Certainly none was ever more so than

the instruction in question, as it strikes at the root of our agriculture, and at the means of obtaining for our citizens in general, the numerous articles of necessity and comfort which they do not make for themselves, but have hitherto procured from other nations by exchange. The paper had been before communicated to the President, and instructions immediately sent to our minister at London, to make proper representations on the subject, in the effect of which we have all that confidence which the justice of the British government is calculated to inspire. That "all provisions are to be considered as contraband in the case where the depriving an enemy of these supplies is one of the means *intended to be employed*," or in any case but that of a place *actually blockaded*, is a position entirely new. However the discussion having been transferred to another place, I forbear to enter into it here.

We had conjectured, but did not before certainly know, that the distinction which the instruction makes between Denmark and Sweden on the one hand, and the United States on the other, in the case of vessels bound to ports blockaded, was on the principle explained by you, that what was yielded to those countries by treaty, it is not unfriendly to refuse to us, *because not yielded to us by treaty*. I shall not contest the right of the principle, as a right to its reciprocity necessarily results to us.

I have the honour to be, &c.

TH. JEFFERSON.

*London, 5th July, 1793.*

DEAR SIR,—The enclosed copy of additional instructions to the commanders of British men of war and privateers will show the further embarrassment to which our commerce will be subjected in the present war. These instructions though dated the 8th of June, were not finally issued to the admiralty till the 28th. Lord Grenville justifies them from the authority of the writers on the law of nations, particularly 2d Vattel, 72. 73. and urges that by the doctrine there laid down they have not gone so far as they would have been justified in proceeding, considering the prospect they have of reducing their enemy by such means, the instructions not extending to all kinds of provisions, nor to confiscations of those kinds that are mentioned. That

the existing circumstances justifying them in considering grain as among contraband articles, they come within the proclamation issued by the President. That the French government are in fact the only importers of grain into that country. That the measure was so guarded by directing the property to be paid for, together with the freight, that the owners could suffer no loss, a liberal price being always allowed in these cases, and he was hopeful the matter would be so conducted as to give satisfaction to the parties concerned. I urged every argument that suggested itself to me, in support of the neutral rights which I contended were injured in this instance, pointed to inconveniences that would attend the execution of the instructions, and urged that the case put by Vattel, of a well grounded hope of reducing the enemy by famine did not exist, provisions being now cheaper in the ports of France than in those of England. Lord Grenville on being asked, said Spain would pursue the same line of conduct; and upon its being objected that even their late convention with Russia, did not extend to this object, he answered that though it was not expressly mentioned, it was fully understood by both parties, to be within the intention of it. At the close of the conversation, I told him I should transmit these instructions to you, accompanied by his reasons in their justification. Lord Grenville spoke in high terms of approbation of the answers to Mr. Hammond's memorials which he received by the packet.

I have the honour to be, &c.

THOMAS PINCKNEY.

The Secretary of State.

*Mr. Pinckney, Minister Plenipotentiary of the United States, with Great Britain, to Mr. Jefferson, Secretary of State. London, August 15, 1793.*

DEAR SIR,—The frequent interruptions our vessels experience, especially in navigating the European seas, induce me to address you in cipher.

I have had several conversations with Lord Grenville, but do not find that this government will at all relax in the measures they have adopted towards the neutral nations—I have urged every thing in my power, in opposition to the policy as well as the right of these measures, and have

assured him they will be considered by our governments as infringements of the neutral rights. As I cannot speak from authority on the subject, I have not said what measures we shall adopt in consequence, although I have strongly insisted on the detriment to the commercial interests of this country, which must necessarily ensue from the various impediments opposed to a free intercourse, as well as from the ill will they will excite. I may perhaps estimate too highly the blessings of peace in general, and the advantages of our neutral situation, notwithstanding all the deductions, to be made on account of the conduct of this country. But it appears to me that if the United States should deem it necessary to go beyond the line of remonstrance on this occasion, prudence will dictate, that our opposition should be confined to commercial regulations. With the utmost respect,

I have the honour to be, &c.

THOMAS PINCKNEY.

MR. PINCKNEY presents his compliments to Lord Grenville, and has the honour of enclosing, in conformity to his Lordship's desire, a memorandum relating to the American ship *Eliza*, to which he has added a note concerning two other vessels; these form only a small part of the American vessels brought into the different ports of Great Britain. Mr. P. thinks it unnecessary to add any thing to what he has had the honour of personally mentioning to his lordship on this subject,—but has a firm reliance that in the execution of measures which he is assured the government of the United States will consider as infringements of the neutral rights, Lord Grenville's endeavours will not be wanting to prevent any unnecessary aggravation of the inconveniences arising therefrom.

Great Cumberland Place, 22d July, 1793.

*Mr. Pinckney, Minister Plenipotentiary of the United States, with Great Britain, to Mr. Jefferson, Secretary of State. London, August 28, 1793.*

DEAR SIR,—Having in my former communications related the conduct of this government to the neutral powers, with the reasons assigned by Lord Grenville for this con-

duct, which reasons, as far as they concern enemy's property on board of neutral vessels, his Lordship informed me he had directed Mr. Hammond to represent fully to our government. I have only to add, that from subsequent conversations, there does not appear any probability of the British government relinquishing this point—these measures are attended, for the present, with greater inconvenience, and consequent irritation to our citizens, on account of the court of admiralty having, as yet, given no decision on the freight, demurrage, &c. to be allowed to the vessels brought in; on this subject I have made repeated applications (for although I am convinced of the respect due to the proceedings of the judiciary of every nation, yet if, in any case, a delay of justice may be deemed equivalent to a denial, it certainly may, in the case of vessels, circumstanced as many of ours are) and the court of admiralty having adjourned to the fourth of September, without any decision on these points, I reiterated my representation to the Secretary of State, who appeared to be surprised at the farther procrastination; and I am, from circumstances, inclined to think, that he will endeavour to accelerate this business, at the time to which the court stands adjourned. As I thought it right that the evidence of our opposition to the measures pursued here, should not rest merely on official conversations, I took an opportunity of bringing forward the discussion in writing, so far at least as to amount to an authentick document of our claim, with some of the reasons in support of it, at the same time that I endeavoured so to guard it, as to leave our government unembarrassed in any line they might think proper to pursue. I enclose a copy of what passed on this subject. I have the honour to be, &c.

TH: PINCKNEY.

MR. PINCKNEY has the honour of acknowledging the receipt of Lord Grenville's note of the 31st ult. and of expressing his obligation for the assurance therein contained, that his lordship's endeavours will be exerted to prevent, as far as possible, any inconvenience to which the European commerce of the citizens of the United States of America may be liable, from the measures unavoidably resulting from the existing state of war; and as

his lordship has adverted to an observation contained in Mr. Pinckney's note of the 22d ult. he will take the liberty of briefly stating the principal reasons which suggested his remark, that "some of the measures of this government will be considered by the United States as infringements on the neutral rights." The measures alluded to, are particularly those which contravene the principles, that free ships make free goods, and which prevent certain articles of provision, the produce of the United States, from being carried, in their own vessels, to the unblockaded ports of France. With respect to the first, it is conceived that as commerce has been more diffusively cultivated, and its principles better understood, the law of nations, relating thereto, has received material improvements since the publication of the most modern and most approved writers on that subject, and that whatever doubts may formerly have existed on this point, that the sense of a considerable majority of the maritime powers of Europe has, within the last twenty years, been clearly expressed in favour of the principle of free ships making free goods, which has been manifested by their practice, in the latter years of the American war, by the stipulations entered into at that time, and by their having inserted the same in their latest treaties. Of these, the treaties entered into between the United States and several European powers, are among the most recent; all of which support this doctrine, by express stipulation; and even Great Britain must admit, that this principle contains nothing dishonourable or improper, since she has adopted it in her commercial treaty with France; and it may not be amiss here to remark, that the commerce of the United States is as advantageous to Great Britain, taking all circumstances into consideration, as that of France has been: Supposing, then, the question of right to be waved, would it be deemed unreasonable for the United States to expect equal advantages with those France would have enjoyed in similar circumstances? But the right now, contended for, appears not only supported by modern practice, but to be conformable to reason: For if two nations have the misfortune of being engaged in war against each other, it is evidently contrary to the dictates of reason, that a third, who has no concern in the quarrel, and has offended neither party, should be injured thereby, or be debarred from that

intercourse with either, which is not immediately connected with military operations. And although people in a state of war, have, in general, a right to seize or destroy their enemy's property, yet they cannot be justified in going, for that purpose, upon neutral territory; (in conformity to which doctrine, the British ship *Grange*, captured by a French frigate in the bay of Delaware, was lately liberated by order of the American government;) and the distinction drawn between neutral territory and neutral vessels, does not appear to form a difference sufficiently substantial to preclude the application of the same principles to both. It may be here added that in the last war, the Americans adopted, and carried into effect, this principle to the advantage of British subjects, having actually liberated several British cargoes captured on board of neutral vessels. Most of the arguments opposed to the first measure, will apply with equal force, to that of bringing American provision vessels, bound to the unblockaded ports of France, into this kingdom—to which it may be added, that if Mr. Pinckney's information is just, (and he has omitted no opportunity which his situation has afforded him, of obtaining accurate intelligence on this subject,) the reason assigned by writers on the law of nations, for measures of this nature, namely the well grounded hope of reducing an enemy by famine, does not apply, in the present instance; because the price of the articles pointed out in the additional instructions, is lower in the French ports, than in those of this kingdom, where there is, by no means, any scarcity. Arguments founded on the inconvenience attending the execution of measures, may fairly be adduced against their adoption; these are so numerous, and so obviously opposed to both the measures now under consideration, that it would be superfluous to select any but those circumstances which press in a peculiar manner upon the citizens of the United States. Under this head it may be observed, that for want of arrangements being made for the security of American seamen in the ports of this country, they are subject to the various hardships Mr. Pinckney has so frequently detailed to Lord Grenville; of course their being captured and brought into these ports, renders them liable to those disadvantages they would otherwise have avoided. Grain being the principal export of the United States, if they are prevent-

ed from carrying that commodity to the French ports, they are not only deprived of that branch of commerce, but are prevented from drawing those commodities from France, for which they have occasion; for in case of the capture and sale of their property here, other regulations prevent remittances being made from hence to France, to purchase the supplies they want. Another inconvenience peculiar to the Americans is, that the similarity of language renders them more obnoxious to the irritation arising from contumelious treatment, too often exhibited by the captors to those whom they have taken; which may, in part, be attributed to those persons being interested in widening the field of capture, who are necessarily employed in executing the measure; it renders them also more accessible to offers of bribery, to commit unworthy actions; on both of which subjects, representations have been already made; but the evil Mr. Pinckney most sincerely deprecates, is the animosity the execution of these measures almost unavoidably generates between the parties concerned therein; which, by extending in their respective countries, may eventually diminish that friendship, which it is the interest, and he trusts, the desire of both nations to augment.

These arguments might be detailed much more at length, and others added to corroborate them; but Mr. Pinckney has deemed it necessary only to touch upon some of the reasons on which his observation was founded, to obviate the idea of his wishing to claim, in behalf of the United States, exemptions to which they are not, in reason, entitled. At the same time, he assures Lord Grenville of the due sense which will, at all times, be entertained by his country, for any circumstances of particular attention to their commerce, and of their earnest desire, by a reciprocation of good offices to increase the mutual advantages of both nations.

Mr. Pinckney begs leave to make his best acknowledgments to Lord Grenville's declaration of personal esteem, and to offer his sentiments of respectful consideration for his Lordship.



*Whitehall, July 31, 1793.*

LORD GRENVILLE has had the honour to receive Mr. Pinckney's note of the 22d July, with the memorandum accompanying it; he has directed inquiry to be made respecting the cases of the several ships mentioned by Mr. Pinckney, which he apprehends, however, to be all in a course of legal adjudication, and consequently not in a state to admit of the interference of government.

Mr. Pinckney may be assured of Lord Grenville's best endeavours at all times, to prevent, as far as possible, any inconvenience arising to the subjects of the United States in their European commerce, from the measures which unavoidably result from that state of war, in which the maritime countries of Europe are engaged. But it is impossible for him not to remark, in reply to the observation contained in Mr. Pinckney's note, that the steps adopted by this government, so far from being infractions of the neutral rights, are more favourable than the law of nations on that subject, as established by the most modern, and most approved writers upon it; and that the rule laid down here, has been marked with circumstances of particular attention to the commerce of America,\* in the instance which Lord Grenville has already had the honour of pointing out to Mr. Pinckney.

Lord Grenville avails himself of this opportunity, to assure Mr. Pinckney of his sincere esteem and consideration.

*Mr. Pinckney, Minister Plenipotentiary of the United States, with Great Britain, to Mr. Jefferson, Secretary of State. London, September 25, 1793.*

DEAR SIR,—No alteration has taken place since my last, in the conduct of this government towards the neutral powers; they still assert the propriety of preventing the provisions specified in their additional instructions, from being sent to French ports, and of making prize of their enemy's property, in whatever vessels it may be found—the execution of these measures, of course, creates much uneasiness among our citizens, whose commerce is

\* This alludes to rice not being included in the prohibition. T P.

much injured thereby—I receive assurances that their court will amply redress the irregularities which may be committed by their cruisers, upon proper application; but these are frequently of a nature, to be with difficulty brought under the cognizance of the judiciary; and I find our seafaring people in general, rather inclined to submit to the first inconvenience, than risk the event of a lawsuit. The court of admiralty, in the beginning of the present month, adjudged freight, demurrage, and expenses to an American vessel, whose cargo was condemned. I am hopeful, since this precedent, that it will be allowed in all other cases, which will, of course, prevent so many of our vessels from being brought in. The protection afforded our seamen, remains also on the same footing; they profess a willingness to secure to us all real American seamen, when proved to be such; but the proof they will not dispense with—our consuls are allowed to give protections, where the master of the vessel and the mariner, swear, that the party is an American native and citizen, which protections, in general, are respected, though some irregularities occasionally take place. So many objections are made to the arrangement we propose on this subject, that I see no prospect of its taking place.

I remain, &c.

THOMAS PINCKNEY.

*Extract from the Convention between his Britannick Majesty and the Empress of Russia, signed at London the 25th of March, 1793.*

Article 3d. Their said majesties reciprocally engage, to shut all their ports against French ships, not to permit the exportation in any case from their said ports for France, of any military or naval stores, or corn, grain, salt meat, or other provisions; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

Article 4th. Their majesties engage to unite all their efforts to prevent other powers, not implicated in this war, from giving on this occasion of common concern to every civilized state, any protection whatever, directly, or indirectly, in consequence of their neutrality to the

commerce or property of the French on the sea, or in the ports of France.

By the treaty between his Britannick majesty and the king of Sardinia, signed at London the 25th April, 1793, the latter engages to keep on foot, during the war, an army of fifty thousand men, for the defence of his dominions, as well as to act against the common enemy; and the former engages to send into the Mediterranean, a respectable fleet, to be employed as circumstances shall permit, in that quarter. By the 2d article, Great Britain is engaged to furnish to Sardinia, during the war, a subsidy of two hundred thousand pounds sterling, payable quarterly, in advance; the first payment at the date of this treaty. By the third article, his Britannick majesty guarantees to his Sardinian majesty, the restitution of all the parts of his dominions which have, or may be taken from him, during the war. The 4th and 5th articles make all hostilities, in consequence of this treaty, a common cause, and direct the exchange of ratifications in two months or sooner.

*Department of State, to wit:*

I hereby certify, that the preceding copies, beginning with a letter of November 29th, 1791, and ending with one of September 25th, 1793: and the paper it enclosed, are from originals, or from authentick copies in the office of the department of state.

Given under my hand, this 4th day of December, 1793.

TH: JEFFERSON.

## PAPERS RELATIVE TO FRANCE.

[The following documents, not found in the pamphlet usually considered as those communicated with the message of December 5, are printed with some other papers, which we have already inserted, and must be thought to have been omitted by mistake.]

*Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State of the United States. New York, September 30, 1793, 2d year of the French Republick.*

SIR,—I am directed to communicate to you a new decree of the National Convention, passed the 20th March, relative to the commerce of the United States with our colonies—You will find in it, sir, fresh proofs of the attachment which France bears to the Americans, and of the interest which she takes in their prosperity—After having confirmed, by the preceding decree, to their European commerce every advantage they could wish during the present war, she has established for them, by this, the opening of the ports of her colonies for the consumption of all the productions of their soil, and their industry, for the importation into the United States of part of her sugars, and her coffee, and for the exportation of every kind of colonial production to the ports of France, on the same footing with the French themselves. This law, constructive of that of the 19th February, appears such to me that I cannot conceive the United States could wish a more favourable one. I have been also charged to direct all the consuls and other agents of the French Republick to attend to the equipments which may take place in the different ports of the United States for the French colonies, and, to prevent any violation of the regulations of the 1st and 3d article of the enclosed decree; and I have every reason to believe that the federal government will cheerfully, and without delay, take the necessary steps that the directions which I am about to give on this head shall meet with no difficulty on their part.

Hitherto, sir, the greatest part of my correspondence has only presented you with details distressing for a philosopher. The declaration of war, occasioned by tyranny

against France in freedom, has only allowed me to speak to you of the military points fixed between our nations by the alliance which unites them; but I this day find a real pleasure in engaging your attention in details more consolatory, in details which cannot fail of being to you the most interesting, since they have no other object than the peaceable pursuits of man as a social being, of man on whom philosophy is delighted to fasten her attention. Urged by the convulsions which occasion the establishment within itself of a constitution which annihilates every privilege, which stifles every prejudice, surrounded by all the force which tyranny and fanaticism can collect against her from every part of Europe, France, presenting in one hand the shield of liberty, and in the other the thunderbolt of war, already marks out by her inspiration those extensive enterprises which, on the return of peace, will fix, in their execution the happiness of the French and of their allies, and prepare a regeneration for the inhabitants of the whole earth! Among these views her first attention has been fixed upon the commercial ties of the Republick with other nations. The national convention has felt the immense satisfaction which enables them to enjoy the spectacle of that establishment which, in annihilating distances, unites, at the same spot, the productions and the enjoyments of every climate, and which, by connecting the human race scattered over the earth should collect them into one family only, constantly excited by the interchange which their mutual wants occasion. She has seen with grief every people groaning under commercial regulations, as absurd as they are tyrannical, every where the victims of errors and of greedy exactions; she has seen them with pain after having overcome seas, mountains, deserts, and every barrier which nature appeared to have placed between them, checked, in the moment when their efforts were to be crowned with success, by rules and ministerial regulations, which, impeding their genius, puts more insurmountable bars to their intercourse, than those even which nature appears to have created. France, sir, perceiving the period when all nations will be freed from these obstacles, views the moment when every one, governed by the same laws, led by the same interests, and leading freely their activity over the face of the earth, find on it no other commercial guide than their own

genius; she has fixed her attention upon that happy period, and she has determined to accelerate it; persuaded that the fittest means to attain this end was to hold up the example of two people enjoying every advantage of a perfectly free communication, she has turned her eyes to the Americans, a people governed like herself without a king, and whose constitutional principles resemble her own, a people whose enlightened minds have, like her own, stifled, or are ready to stifle, all the prepossessions of ignorance, a people finally whose genius struggles like her own with the obstacles which corrupt court systems oppose to their commercial activity; such a people appear to her those whom she ought to connect herself with, to attain the great end she méditates; it is with this people she has determined to conclude a new treaty, which, founded upon the unchangeable principles of nature, may, by becoming an object of envy to other nations, invite them to participate in it, and may serve as a model to all those who in future form compacts between themselves. Instead of the mutual interest of the contracting nations she has only seen in the treaties hitherto made, a combination formed for an insatiable and ignorant system of taxation, deceitful calculations by interested individuals, and refinements upon a system equally repugnant to reason, justice, and sound policy. It is in the viciousness of these regulations that she discovers the instability of every treaty hitherto made between governments, and the constant cause of their violation. France therefore wishes now with America, not a treaty, the very name imports a nullity, but a compact agreed to by both, and the duration of which shall depend for its support, not on a temporary interest, nor the understanding between two cabinets, but, on the real and settled interest of the two people.

It is with this view that the national convention has called for a report on the commercial regulations established between the two nations since the treaties made under our last government. It has resulted from this research, that our connexions have been very slender indeed, that the maximum of annual American importations, into the French ports, has never extended to eleven millions, that their exportations were scarcely two millions and a half, and that the eight millions surplus paid in specie, had no other destination than to go in support of the English

manufactories. France has seen that since she has called from all parts for the introduction of provisions into her territories, America has hardly furnished the sixteenth part of the corn and grain which have been introduced there, and, that fifteen sixteenths have been carried there by foreign nations, and even by those whose governments have forced them into a war with her! They have seen with regret in this account, that after having considerably reduced the duty imposed upon your tobacco, that after having admitted your fish and oil (which obliged us to keep up premiums on our own establishments for the cod and whale fishery) we do not enjoy with you any sort of favour for our exportations or importations, and, that after having taken off the duty on the freight by your vessels, you have imposed upon ours a most exorbitant rate of tonnage.

The national convention has been also informed, by this account, that since the last war the admission of Americans into the French colonies has thrown into their hands an immense sum of ready money, which that war had left there, which the French government sends there for the expenses of its administration, and which is obtained there by the intercourse, direct or indirect, with the Spanish and English colonies. It has been informed that they have exported all the sirups and molasses, the greatest part of the rum and taffia, and a prodigious quantity of sugar, coffee, and other colony produce, especially since the revolution has occasioned a neglect of the means of preventing it. France, sir, has seen, without regretting, that a part of these immense productions have contributed to the prosperity of a people whose struggles for their liberty were seconded by her efforts; but she has also seen with the most poignant grief, that the greatest part of these riches have only served to discharge your engagements with the English, and to enrich her own enemies. She has seen, and sensibly felt, that her ties with your nation have served only to ruin her national commerce without obtaining the smallest encouragement to her manufactories, and without furnishing the least opening for the superfluous productions of her soil. France, notwithstanding this disastrous picture, is far from intending to withdraw the benefits she has granted you: on the contrary her wish is to increase them, and her decrees are proofs

of it; but she asks of you a just equivalent. She expects the part she yields to you of her riches, far from being carried to a power as much your enemy as her own, should have its natural effect in improving our mutual connexion. She persuades herself that the extensive opening she offers to all your commodities should procure one to her manufactures, and to such of her productions as nature has as yet refused to your own soil. She wishes finally that the share which she gives you of her riches of every kind, especially of the riches of her colonies, should furnish objects of exchange, not with your former tyrants, but with your allies and with your truest friends. Doubtless, sir, France seeks with reluctance, against England, laws of which she condemns the principles; doubtless her first wish would be to see the English nation, as well as every other, united by a free commerce, a commerce which should have no other rule, or other bounds, than their own activity; but until that nation has freed itself from the fiscal system under which it groans, until it shall have renounced its plan of domineering on all seas, and over all commerce, until she agrees to abandon a system, as impolitical for her, as it is revolting to other nations, France is forced to an opposition equalled to the efforts of a ministry wishing to monopolize all commerce: She is forced to follow the steps of a system she disclaims, but which the interest of the French nation requires so long as it shall be the ruling principle of the other government.

It is upon such considerations, sir, that I am charged, as I have already had the honour to inform you, to open with you a new negotiation, the basis of which shall be its candour and its patriotism, the rules of which shall be the real friendship which unites the two people, and the end of which shall be the mutual, and well understood, interest of both nations. I promise myself that I shall find the same frankness in the government of the United States, for this great work, as I am directed to proceed with in it; I promise myself that you will be equally eager to concur in completing a compact which will do honour to humanity, and which, being founded in nature itself, will be rendered imperishable.

It would be to me unfortunate, and it would be afflicting to France, if I should fail in this attempt. It would be with the greatest regret that I should find myself com-



pelled to announce to you the second part of my instructions, importing a declaration, in case of refusal, or evading it, of the repeal of the laws dictated by the attachment of the French to the Americans, and by a desire to unite closer the ties which engage them. But I cannot fear an opposition on your part, considering the vast field I am directed to offer to your merchants, considering the life which such a compact would give to your agriculture, to your fisheries, to the improvement of your breed of cattle, to your lumber trade; considering the inexhaustible source of riches which the free commerce of the French colonies offers you, and especially in considering that France asks only in return for these great benefits that you take from her, instead of going to seek them from our common enemy, the clothes, and the wine necessary for your consumption. Confident in this hope, happy in the great objects we are about to accomplish, I wait your pointing out a means of negotiating which shall bring us, with as little delay as possible, to the establishment of this national compact, which may be soon presented for the ratification of the representatives of the two people, and the simplicity of which shall equal the grandeur of the end we ought to propose by it. Accept of my respect,

GENET.

*Decree exempting from all duties sundry articles of provision in the colonies, relative to the United States, pronounced in the session of the 26th of March, 1793, 2d year of the French Republick.*

THE National Convention, willing to obviate the difficulties which might arise relative to the execution of its decree of the 19th of February last, concerning the United States of America; to grant new favours to that nation, its ally, and to treat it in its commercial concerns with the French colonies, in the same manner as the vessels of the Republick, decrees as follows:

Article 1. From the day of the publication of the present decree in the French colonies of America, the vessels of the United States of sixty tons burden or under, laden only with flour and provisions, as also with the articles of supplies specified in the 2d article of the arret of the 30th of August, 1784, and with bacon, butter, salt salmon, and

candles, shall be admitted into the harbours of the said colonies exempt from all duties. The same exemption shall be enjoyed by the French vessels laden with the same articles coming from foreign countries.

Article II. The captains of vessels of the United States, who, having imported into the French colonies of America the objects comprised in the above article, shall be desirous to make their returns into the territories of the said States, may load in the said colonies, besides sugar, rum, taffia and merchandise of France, a quantity of coffee equivalent to the fiftieth part of the burden of each vessel, as also a quantity of sugar equivalent to the tenth part of the burden, in conforming to the following articles :

Article III. Every captain of an American vessel desiring to make a return into the United States in coffee and sugar of the French colonies, must prove that his vessel at her arrival had at least two-thirds of her lading according to the 1st article. To this effect he shall be bound to give into the customhouse of the place of his landing, within 24 hours after his arrival, a certificate from the agents of the navy, ascertaining the guage of his vessel and her effective burden. The officers of the said customs shall take care that the exportation of sugars and coffee do not exceed the proportions fixed by the 2d article of the present decree.

Article IV. The captains of vessels of the United States of America shall pay, on leaving the islands, in like manner as the vessels of the Republick, only a duty of five livres for a hundred weight of indigo ; ten livres for a thousand weight of cotton ; five livres for a thousand weight of coffee ; five livres for a thousand weight of lump-sugar ; and fifty sous for a thousand weight of raw sugar. All other merchandise shall be free of all duty on leaving the said colonies.

Article V. The sugars and coffee that shall be loaded shall pay into the customhouses, which are or shall be established in the colonies, over and above the duties fixed as aforesaid, those imposed by the law of the 19th of March, 1791, on the sugars and coffee imported from the said colonies into France, and conformably to the same law.

Article VI. The captains of vessels of the United States desiring to take in goods in the said colonies for the ports

of France, shall give into the customhouse of the place of their departure, the securities required from the owners of French vessels by the 2d article of the law of the 10th of July, 1791, to ensure the landing of those goods in the ports of the Republick.

Article VII. The vessels of those nations with which the French Republick is not at war may import into the French colonies of America all the articles specified by the present decree; they may also bring back into the ports of the Republick only, all the commodities of the said colonies on the conditions mentioned in the said decree, as also in that of the 19th of February.

Certified to be true and conformable to the decree of the National Convention.

GENET.

*Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State of the United States. New York, Sept. 27, 1793, 2d year of the French Republick.*

SIR,—I send you the decree passed by the National Convention on the 9th of May, of the present year, relative to the conduct which ought to be observed by the vessels of France towards the vessels of neutral powers. I forward to you, at the same time, that of the 23d of the same month, which I have been charged to communicate to you, and which contains particular regulations in favour of American vessels. Every friend to humanity will doubtless, sir, do justice to the dispositions made by the decree of the 9th of May. By this law, the severest principles of justice towards the neutral parties is reconcileable with the rigorous measures rendered necessary by the detestable tyranny exercised over neutral nations by the governments which have forced France into war. In the 5th article the National Convention solemnly manifest a view, the execution of which has been long sought by reason and justice, that of seeing neutral nations enjoy every advantage which their neutrality ought to assure them, even with respect to enemy's goods on board their vessels. The mode of expressing this view, and the engagements entered into by the Convention to withdraw those rigorous measures directed by their decree, as soon

as the powers with whom they are at war shall have adopted the same disposition, are well calculated to procure the gratitude of neutral nations, to interest them more and more in her success, and to reconcile every people in the universe to the generous principles by which her diplomatic negotiations are directed.

The decree of the 23d of May pronounces in favour of the Americans an exception to the rigorous measures which France has been compelled to adopt, by that of the 9th May, against the vessels of neutral nations. The considerations which determined this decree were, on the one hand, the scrupulous faith with which France is disposed to observe, in its utmost extent, the treaty which unites her with the United States, and on the other, the thorough confidence she has that the Americans will not abuse this privilege by carrying to her enemies those productions by which they ought to assist in the defence of a cause as much their own as hers. She hopes she shall not be deceived in an attempt which in this instance is founded upon the principles and the friendship of her American brethren.

I have been informed that the English government have declared their determination to carry into the English ports all the American vessels laden with provisions for the ports of France. The French Republick expects, sir, that the government of the United States, as well from attachment to her as from regard to its own commerce, and from the dignity it owes itself, will hasten to take the most energetick measures to procure a recall of this decision, which is a consequence well adapted to that diplomatic audacity to which that court has long attempted to subject every other nation. If the measures which you shall take, measures which are in the spirit of our treaty, if not in its letter, are insufficient or fruitless, and that your neutrality, as it has hitherto been, can only be serviceable to the enemies of France, and unfortunate for herself, you will doubtless perceive that she will exercise a very natural right in taking measures to prevent one consequence so injurious to her, and which destroys the effect of the principles upon which the treaties are founded which subsist between her and the United States. In the mean time I am authorized to announce to you, that the French vessels, which at this moment are masters of

the channel, and of the gulf of Gascony, are ordered to protect American vessels bound to France, and to assure their arrival at the ports to which they are destined, so that the American merchants, notwithstanding the tyranny exercised over them by England, may direct, with security, their speculations for our ports, and give proofs of their attachment to us and to the cause of liberty.

Accept my respects,

GENET.

*Decree directing French armed vessels to carry into the ports of the Republick neutral vessels loaded with provisions and bound to enemies' ports, pronounced in the sitting of the 9th of May, 1793, 2d year of the French Republick.*

ART. I. Ships of war and privateers are authorized to seize and carry into the ports of the Republick, merchant vessels which are wholly or in part loaded with provisions, being neutral property, bound to an enemy's port, or having on board merchandise belonging to an enemy.

ART. II. Merchandise belonging to the enemy is declared a lawful prize, seizable for the profit of the captor. Provisions being neutral property, shall be paid for at the price they would have sold for at the port where they were bound.

ART. III. On every occasion neutral vessels shall be immediately released the moment the provisions found on board are landed, or the seizure of the merchandise shall be effected. The freight shall be settled at the rate paid by the charterers; a proper compensation shall be granted for the detention of the vessels by the tribunals, who are ready to adjudge the prizes.

ART. IV. These tribunals shall cause to be made out within three days after the judgment has been given, a copy of the manifest of the provisions and goods found on board, to the minister of marine, and another copy to the minister for foreign affairs.

*Decree of the 23d of May, which declares that the vessels of the United States are not comprised in the regulations of the decree of the 9th of May.*

THE National Convention, after having heard the report of its committee of publick safety, desiring to preserve the union established between the French Republick and the United States of America, decrees that the vessels of the United States are not comprised in the regulations of the 9th of May, conformably to the 16th article of the treaty, passed the 16th of February, 1778.

Certified to be true, and conformable to the decrees of the National Convention.

GENET.

*Citizen Genet, Minister Plenipotentiary of the French Republick, to Mr. Jefferson, Secretary of State of the United States. New York, November 14, 1793.*

SIR,—Having been overwhelmed with business at the moment of my having the honour to transmit you the decree of the National Convention of the 26th of March last, it was impossible for me to look over the copy I sent, or that of the note with which it was accompanied. I am obliged by your sending back these pieces to me. I have examined and corrected the errours you were struck with, and I hasten to return it to you under the present cover. I have thought proper to add to it the copy of a letter which I have just written to the consuls of the Republick to acquaint them with the new regulations of the National Convention relative to the commerce with the United States, and of the obligations they impose on them. This decree, sir, presents to the Americans inestimable advantages. They can by this law carry to our colonies cargoes, the production of their fisheries, their provisions, of their agriculture, purchase colonial commodities with the sales of their cargoes, and complete their lading with freights which are at this time offered in abundance and at a high rate in all our islands. I do not think there can be any speculations more lucrative for them.

This law moreover grants you an advantage which the arret of 1784 had refused you, that of enabling you to im-

port directly into the United States a quantity of sugar and coffee sufficient for your own consumption. This quantity has been estimated by the commercial committee of the National Convention at a fiftieth of the tonnage for the coffee, and at a tenth for the sugar. All these advantages, which there appears a disposition still to increase, if we obtain from the United States a just reciprocity, appear to me highly proper to call for all the attention of the federal government to the fate of our colonies. I beg you to lay before the President of the United States as soon as possible the decree and the enclosed note, and to obtain from him the earliest decision either as to the guaranty I have claimed the fulfilment of for our colonies, or, upon the mode of negotiation of the new treaty I was charged to propose to the United States, and which would make of the two nations but one family. Accept my respect,

GENET.

*Copy of a Letter from the Secretary of State of the United States, to Citizen Genet, Minister Plenipotentiary of the French Republick to the United States. Germantown, November 5, 1793.*

SIR,—I shall be late in acknowledging the receipt of your several letters written since my departure from Philadelphia, not having received any of them till the 24th ult. and most of them only the last night. I have already laid some of them before the President, and shall lay the others successively before him at as early moments as the pressure of business will admit.

That of September 30th with the decree of the National Convention of March 26th, 1793, on the subject of a treaty of commerce was laid before him yesterday, and will be considered with all the respect and interest which its object necessarily requires. In the mean time, that I may be enabled to present him a faithful translation of the decree, I take the liberty of returning the copy to you with a prayer that you will have it examined by your original, and see whether there is not some error in the latter part of the 2d article, page 2, where the description of the cargo to be re-exported from the Islands is so unusual as to induce me to suspect an error in the copyist. Having

to return the decree for re-examination, I take the liberty of doing the same by the letter covering it, as in the first line of the seventh page the sense appears to me incomplete, and I wish to be able to give it with correctness.

I have the honour to be, &c.

TH: JEFFERSON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
TRANSACTIONS WITH SPAIN. DEC. 16, 1793.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
MOROCCO, ALGIERS AND PRISONERS. DEC. 16, 1793.

[See Vol. Confidential Documents.]

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## REPORT

OF THE SECRETARY OF STATE ON THE PRIVILEGES AND  
RESTRICTIONS ON THE COMMERCE OF THE UNITED STATES  
IN FOREIGN COUNTRIES. DEC. 16, 1793.

SIR,—According to the pleasure of the House of Representatives, expressed in their resolution of February 23, 1791, I now lay before them a report on the privileges and restrictions on the commerce of the United States in foreign countries. In order to keep the subject within those bounds which I supposed to be under the contemplation of the House, I have restrained my statements to those countries only with which we carry on a commerce of some importance, and to those articles also of our produce which are of sensible weight in the scale of our exports; and even these articles are sometimes grouped together, according to the degree of favour or restriction with which they are received in each country.



and that degree expressed in general terms without detailing the exact duty levied on each article. To have gone fully into these minutiae, would have been to copy the tariffs and books of rates of the different countries, and to have hidden, under a mass of detail, those general and important truths, the extraction of which, in a simple form, I conceived would best answer the inquiries of the House, by condensing material information within those limits of time and attention, which this portion of their duties may justly claim. The plan, indeed, of minute details which have been impracticable with some countries, for want of information.

Since preparing this report, which was put into its present form in time to have been given in to the last session of Congress, alterations of the conditions of our commerce with some foreign nations have taken place—some of them independent of the war; some arising out of it.

France has proposed to enter into a new treaty of commerce with us, on liberal principles; and has, in the mean time, relaxed some of the restraints mentioned in the report. Spain has, by an ordinance of June last, established New Orleans, Pensacola and St. Augustine into free ports, for the vessels of friendly nations *having treaties of commerce* with her, provided they touch for a permit at Corcubion in Galicia, or at Alicant; and our rice is, by the same ordinance, excluded from that country. The circumstances of the war, have necessarily given us freer access to the West Indian islands, whilst they have also drawn on our navigation, vexations and depredations of the most serious nature.

To have endeavoured to describe all these, would have been as impracticable as useless, since the scenes would have been shifting while under description. I therefore think it best to leave the report as it was formed, being adapted to a particular point of time, when things were in their settled order, that is to say, to the summer of 1792.

I have the honour to be, &c.

TH: JEFFERSON.

To the Speaker of the House of Representatives  
of the United States of America.

## REPORT, &amp;c.

The Secretary of State, to whom was referred, by the House of Representatives, the report of a committee on the written message of the President of the United States, of the 14th of February, 1791, with instruction to report to Congress the nature and extent of the privileges and restrictions of the commercial intercourse of the United States with foreign nations, and the measures which he should think proper to be adopted for the improvement of the commerce and navigation of the same, has had the same under consideration, and thereupon makes the following Report :

THE countries with which the United States have their chief commercial intercourse are Spain, Portugal, France, Great Britain, the United Netherlands, Denmark, and Sweden, and their American possessions : and the articles of export, which constitute the basis of that commerce, with their respective amounts, are,

Bread stuff, that is to say ; bread grains, meals, and bread, to the annual amount	Dolls.
of - - - - -	7,649,887
Tobacco, - - - - -	4,349,567
Rice, - - - - -	1,753,796
Wood, - - - - -	1,263,534
Salted fish, - - - - -	941,696
Pot and pearl ash, - - - - -	839,093
Salted meats, - - - - -	599,130
Indigo, - - - - -	537,379
Horses and mules, - - - - -	339,753
Whale oil, - - - - -	252,591
Flax seed, - - - - -	236,072
Tar, pitch and turpentine, - - - - -	217,177
Live provisions, - - - - -	137,743
Ships, - - - - -	
Foreign goods, - - - - -	620,274

To descend to articles of smaller value than these, would lead into a minuteness of detail neither necessary nor useful to the present object.

The proportions of our exports, which go to the nations before mentioned, and to their dominions, respectively, are as follows :

	Dolls.
To Spain and its dominions,	2.005.907
Portugal and its dominions,	1.283.462
France and its dominions,	4.698.735
Great Britain and its dominions,	9.363.416
The United Netherlands and their dominions,	1.963.880
Denmark and its dominions,	224.415
Sweden and its dominions,	47.240

Our imports from the same countries, are,

Spain and its dominions,	335.110
Portugal and its dominions,	595.763
France and its dominions,	2.068.348
Great Britain and its dominions,	15.285.428
United Netherlands and their dominions,	1.172.692
Denmark and its dominions,	351.364
Sweden and its dominions,	14.325

These imports consist mostly of articles on which industry has been exhausted.

Our *navigation*, depending on the same commerce, will appear by the following statement of the tonnage of our own vessels, entering in our ports, from those several nations and their possessions, in one year; that is to say; from October, 1789, to September, 1790, inclusive, as follows :

	Tons.
Spain - - - -	19,695
Portugal - - - -	23,576
France - - - -	116,410
Great Britain - - - -	43,580
United Netherlands - - - -	58,858
Denmark - - - -	14,655
Sweden - - - -	750

Of our commercial objects, Spain receives favourably, our bread-stuff, salted fish, wood, ships, tar, pitch and turpentine. On our meals, however, as well as on those of other foreign countries, when re-exported to their colonies, they have lately imposed duties of from half a dollar to two dollars the barrel, the duties being so proportioned

to the current price of their own flour, as that both together are to make the constant sum of nine dollars per barrel.

They do not discourage our rice, pot and pearl ash, salted provisions, or whale oil : but these articles, being in small demand at their markets, are carried thither but in a small degree. Their demand for rice, however, is increasing. Neither tobacco nor indigo are received there. Our commerce is permitted with their Canary islands under the same conditions.

Themselves, and their colonies, are the actual consumers of what they receive from us.

Our navigation is free with the kingdom of Spain ; foreign goods being received there in our ships on the same conditions as if carried in their own, or in the vessels of the country of which such goods are the manufacture or produce.

*Portugal* receives favourably our grain and bread, salted fish, and other salted provisions, wood, tar, pitch, and turpentine.

For flax seed, pot and pearl ash, though not discouraged, there is little demand.

Our ships pay 20 per cent. on being sold to their subjects, and are then free bottoms.

Foreign goods (except those of the East Indies) are received on the same footing in our vessels as in their own, or any others ; that is to say, on general duties of from 20 to 28 per cent. and, consequently, our navigation is unobstructed by them. Tobacco, rice and meals are prohibited.

Themselves and their colonies consume what they receive from us.

These regulations extend to the Azores, Madeira, and the Cape de Verd islands, except that in these meals and rice are received freely.

*France* receives favourably our bread-stuff, rice, wood, pot and pearl ashes.

A duty of 5 sous the quintal, or nearly  $4\frac{1}{2}$  cents, is paid on our tar, pitch, and turpentine. Our whale oils pay 6 livres the quintal, and are the only foreign whale oils admitted. Our indigo pays 5 livres the quintal, their own  $2\frac{1}{2}$  : but a difference of quality, still more than a difference of duty, prevents its seeking that market.

Salted beef is received freely for re-exportation ; but if for home consumption, it pays 5 livres the quintal. Other salted provisions pay that duty in all cases, and salted fish is made lately to pay the prohibitory one of 20 livres the quintal.

Our ships are free to carry thither all foreign goods which may be carried in their own or any other vessels, except tobaccos not of our own growth ; and they participate with theirs, the exclusive carriage of our whale oils and tobaccos.

During their former government, our tobacco was under a monopoly, but paid no duties ; and our ships were freely sold in their ports, and converted into national bottoms. The first national assembly took from our ships this privilege. They emancipated tobacco from its monopoly, but subjected it to duties of 18 livres, 15 sous the quintal, carried in their own vessels, and 5 livres carried in ours—a difference more than equal to the freight of the article.

They and their colonies consume what they receive from us.

*Great Britain* receives our pot and pearl ashes free, whilst those of other nations pay a duty of two shillings and three pence the quintal. There is an equal distinction in favour of our bar iron ; of which article, however, we do not produce enough for our own use. Woods are free, from us, whilst they pay some small duty from other countries. Indigo and flax seed are free from all countries. Our tar and pitch pay eleven pence, sterling, the barrel. From other alien countries they pay about a penny and a third more.

Our tobacco, for their own consumption, pays one shilling and three pence, sterling, the pound, custom and excise, besides heavy expenses of collection ; and rice, in the same case, pays seven shillings and four pence, sterling, the hundred weight ; which, rendering it too dear, as an article of common food, it is consequently used in very small quantity.

Our salted fish and other salted provisions, except bacon, are prohibited. Bacon and whale oils are under prohibitory duties ; so are our grains, meals and bread, as to internal consumption, unless in times of such scarcity as may raise the price of wheat to fifty shillings, sterling, the quarter, and other grains and meals in proportion.

Our ships, though purchased and navigated by their own subjects, are not permitted to be used, even in their trade with us.

While the vessels of other nations are secured by standing laws, which cannot be altered but by the concurrent will of the three branches of the British legislature, in carrying thither any produce or manufacture of the country to which they belong, which may be lawfully carried in any vessels, ours, with the same prohibition of what is foreign, are further prohibited by a standing law, (12 Car. 2, 18. sect. 3.) from carrying thither all and any of our own domestick productions and manufactures. A subsequent act indeed has authorized their executive to permit the carriage of our own productions in our own bottoms, at its sole discretion; and the permission has been given from year to year by proclamation, but subject every moment to be withdrawn on that single will, in which event, our vessels having any thing on board, stand interdicted from the entry of all British ports. The disadvantage of a tenure which may be so suddenly discontinued, was experienced by our merchants on a late occasion,\* when an official notification that this law would be strictly enforced, gave them just apprehensions for the fate of their vessels and cargoes despatched or destined to the ports of Great Britain. The minister of that court, indeed, frankly expressed his personal conviction, that the words of the order went farther than was intended, and so he afterwards officially informed us; but the embarrassments of the moment were real and great, and the possibility of their renewal lays our commerce to that country under the same species of discouragement as to other countries, where it is regulated by a single legislator; and the distinction is too remarkable not to be noticed, that our navigation is excluded from the security of fixed laws, while that security is given to the navigation of others.

Our vessels pay in their ports one shilling and nine pence, sterling, per ton, light and trinity dues, more than is paid by British ships, except in the port of London, where they pay the same as British.

The greater part of what they receive from us, is re-exported to other countries, under the useless charges of

\* April 12, 1792

an intermediate deposit, and double voyage. From tables published in England, and composed, as is said, from the books of their customhouses, it appears, that of the indigo imported there in the years 1773, '4, '5, one third was re-exported; and from a document of authority, we learn, that of the rice and tobacco imported there before the war, four-fifths were re-exported. We are assured indeed that the quantities sent thither for re-exportation since the war, are considerably diminished, yet less so than reason and national interest would dictate. The whole of our grain is re-exported when wheat is below fifty shillings the quarter, and other grains in proportion.

The *United Netherlands* prohibit our pickled beef and pork, meals and bread of all sorts, and lay a prohibitory duty on spirits distilled from grain.

All other of our productions are received on varied duties, which may be reckoned, on a medium, at about three per cent.

They consume but a small proportion of what they receive. The residue is partly forwarded for consumption in the inland parts of Europe, and partly re-shipped to other maritime countries. On the latter portion they intercept between us and the consumer, so much of the value as is absorbed by the charges attending an intermediate deposit.

Foreign goods, except some East India articles, are received in vessels of any nation.

Our ships may be sold and naturalized there, with exceptions of one or two privileges, which somewhat lessen their value.

*Denmark* lays considerable duties on our tobacco and rice, carried in their own vessels, and half as much more, if carried in ours; but the exact amount of these duties is not perfectly known here. They lay such as amount to prohibitions on our indigo and corn.

*Sweden* receives favourably our grains and meals, salted provisions, indigo and whale oil.

They subject our rice to duties of sixteen mills the pound weight, carried in their own vessels, and of forty per cent. additional on that, or twenty-two and four-tenths

mills, carried in ours or any others. Being thus rendered too dear as an article of common food, little of it is consumed with them. They consume some of our tobaccos, which they take circuitously through Great Britain, levying heavy duties on them also; their duties of entry, town duties and excise being 4. 34 dollars the hundred weight, if carried in their own vessels, and of 40 per cent. on that additional, if carried in our own or any other vessels.

They prohibit altogether our bread, fish, pot and pearl ashes, flax seed, tar, pitch and turpentine, wood, (except oak timber and masts) and all foreign manufactures.

Under so many restrictions and prohibitions, our navigation with them is reduced to almost nothing.

With our neighbours an order of things much harder presents itself.

*Spain* and *Portugal* refuse to those parts of America which they govern, all direct intercourse with any people but themselves. The commodities in mutual demand, between them and their neighbours, must be carried to be exchanged in some port of the dominant country, and the transportation between that and the subject state, must be in a domestick bottom.

*France*, by a standing law. permits her West India possessions to receive directly our vegetables, live provisions, horses, wood, tar, pitch and turpentine, rice and maize, and prohibits our other bread stuff: but a suspension of this prohibition having been left to the colonial legislatures, in times of scarcity, it was formerly suspended occasionally, but latterly without interruption.

Our fish and salted provisions (except pork) are received in their islands under a duty of three colonial livres the quintal, and our vessels are as free as their own to carry our commodities thither, and to bring away rum and molasses.

*Great Britain* admits in her islands our vegetables, live provisions, horses, wood, tar, pitch and turpentine, rice and bread stuff, by a proclamation of her executive, limited always to the term of a year, but hitherto renewed from year to year. She prohibits our salted fish and other salted provisions. She does not permit our vessels to carry



thither our own produce. Her vessels alone, may take it from us, and bring in exchange rum, molasses, sugar, coffee, cocoa nuts, ginger and pimento. There are, indeed, some freedoms in the island of Dominica, but, under such circumstances, as to be little used by us. In the British continental colonies, and in Newfoundland, all our productions are prohibited, and our vessels forbidden to enter their ports. Their governours, however, in times of distress have power to permit a temporary importation of certain articles, in their own bottoms, but not in ours.

Our citizens cannot reside as merchants or factors within any of the British plantations, this being expressly prohibited by the same statute of 12 Car. 2 c. 18, commonly called the navigation act.

In the *Danish American* possessions a duty of 5 per cent. is levied on our corn, corn meal, rice, tobacco, wood, salted fish, indigo, horses, mules and live stock, and of 10 per cent. on our flour, salted pork and beef, tar, pitch and turpentine.

In the American islands of the *United Netherlands* and Sweden, our vessels and produce are received, subject to duties, not so heavy as to have been complained of; but they are heavier in the Dutch possessions on the continent.

To sum up these restrictions, so far as they are important:

FIRST. In Europe—

Our bread stuff is at most times under prohibitory duties in England, and considerably dutied on re-exportation from Spain to her colonies.

Our tobaccos are heavily dutied in England, Sweden and France, and prohibited in Spain and Portugal.

Our rice is heavily dutied in England and Sweden, and prohibited in Portugal.

Our fish and salted provisions are prohibited in England, and under prohibitory duties in France.

Our whale oils are prohibited in England and Portugal.

And our vessels are denied naturalization in England, and of late in France.

SECOND. In the West Indies—

All intercourse is prohibited with the possessions of Spain and Portugal.

Our salted provisions and fish are prohibited by England.

Our salted pork and bread stuff (except maize) are received under temporary laws only, in the dominions of France, and our salted fish pays there a weighty duty.

THIRD. In the article of navigation—

Our own carriage of our own tobacco is heavily dutied in Sweden, and lately in France.

We can carry no article, not of our own production, to the British ports in Europe. Nor even our own produce to her American possessions.

Such being the restrictions on the commerce and navigation of the United States; the question is, in what way they may best be removed, modified or counteracted?

As to commerce, two methods occur. 1. By friendly arrangements with the several nations with whom these restrictions exist: Or, 2. By the separate act of our own legislatures for countervailing their effects.

There can be no doubt but that of these two, friendly arrangement is the most eligible. Instead of embarrassing commerce under piles of regulating laws, duties and prohibitions, could it be relieved from all its shackles in all parts of the world, could every country be employed in producing that which nature has best fitted it to produce, and each be free to exchange with others mutual surplusses for mutual wants, the greatest mass possible would then be produced of those things which contribute to human life and human happiness; the numbers of mankind would be increased, and their condition bettered.

Would even a single nation begin with the United States this system of free commerce, it would be advisable to begin it with that nation; since it is one by one only, that it can be extended to all. Where the circumstances of either party render it expedient to levy a revenue, by way of impost, on commerce, its freedom might be modified, in that particular, by mutual and equivalent measures, preserving it entire in all others.

Some nations, not yet ripe for free commerce in all its extent, might still be willing to mollify its restrictions and

regulations for us, in proportion to the advantages which an intercourse with us might offer. Particularly they may concur with us in reciprocating the duties to be levied on each side, or in compensating any excess of duty by equivalent advantages of another nature. Our commerce is certainly of a character to entitle it to favour in most countries. The commodities we offer are either necessities of life, or materials for manufacture, or convenient subjects of revenue; and we take in exchange, either manufactures, when they have received the last finish of art and industry, or mere luxuries. Such customers may reasonably expect welcome and friendly treatment at every market. Customers, too, whose demands, increasing with their wealth and population, must very shortly give full employment to the whole industry of any nation whatever, in any line of supply they may get into the habit of calling for from it.

But should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties and regulations, it behooves us to protect our citizens, their commerce and navigation, by counter prohibitions, duties and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations: nor are they likely to produce a relaxation of them.

Our navigation involves still higher considerations. As a branch of industry, it is valuable, but as a resource of defence, essential.

Its value, as a branch of industry, is enhanced by the dependence of so many other branches on it. In times of general peace it multiplies competitors for employment in transportation, and so keeps that at its proper level; and in times of war, that is to say, when those nations who may be our principal carriers, shall be at war with each other, if we have not within ourselves the means of transportation, our produce must be exported in belligerent vessels, at the increased expense of war-freight and insurance, and the articles which will not bear that, must perish on our hands.

But it is as a resource of defence that our navigation will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their land-board, and nothing to desire beyond

their present rights. But on their seaboard, they are open to injury, and they have there, too, a commerce which must be protected. This can only be done by possessing a respectable body of citizen-seamen, and of artists and establishments in readiness for ship-building.

Were the ocean, which is the common property of all, open to the industry of all, so that every person and vessel should be free to take employment wherever it could be found, the United States would certainly not set the example of appropriating to themselves, exclusively, any portion of the common stock of occupation. They would rely on the enterprise and activity of their citizens for a due participation of the benefits of the seafaring business, and for keeping the marine class of citizens equal to their object. But if particular nations grasp at undue shares, and, more especially, if they seize on the means of the United States, to convert them into aliment for their own strength, and withdraw them entirely from the support of those to whom they belong, defensive and protecting measures become necessary on the part of the nation whose marine resources are thus invaded; or it will be disarmed of its defence; its productions will lie at the mercy of the nation which has possessed itself exclusively of the means of carrying them, and its politics may be influenced by those who command its commerce. The carriage of our own commodities, if once established in another channel, cannot be resumed in the moment we may desire. If we lose the seamen and artists whom it now occupies, we lose the present means of marine defence, and time will be requisite to raise up others, when disgrace or losses shall bring home to our feelings the error of having abandoned them. The materials for maintaining our due share of navigation, are ours in abundance. And, as to the mode of using them, we have only to adopt the principles of those who thus put us on the defensive, or others equivalent and better fitted to our circumstances.

The following principles, being founded in reciprocity, appear perfectly just, and to offer no cause of complaint to any nation.

1. Where a nation imposes high duties on our productions, or prohibits them altogether, it may be proper for us to do the same by theirs; first burdening or excluding

those productions which they bring here, in competition with our own of the same kind; selecting next, such manufactures as we take from them in greatest quantity, and which at the same time we could the soonest furnish to ourselves, or obtain from other countries; imposing on them duties, lighter at first, but heavier afterwards, as other channels of supply open. Such duties having the effect of indirect encouragement to domestick manufactures of the same kind, may induce the manufacturer to come himself into these states, where cheaper subsistence, equal laws, and a vent of his wares, free of duty, may ensure him the highest profits from his skill and industry. And here, it would be in the power of the state governments to co-operate essentially, by opening the resources of encouragement which are under their control, extending them liberally to artists in those particular branches of manufacture for which their soil, climate, population and other circumstances have matured them, and fostering the precious efforts and progress of *household* manufacture, by some patronage suited to the nature of its objects, guided by the local informations they possess, and guarded against abuse by their presence and attentions. The oppressions on our agriculture, in foreign ports, would thus be made the occasion of relieving it from a dependence on the councils and conduct of others, and of promoting arts, manufactures and population at home.

2. Where a nation refuses permission to our merchants and factors to reside within certain parts of their dominions, we may, if it should be thought expedient, refuse residence to theirs in any and every part of ours, or modify their transactions.

3. Where a nation refuses to receive in our vessels any productions but our own, we may refuse to receive, in theirs, any but their own productions. The first and second clauses of the bill reported by the committee, are well formed to effect this object.

4. Where a nation refuses to consider any vessel as ours which has not been built within our territories, we should refuse to consider as theirs, any vessel not built within their territories.

5. Where a nation refuses to our vessels the carriage even of our own productions, to certain countries under their domination, we might refuse to theirs of every de-

scription, the carriage of the same productions to the same countries. But as justice and good neighbourhood would dictate that those who have no part in imposing the restriction on us, should not be the victims of measures adopted to defeat its effect, it may be proper to confine the restriction to vessels owned or navigated by any subjects of the same dominant power, other than the inhabitants of the country to which the said productions are to be carried. And to prevent all inconvenience to the said inhabitants, and to our own, by too sudden a check on the means of transportation, we may continue to admit the vessels marked for future exclusion, on an advanced tonnage, and for such length of time only, as may be supposed necessary to provide against that inconvenience.

The establishment of some of these principles by Great Britain, alone, has already lost us in our commerce with that country and its possessions, between eight and nine hundred vessels of near 40,000 tons burden, according to statements from official materials, in which they have confidence. This involves a proportional loss of seamen, shipwrights, and ship-building, and is too serious a loss to admit forbearance of some effectual remedy.

It is true we must expect some inconvenience in practice from the establishment of discriminating duties. But in this, as in so many other cases, we are left to choose between two evils. These inconveniences are nothing when weighed against the loss of wealth and loss of force, which will follow our perseverance in the plan of indiscrimination. When once it shall be perceived that we are either in the system or in the habit of giving equal advantages to those who extinguish our commerce and navigation by duties and prohibitions, as to those who treat both with liberality and justice, liberality and justice will be converted by all into duties and prohibitions. It is not to the moderation and justice of others we are to trust for fair and equal access to market with our productions, or for our due share in the transportation of them; but to our own means of independence, and the firm will to use them. Nor do the inconveniences of discrimination merit consideration. Not one of the nations before mentioned, perhaps not a commercial nation on earth is without them. In our case one distinction alone will suffice: that is to say; between nations who favour our productions and

navigation, and those who do not favour them. One set of moderate duties, say the present duties, for the first, and a fixed advance on these as to some articles, and prohibitions as to others, for the last.

Still it must be repeated that friendly arrangements are preferable with all who will come into them; and that we should carry into such arrangements all the liberality and spirit of accommodation which the nature of the case will admit.

France has, of her own accord, proposed negotiations for improving, by a new treaty on fair and equal principles, the commercial relations of the two countries. But her internal disturbances have hitherto prevented the prosecution of them to effect, though we have had repeated assurances of a continuance of the disposition.

Proposals of friendly arrangement have been made on our part, by the present government, to that of Great Britain, as the message states: but, being already on as good a footing in law, and a better in fact, than the most favoured nation, they have not, as yet, discovered any disposition to have it meddled with.

We have no reason to conclude that friendly arrangements would be declined by the other nations, with whom we have such commercial intercourse as may render them important. In the meanwhile, it would rest with the wisdom of Congress, to determine whether, as to those nations, they will not surcease *exparte* regulations, on the reasonable presumption that they will concur in doing whatever justice and moderation dictate should be done.

TH: JEFFERSON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO TRUCE BETWEEN PORTUGAL AND ALGIERS. DECEMBER  
23, 1793.

[See Vol. Confidential Documents.]

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO LETTER FROM REPRESENTATIVES OF SPAIN. DEC.  
30, 1793.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO THE  
HOUSE OF REPRESENTATIVES. DEC. 30, 1793.

I now transmit you a report by the Secretary of State, of such laws, decrees and ordinances, or their substance, respecting commerce in the countries, with which the United States have commercial intercourse, as he has received, and had not stated in his report of the sixteenth instant.

GEORGE WASHINGTON.

The Secretary of State, to whom the President of the United States referred the resolution of the House of Representatives, of December 24, 1793, desiring the substance of all such laws, decrees, or ordinances, respecting commerce in any of the countries with which the United States have commercial intercourse, as have been received by the Secretary of State, and not already stated to the House, in his report of the 16th inst. Reports :

THAT he has had an official communication of a decree rendered by the National Assembly of France, on the 26th day of March last, of which the following is a translation.

*Decree, exempting from all duties the subsistences and other objects of supply in the colonies, relatively to the United States, pronounced in the sitting of the 26th of March, 1793, 2d year of the French Republick.*

THE National Convention, willing to prevent, by precise dispositions, the difficulties that might arise relatively



to the execution of its decree of the 19th February last, concerning the United States of America ;—to grant new favours to this ally-nation, and to treat it in its commercial relations with the colonies of France, in the same manner as the vessels of the Republick—decree as follows :

Art. 1. From the day of the publication of the present decree, in the French American colonies, the vessels of the United States, of the burden of 60 tons at the least, laden only with meals and subsistences, as well as the objects of supply, announced in Art. 2d of the arret of 30th August, 1784, as also lard, butter, salted salmon, and candles, shall be admitted in the ports of the said colonies, exempt from all duties : The same exemption shall extend to the French vessels laden with the same articles, and coming from a foreign port.

Art. 2. The captains of vessels of the United States, who, having brought into the French American colonies the objects comprised in the above article, wish to return to the territory of the said states, may lade in the said colonies, independent of sirups, rum, tassias, and French merchandises, a quantity of coffee equivalent to the one fiftieth of the tonnage of every vessel, as also a quantity of sugar equal to the one tenth, on conforming to the following articles.

Art. 3. Every captain of an American vessel, who wishes to make returns to the United States of coffee and sugar of the French colonies, shall make it appear that his vessel entered therein with at least two thirds of her cargo according to Art. 1st, for this purpose he shall be obliged to transmit, within twenty-four hours after his arrival, to the customhouse of the place he may land at, a certificate of the marine agents, establishing the gauge of his vessel, and the effective tonnage of her cargo.

The heads of the said customhouses shall assure themselves that the exportation of the sugars and coffee does not exceed the proportion fixed by the 2d article of the present decree.

Art. 4. The captains of vessels of the United States of America shall not pay on going from the Islands, as well as those of the Republick, but a duty of five livres per quintal of indigo, ten livres per thousand weight of cotton, five livres per thousand weight of coffee, five livres per thousand weight of brown and clayed sugars, and fifty sols

per thousand weight of raw sugar. Every other merchandise shall be exempt from duty on going out of the colonies.

Art. 5. The sugars and coffee which shall be laden shall pay at the customhouses which are established in the colonies, or that shall be established, in addition to the duties above fixed, those imposed by the law of 19th March, 1791, on the sugars and coffee imported from the said colonies to France, and conformably to the same law.

Art. 6. The captains of vessels of the United States, who wish to lade merchandises of the said colonies for the ports of France, shall furnish the customhouse at the place of departure with the bonds required of the masters of French vessels by the 2d article of the law of 10th July, 1791, to secure the unloading of these merchandises in the ports of the Republick.

Art. 7. The vessels of the nations with whom the French Republick is not at war, may carry to the French American colonies all the objects designated by the present decree. They may also bring into the ports of the Republick, only, all the productions of the said colonies, on the conditions announced in the said decree, as well as that of the 19th February.

Copy conformable to the original.

GENET.

That he has not received officially any copy of the decree said to have been rendered by the same assembly on the 27th day of July last, subjecting the vessels of the United States, laden with provisions, to be carried against their will into the ports of France, and those having enemy goods on board, to have such goods taken out as legal prize.

That an ordinance has been passed by the government of Spain on the 9th day of June last, the substance of which has been officially communicated to him in the following words, to wit :

Extract of an ordinance for regulating provisionally the commerce of Louisiana and the Floridas—dated the 9th of June, 1793.

The preamble states that the inhabitants of Louisiana, being deprived of their commerce with France (on account

of the war) as allowed by the ordinance of January, 1782 : and his majesty, considering that they and the inhabitants of the Floridas cannot subsist without the means of disposing of their productions, and of acquiring those necessary for their consumption—for that purpose, and to increase the national commerce—the commerce of those provinces, and their agriculture—has directed the following articles to be provisionally observed.

The inhabitants of the above mentioned provinces to be allowed to commerce freely both in Europe and America with all friendly nations who have treaties of commerce with Spain. New Orleans, Pensacola and St. Augustine, to be ports for that purpose. No exception as to the articles to be sent or to be received. Every vessel however to be subjected to touch at *Corcubion in Galicia, or Alicant*, and to take a permit there, without which the entry not to be allowed in the ports above mentioned.

The articles of this commerce carried on thus directly between those provinces and foreign nations to pay a duty of 15 per cent. importation, and 6 per cent. exportation, except negroes, who may be imported free of duty—the productions and silver exported to purchase those negroes to pay the 6 per cent. exportation duty—the exportation of silver to be allowed for this purpose only.

The commerce between Spain and those provinces to remain free. Spaniards to be allowed to observe the same rules, and to fit out from the same ports (in vessels wholly belonging to them, without connection with foreigners) for those provinces as for the other Spanish colonies.

To remove all obstacles to this commerce, all sorts of merchandise destined for Louisiana and the Floridas (even those whose admission is prohibited for other places) may be entered in the ports of Spain, and in like manner tobacco and all other prohibited articles may be imported into Spain from these provinces, to be re-exported to foreign countries.

To improve this commerce and encourage the agriculture of those provinces, the importation of *foreign rice into the ports of Spain is prohibited*, and a like preference shall be given to the other productions of these provinces, when they shall suffice for the consumption of Spain.

All articles exported from Spain to these provinces shall be free of duty on exportation, and such as being foreign,

shall have paid duty on importation into Spain, shall have it restored to the exporters.

These foreign articles thus exported, to pay a duty of three per cent. on entry in those provinces, those which are not foreign to be free of duty.

The articles exported from those provinces to Spain to be free of duty, whether consumed in Spain or re-exported to foreign countries.

Those Spanish vessels, which having gone from Spain to those provinces, should desire to bring back productions from thence, directly to the foreign *ports of Europe*, may do it on paying a duty of exportation of 3 per cent.

All vessels, both Spanish and foreign, sailing to those provinces to be prohibited from touching at any other port in his majesty's American dominions.

No vessel to be fitted out from New Orleans, Pensacola, or St. Augustine, for any of the Spanish islands or other dominions in America, except for some urgent cause, in which case only the respective governour to give a permission, but without allowing any other articles to be embarked than the productions of those provinces.

All foreign vessels purchased by his majesty's subjects, and destined for this commerce, to be exempted from those duties to which they are at present subjected, they proving that they are absolute and sole proprietors thereof.

He takes this occasion to note an act of the British Parliament of the 28 G. III. c. 6. which though passed before the epoch to which his report aforesaid related, had escaped his researches. The effect of it was to convert the proclamations regulating our direct intercourse with their West Indian islands into a standing law, and so far to remove the unfavourable distinction between us and foreign nations stated in the report, leaving it however in full force as to our circuitous intercourse with the same islands, and as to our general intercourse, direct and circuitous with Great Britain and all her other dominions.

TH: JEFFERSON.

Dec. 30. 1793.

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
JANUARY 15, 1794.

I LAY before you, as being connected with the correspondence, already in your possession, between the Secretary of State, and the minister plenipotentiary of the French Republick, the copy of a letter from that minister. of the 25th of December, 1793 ; and a copy of the proceedings of the legislature of the state of South Carolina.  
GEORGE WASHINGTON.

*Columbia, December 7, 1793.*

SIR,—I have the honour of transmitting to you, the resolves of the legislature of this state, with a number of affidavits, setting forth, that certain persons in this state, have been enlisting men for the service of the French Republick, to go on an expedition against a power, not at war with the United States. The investigation of the whole business is fully expressed in the report of the committee. I have the honour to be, &c.

WILLIAM MOULTRIE.

The President of the United States of America.

P. S. In the message with which the resolves and affidavits were sent to me, I am desired to request, that the names of the several deponents, who have given testimony in the business, may not be made known. The reasons which suggest this secrecy, must be obvious.

*State of South Carolina. In the House of Representatives.  
December 6, 1793.*

The committee to whom was referred the business of examining into, and ascertaining the truth of a report that an armed force is now levying within this state, by persons under a foreign authority, without the permission, and contrary to the express prohibition of the government of the United States, and of this state, Report,

THAT they have made diligent inquiry respecting the truth of this report, and have collected such evidence re

lating thereto as was immediately within their reach—that your committee are perfectly satisfied, from the information, on the oaths of divers credible persons, which they have received, that William Tate, Jacob R. Brown, William Urby, Robert Tate, Richard Speke, citizens of this state, and other persons unknown to your committee, also citizens of this state, have received and accepted military commissions from Mr. Genet, minister plenipotentiary from the republick of France to the United States of America, authorizing them, and instructions requiring them, to raise, organize, train, and conduct troops, within the United States of America—That the avowed purpose for which these troops are now raising, is, to rendezvous in the state of Georgia, and from thence to proceed into the Spanish dominions, with a view to conquest or plunder, as their strength might enable, or opportunity might tempt them—That in the event of a French fleet approaching the coasts of the southern states, a junction and co-operation with it is contemplated by the persons above mentioned ; but that though this was the avowed object of these troops and their leaders, among themselves ; from the injunction to conceal the whole system from persons not initiated, and the subordination established to Mr. Genet, the author of the plan, and the source of authority to the officers, it is probable that the corps, when raised, must yield to any change of destination which the judgment or inclination of Mr. Genet may point out to them—That several of the persons above named, received, together with their commissions, instructions by which they were to regulate their enrolments of men, stating the pay, rations, clothing, plunder, and division of conquered land, to be allotted to the officers and men who should enter into this service, and marking the proportions of the acquisitions to be reserved to the republick of France—That the persons above named, in pursuance of the powers vested in them by the said commissions, and in obedience to the instructions of Mr. Genet and his agents, particularly M. Mangourit, who signed some of the papers, have proceeded by themselves, and by their agents, without any authority from the United States, or from this state, to enrol numbers of the citizens of this state, whom they deluded with the hopes of plunder and the acquisition of riches, in the service of the repub-

lick of France, to be subject to the orders of Mr. Genet, the minister plenipotentiary of France.

That Stephen Drayton and John Hamilton, also citizens of this state, have made application to the good citizens thereof to engage in this scheme of raising men in this state for the service of France, to act under the orders of Mr. Genet, and to commit acts of hostility against nations at peace with the United States of America; and have avowed that they acted by the authority of Mr. Genet, the minister plenipotentiary of the republick of France; that upon the whole of the information which your committee have been able to obtain, this is a daring and dangerous attempt by a foreign minister to intermeddle in the affairs of the United States, to usurp the powers of government, and to levy troops in the bosom of the Union, without the authority, and contrary to the express sense of the government of the United States, and in violation of the laws of nations—

That the direct tendency of these measures of the foreign minister is to disturb the internal tranquillity of the United States, and to involve them in hostilities with nations with whom they are now at peace, which sound policy requires should be preserved.—That in the opinion of your committee this attempt is the more dangerous and alarming as many citizens of the United States have been thereby seduced from their duty by insidious arts practised on their kindred affection to the French Republick; and have been drawn into a scheme, in the execution of which they have usurped the functions of government, and exercised the power of the sword, which the wisdom of the constitution hath vested exclusively in the Congress and President of the United States.—That this committee therefore recommend that the governour of this state be requested to issue his proclamation, forbidding all persons from enrolling any of the citizens of this state, and prohibiting the citizens from enlisting under any officers, or for any purposes not previously sanctioned by the government of the United States, or of this state; and also forbidding all unlawful assemblages of troops, unauthorized by government; and that the governour be requested to exert the whole publick force to the utmost extent, if necessary, to ensure obedience to his proclamation.

That in the opinion of this committee, the said William Tate, Jacob R. Brown, Robert Tate, Stephen Drayton, John Hamilton, and Richard Speke, have been guilty of high crimes and misdemeanors; and they recommend that the attorney general and solicitors be directed, forthwith to institute, or cause to be instituted and conducted, prosecutions in the proper courts of law, against the said William Tate, Jacob R. Brown, Robert Tate, Stephen Drayton, John Hamilton, and Richard Speke, for accepting, or engaging to accept commissions from a foreign power, to raise troops within the United States, and for going about within the state, levying or attempting to levy troops, and for seducing, and endeavouring to seduce the citizens of this state, to enrol themselves for foreign service, to commit acts of hostility against nations, with whom the United States are at peace, without the permission of the government, and contrary to the proclamation of the President of the United States, declaring these states to be in a state of neutrality and peace.

That copies of the evidence collected by this committee, together with the proceedings of this house thereon, be forwarded immediately to the President of the United States, and to the executives of the states of North Carolina and Georgia, for their information.

Resolved unanimously, That this house do concur in the said report.

Ordered, That the report and resolution be sent to the Senate, for their concurrence.

By order of the House,

JOHN SANDFORD DART, C. H. R.

*In the Senate, December 7. 1793.*

Resolved unanimously, That this House do concur with the House of Representatives, in the foregoing report and resolution.

Ordered, That the report and resolutions be sent to the House of Representatives.

By order of the Senate,

FELIX WARLEY, C. S.

A true copy, and which I attest,

JOHN SANDFORD DART,

Clerk of the House of Representatives.

Columbia, Dec. 9, 1793.



## THE STATE OF SOUTH CAROLINA.

*By his Excellency William Moultrie, Governour and Commander in chief in and over the State aforesaid. A Proclamation.*

WHEREAS information hath been given to me, that an armed force is now levying within this state by persons under a foreign authority, without the permission, and contrary to the express prohibition of the government of the United States, and of this state: and whereas measures of this sort, if permitted by government, must tend to disturb the internal tranquillity of the United States, and involve them in hostilities with nations with whom they are now at peace, which sound policy requires should be preserved; and as many of the citizens of this state may be induced, by the insidious arts of the persons acting under the foreign authority as aforesaid, in violation of every law, as well of the United States, as that of nations, to enlist themselves, and engage in a scheme so replete with injury to this country.—I do therefore, in order to put an immediate stop to such unlawful and pernicious practices, issue this my proclamation, hereby strictly forbidding any person to enrol any of the citizens of this state, and prohibiting the citizens thereof from enlisting under any officer, or other person, for any purpose not previously sanctioned by the government of the United States, or of this state. And I do positively forbid all assemblages of troops, unauthorized by government, under pain of suffering the penalties declared by law for such offences.

Given under my hand, and the seal of the state, in the town of Columbia, this 9th day of December, in the year of our Lord one thousand seven hundred and ninety-three, and of the independence of the United States of America the eighteenth.

WILLIAM MOULTRIE.

By the Governour's command.

PETER FRENEAU, Secretary.

*South Carolina.*

maketh oath, that Robt. Tate applied to this deponent during the sitting of the Pinckney

court November term last, and urged him to accept an appointment in a body of troops that was to be raised in this state under French commissions; which troops were to go on an expedition against the Spanish possessions, on some part of the American continent—And this deponent adds that Robt. Tate expressly told him that he was then acting under a French commission from the French government, and was determined to enlist men as soon as possible.

Sworn before me this 2d }  
December, 1793. }

A true copy, and which I attest,

JOHN SANDFORD DART,  
Clerk of the House of Representatives.

Columbia, Dec. 9, 1793.

*South Carolina.*

BEFORE me personally appeared \_\_\_\_\_ of Pendleton county, who being duly sworn, deposeth as followeth—That is to say, that on Sunday the twenty-fourth of November last, he, this deponent, was in company with Mr. William Tate, and lodged in the same house with him, at Cambridge—That the said William Tate, showed unto this deponent, a certain paper written in French, and also in English, and under the hand and seal of citizen Genet, minister plenipotentiary, from the Republick of France, to the United States of America, which paper was a commission, directed to the said William Tate, constituting and appointing him a colonel, in the service of the French Republick—That he also saw in the possession of the said William Tate, another paper signed by citizen Genet (as well as this deponent can recollect) being a plan for the formation of a military corps, ruled like a brigade return, with columns specifying the number of officers and men, the pay, the rations, and the proportion of spoil each one was to have—This deponent thinks they specified one lieutenant colonel, a second lieutenant colonel, captains, and from thence down; containing thirty-two commissioned and non-commissioned officers, and one hundred and twenty-four privates—That the number of battalions was unlimited. That the spoil was to be so dis-

tributed as to leave a certain portion thereof to the French nation, viz. two parts; but into how many parts the whole was to be divided, the deponent cannot recollect—The said William Tate, informed this deponent, that in pursuance of his instructions, he had sent out several persons, to enlist men in this state, into the French service; that if the measures taken, should be successful, blank commissions would be sent on from the northward, and each person would receive a commission, according to the number of men he should enlist—The deponent saith, that this was set forth in the instructions; this deponent farther saith, that the said William Tate told this deponent, that the object of the enlistment was, to march to South America, and attack the Spanish dominions. This deponent farther saith, that he saw at the same time, in the possession of the said William Tate, other papers, relative to the foregoing transactions, signed by monsieur M. A. B. Mangourit, the particular purport whereof this deponent cannot now recollect.

Sworn the 2d day of December, }  
1793, before me. }

A true copy, and which I attest,

JOHN SANDFORD DART,  
Clerk of the House of Representatives,

Columbia, Dec. 9, 1793.

*South Carolina.*

BEFORE me personally appeared, who  
being duly sworn, deposeth and saith, that on Saturday  
the 30th day of November last, as he was on his way to  
Columbia, to attend his duty in the house of representa-  
tives, and in crossing the ferry at Granby, he fell in com-  
pany with two men, one of whom, addressing him, mention-  
ed that he had heard that he, this deponent, was one of  
their party (meaning, as this deponent received the im-  
pression at the time, the party for enlisting and raising  
men for the French service) the other person added, that  
he and his companion, had their company filled up, and  
pulling a paper out of his pocket, said it was his commis-  
sion, and offered to show it to this deponent; this depo-  
nent told him he would not wish to deceive him, for that  
he, this deponent, was not of his party, and did not look

at his commission or papers. One of the men told this deponent, that he hoped to see him, this deponent, in the new country, and that they were to have their rendezvous in Georgia; he asked this deponent, whether he had seen captain Tate, that he was informed captain Tate had been at his, the deponent's house: Dept. replied, that he had not seen him that he did not know him, and that he had not been at his house that he knew of.

Sworn the 2d day of December, }  
 1793, before me. }

A true copy, and which I attest,

JOHN SANDFORD DART,

Clerk of the House of Representatives.

Columbia, Dec. 9, 1793.

*State of South Carolina.*

of the county of Laurens, being duly sworn, maketh oath, that on or about the twelfth day of November, in the year of our Lord one thousand seven hundred and ninety-three, captain William Urbey, of the county of \_\_\_\_\_ told this deponent that he held a commission to raise troops, and offered to show his commission, which Mr. \_\_\_\_\_ declined seeing. He added to this deponent that he was authorized to raise troops, which this deponent understood was for foreign service—That this deponent was made to understand that captain William Tate was to be commandant of the troops to be raised—Dr. Jacob R. Brown also communicated to this deponent that he was a lieutenant-colonel, and he showed to him a paper which stated the pay, rations, proportion of spoil, number of men to be raised, and battalions, divisions of land, and other particulars. That the pay fixed was twenty-five cents per day to privates.—That Dr. Jacob R. Brown, on showing him this paper, asked this deponent if he would advise him to engage in this business, but this deponent declined giving any advice. That this deponent understood that the source of all power and the spring of action in this business was Mr. Genet, the ambassador from the Republick of France, from whom all these things originated. He understood this from Dr. Jacob R. Brown. This deponent

also understood the number of men to be raised was five thousand. This deponent saw a paper in the hands of Dr. Brown, or captain Urbey, which was an enrolment of men, which was signed by about ten men, who had enlisted in the above mentioned service. This deponent thinks that both of the papers he saw were headed partly with initial letters; he does not recollect the purport of the heading.

This deponent understood from both Urbey and Brown, that the business was to be conducted secretly.

Sworn to before me this 2d }  
December, 1793. }

A true copy, and which I attest,

JOHN SANDFORD DART, C. H. R.

Columbia, December 9, 1793.

*South Carolina, to wit.*

BEFORE me personally appeared, who  
being duly sworn, deposeth as follows: That some time  
about the middle of November last, Stephen Drayton,  
Esq. and major Hambleton, called at the house of this  
deponent, and mentioned to this deponent as a very ad-  
vantageous plan that was a foot, to get as many men as  
possible to agree to assemble by small parties upon some  
of the shores near Charleston or elsewhere, and that a  
French fleet was to attend for the purpose of receiving  
them, and that the object was, to make a descent upon  
some of the Spanish islands, that would be a very lucra-  
tive conquest, if effected—They mentioned that Mr. Tate  
had gone forward on the same business to Mr. Genet, to  
obtain commissions; and this deponent understood from  
the said Stephen Drayton and major Hambleton, that they  
the said Stephen Drayton and major John Hambleton  
were acting under the authority of the minister of the  
French Republick at the time. This deponent was there-  
upon applied to by the said Stephen Drayton, to be con-  
cerned in the enterprise, adding, that this deponent could  
be advanced to a pretty high commission. This deponent  
immediately refused to have any connection, or be at  
all concerned in the enterprise, and thereupon suggested  
doubts of the legality of the undertaking, in as much as it

would be inconsistent with the Proclamation of the President of the United States; adding, that it would in all probability, be taken notice of by the executive of this state.

Sworn the 3d day of December, }  
1793, before me. }

The within a true copy, and which I attest,  
JOHN SANDFORD DART,  
Clerk of the House of Representatives.

Columbia, December 9, 1793.

TRANSLATION.

*The Citizen Genet, Minister Plenipotentiary from the Republic of France to the United States, to Mr. Jefferson, Secretary of State of the United States. Philadelphia, 25th December, 1793, 2d year of the French Republic, one and indivisible.*

SIR,—I learn by the reports of the consul of the Republic, at Charleston, and by the publick papers, that the legislature of South Carolina, had caused to be arrested, different persons, accused of having received from me commissions for the purpose of levying an armed force in that state, for the service of the Republic. Conceiving that such conduct, if it were true, would offend the sovereignty of the American people, I hasten to affirm to you, sir, that I have not authorized in any manner, the recruiting, the formation, or the collecting of an armed force, or of any corps *in the territory of the United States*; but at the same time, I am too frank to disguise from you, that, authorized by the French nation, to deliver commissions to those of your fellow citizens, who should feel themselves animated with a desire of serving the best of causes, I have granted them to several brave republicans of South Carolina, whose intention appeared to me to be to expatriate themselves, and to go among the independent Indian tribes, ancient friends and allies of France, in order to retaliate, if they could, in concert with us, on the Spaniards and English, the injury which the government of these two nations had the baseness, for some time to commit on your fellow citizens, under the name of these savages, in like manner, as is lately done under that of the Algerines.

I notify you, sir, that I shall publish this declaration, in order to calm inquietudes, and to dissipate the doubts to which the denunciation made in the legislature of Carolina, might give rise.

Accept my respect,

GENET.

*Department of State, to wit :*

I hereby certify, that the foregoing papers, consisting of seventeen pages of writing, are truly copied from the originals (except the omission of certain names therein, agreeably to the letter of 7th December, 1793, from Gov. Moultrie) on file in the office of the Department of State.

GEO. TAYLOR, jun. Chief Clerk.

January 14, 1794.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JANUARY 16, 1794.

I TRANSMIT for your information, certain intelligence lately received from Europe, as it relates to the subject of my past communications.

GEORGE WASHINGTON.

TRANSLATION.

*The Minister Plenipotentiary of the United States of America to the Republick of France, to M. Deforgues, Minister of Foreign Affairs. Sain-Port, October 1, 1793.*

SIR,—I have the honour to send you herewith, the copies of two judgments, rendered with regard to the American vessel, the *George*. By the first, the tribunal in conforming itself to the treaty of 1778, declared her unlawful prize—but by the second, a part of the cargo is condemned, as hostile property; and the tribunal has founded its

decision upon the decree of the 27th July. Captain Richard Stevens of the American vessel, the Hope, also complains very bitterly of a sentence rendered lately against a part of the cargo of this vessel, which is incontestably American property. This captain informs me, that the tribunal of St. Brieu, has founded its decision on the circumstance, that in the invoice, the owners of the vessel, had added their commission to the price of the articles therein comprised. A thing in use among merchants, who by this means, insuring the whole, they shelter from maritime danger, the price of their labour, as they do that of their merchandises. I do not cite, sir, this sentence in the form of a complaint, first, because I have not yet received an authentick copy of it, and above all, because I am persuaded that the superior tribunal, to whom an appeal must be made, will not fail to render justice.

I desire only to let you see, sir, how much discontent the execution of the decree of the 27th July, must excite.

Persuaded that the Convention wishes to maintain the closest connections between our two Republicks, I have given to our ministry, the most positive assurances of it; but they will be contradicted by the injured persons, who doubtless will accuse the minister with supineness, who does not adopt the feelings of his fellow citizens; and my efforts will fail of their effect, as soon as it can be imagined, that I do not render a faithful account of the dispositions of the French Republick, from the want of intelligence or exactness. I request you, sir, to pardon an observation which regards the particular interests of France. The circumstances of the moment, prevent the fitting out of privateers, consequently it would cost it nothing to cause the treaty to be observed with the greatest exactitude. Then the contrast which the Americans would make, between the conduct of France, and that of its enemies, could not but be favourable—but at present, on the contrary every time we complain of the conduct of the English, they shut our mouths by this decree of 27th July. Nothing is more embarrassing for our minister at London, and nothing can be more injurious to the French Republick, in the opinion of the neutral powers: I hope, sir, that you will observe in the freedom of the observations I have just made to you, the amicable and fraternal dispositions,



which have dictated them. I am sure at least of conforming to the views of the United States, in following my own inclination, to remove every thing that might change the good harmony, which exists between two nations, allied as well by the force of sentiment, as by that of treaties.

I have the honour to be, &c.

GOUV. MORRIS.

*Extracts of a Letter from Mr. Morris to the Secretary of State, dated October 10, 1793.*

I AM very anxious that consuls and vice consuls should be appointed in all the ports. My countrymen are incessantly applying to me, from every quarter, about property taken from them. I am desired from abroad, to claim such property. I have decidedly refused to lend my name on such occasions; because I am certain, that I should be thereupon represented as a party interested; and of course my representations against the proceedings, which are but too frequent, would be disregarded.

On the twentieth of August a deputation of four ship captains, chosen by their brethren of Bordeaux, called on me with a representation of the injustice they experienced in being prevented from sailing with their cargoes, &c.

The deputation, as is natural, had flattered themselves with immediate and ample redress. It was my duty to moderate their expectations and to explain the difficulties. Interest is often blind and seldom just. My moderation was ill suited to their wishes; and my letter to the minister, of which a copy is enclosed, seemed to them rather an abandonment of their cause, than the prosecution of the only redress which appeared to me attainable, and in the only way by which it might be effected. I had cautioned them particularly not to ask too much; because they would thereby run the risk of not obtaining what they asked; or if they should obtain it, of seeing their hopes blasted in the bud, by a repeal of an indulgent decree.

A decree was obtained, and before it could be executed was repealed. Thus it has happened that they did mischief, without any benefit to themselves.

## TRANSLATION.

• *The Minister Plenipotentiary of the United States of America to the Republick of France, to M. Deforgues, Minister of Foreign Affairs. Paris, October 12, 1793.*

SIR,—I have the honour to send you herein enclosed, the copy of a letter, which has been addressed to me, by citizen Postic, a lawyer, residing at Morlaix. It appears, that in the proceedings of which he has given an account, there are extraordinary irregularities, and I think it my duty to inform you of them, as on the justice of tribunals often depends the salvation, and always the prosperity of a state.

I request you at the same time, sir, to permit me to make two general observations on the whole of this business; one of which applies to the organization, and the other to the proceedings of the commercial tribunals. The referring of questions on sea prizes, to these tribunals, appears to me dangerous, since they involve the interpretation of the treaties, and the application of the law of nations: consequently of peace and of war. Now we may be permitted to entertain some doubt as to the knowledge of the judges, and we ought besides to fear, lest they may be interested, as owners of privateers, in the questions which are submitted to them.

But whatever may be the organization of the tribunals, it appears to me essential, sir, that in their proceedings they should receive all the claims which may be made to them; that they should even invite without waiting for the authority of the persons interested, who are often at the distance of one thousand leagues. The jurisdiction of the tribunals within whose cognizance are the questions of prize, is *in rem*. They take possession of the thing, and by that means render themselves responsible for it. Now as the tribunals, which is the depository of the thing, ought not to dispossess themselves of it, without a formal authoritative act of the true proprietor, it is their duty, not only to admit, but also to seek proofs, which may establish to whom the property truly belongs. This is a double duty towards the neutral proprietor, and towards their own nation; for every government which permits its citizens to fit out privateers, arms with the destructive sword of war,

hands which are interested to extend its ravages, and renders itself responsible for the abuses, which result from so dangerous a delegation of sovereignty. For the purpose of repressing them, the admiralty tribunals have been established throughout the different nations of Europe. In these tribunals, the government furnishes the means of information, by the facility with which it admits therein every species of claim. It preserves, by appeals, the right of deciding in the last resort on the contests which therein arise; and it gives the necessary time to enlighten its conscience on thorny questions, before the pronouncing of a sentence, which might extend or prolong the horrors of war.

These, sir, are the reflections which experience has dictated to me. They daily make on me a more lively impression on account of the claims addressed to me by my countrymen, of which I have communicated to you but a very small part. I always send to the tribunals the injured persons, by giving them the most positive assurances that they will there obtain complete and prompt justice.

I have the honour to be, &c.

GOUV. MORRIS.

TRANSLATION.

*Extract of a Letter from the Minister for foreign Affairs, to Mr. Morris, Minister Plenipotentiary of the United States of America, to the Republick of France, dated Paris, October 14, 1793, 2d year of the French Republick.*

THE extreme rigour, with which the English and the other belligerent powers, treat all the neutral vessels destined for France, has put the République to the painful necessity of arresting by way of reprisal, in such vessels the provisions belonging to its enemies. This severe measure, clearly explained in the decree of the 9th of May, of which I enclose you a copy, is the result of the most imperious circumstances—It will continue only as long as our enemies employ against us, means disapproved by the laws of humanity, and by those of war. In casting your eye on this law, you can hardly, sir, avoid the conviction, that it was necessary and just: that the Republick

could no longer without inattention to itself, preserve tolerable decency towards its implacable and ferocious enemies, and that the system of depriving them of foreign produce, was also to dissipate its means of offence.

In comparing this law with the declarations made by the British government, at Stockholm, Copenhagen, Florence, and probably at Philadelphia; you will observe an extreme difference, between our manner of thinking and that of our enemies. You will see on the one hand, the firm determination of destroying several millions of victims, merely to satisfy a spirit of vengeance or of ambition, and on the other, the desire of repelling unjust aggressions by severe laws, and a regret at being reduced to that extremity.

Here then, sir, in two words is the situation in which the Republick stands. Its enemies have openly usurped the right of seizing, all the provisions which are destined to it, and even all the Frenchmen found on board of neutral vessels. But it seems that France, attacked on all sides, abandoned to its own strength, without allies, without foreign succour, should confine herself scrupulously to the maxims of the law of nations, so cruelly violated by her enemies. Hence it would result that the neutrality of several powers would be partial, that it would operate only in favour of our enemies, whose commerce would be peaceably carried on under the shelter of a borrowed flag, while ours could not, under any flag whatever.

The law of the 9th of May, is conditional, whilst the declarations of the combined powers are positive. It is in their power to put a period to the execution of this law, by permitting neutral vessels, to communicate freely with France.

These observations, sir, which you are too just not to appreciate, apply to the greater part of the claims, which you have addressed to me for some time. I have done with respect to several of them, all that depended on me, in order to obtain in favour of your countrymen, an exception of the general measures, adopted with regard to neutral nations. I have used among others, all the means with which your letters furnished me, to have restored the ship *Laurens*; but I have met with insurmountable obstacles, in the established laws, and in the opinion of the commercial tribunal of Havre. The tribunal has neglected no-

thing to render justice to the owners of this vessel. It has consented among other things, to have translated 361 letters, merely to prove in the most authentick manner, the property of the cargo. The interested have besides avowed themselves, that they had neglected an essential formality required by our laws.

You must be satisfied, sir, with the manner in which the request, presented by the American captains, from Bordeaux, has been received. This fact, and several others of the same kind, which could not escape your attention, must have convinced you, that when the particular circumstances of the Republick, permitted the administration to favour your countrymen, it was eager to give to them, testimonies of the desire which it always has had, of bringing nearer and nearer the citizens, and the interests of the two countries.

We hope, that the government of the United States, will attribute to their true cause, the abuses of which you complain, as well as other violations of which our cruisers may render themselves guilty, in the course of the present war. It must perceive how difficult it is, to contain within just limits, the indignation of our marines, and in general of all the French patriots, against a people who speaks the same language, and having the same habits, as the free Americans. The difficulty of distinguishing our allies from our enemies, has often been the cause of offences, committed on board your vessels; all that the administration could do, is to order indemnification to those who have suffered, and to punish the guilty.

I enclose herein, several copies of the navigation act, decreed by the representatives of the people. I request you to make the dispositions of them known to the government of the United States. It will there find the basis of a system connecting more and more the interests of the two nations.

DEFORGUES.

P. S. I enclose herein, sir, an arret of the committee of publick safety, which fulfils in part, the object proposed in your letter of the 13th of this month. I shall have the honour of communicating to you, the measures which shall be taken in the sequel.

## TRANSLATION.

*The Minister Plenipotentiary from the United States of America to the Republick of France, to Monsieur Deforgues, Minister of Foreign Affairs. Paris, October 19, 1793.*

SIR,—The attention which several pressing affairs required, made it impossible for me sooner to answer the letter which you did me the honour of writing to me on the 14th. I have examined, with respectful care, the decree of the 9th of May, emanating from the conduct of your enemies, and supported by some reasons to which you have given their greatest lustre. It is possible, sir, that the difference of our position leads us to see the same object in a different manner. But although I cannot be of your opinion, I do not intend farther to discuss the considerations which have produced the decision of the French government. I confine myself to the rendering of a faithful account of it to the government of the United States, and I am persuaded that in considering them, liberal friendship will put in the balance the difficulties of a revolution, and of a war without example. I ought, however, to observe to you, sir, that the question does not appear to me to turn on the law of nations, but on an exception to that law, by the stipulations of a treaty. This treaty, in derogating from this law, in favour of merchandises of your enemies found in our vessels, has derogated, in like manner, from it, to the prejudice of our merchandises found in the vessels of your enemies. We have seen at Philadelphia the publick sale of a cargo, the property of one of our citizens, taken by a French privateer on board an English vessel. All opposition was of no avail, because, according to the constitution, our treaties are the supreme law of the land. You will agree, sir, that it is hard for my fellow citizens not to have the advantage either of the treaty or of the law of nations—to lose their merchandises by the treaty, and not to be able to compensate themselves for it, under the protection of this same treaty, by the freight of enemy merchandises. In comparing the facts of the same epoch, you will be amazed on seeing what passed at Paris and at Philadelphia. Your good sense will lead you to anticipate the claims of our merchants, and the insinuations of our enemies.

The foregoing are true translations and copies of the originals on file in the office of the department of state.

GEO. TAYLOR, JUN. Chief Clerk.

January 16, 1794.

### TRANSLATION.

#### NATIONAL CONVENTION.

Report upon the Navigation Act, made in the name of the Committee of Publick Safety. By B. Barrere. With two Decrees passed in the session of the 21st September, the 2d year of the French Republick, one and indivisible.

*Printed by order of the Convention, transmitted to the Departments and to the Armies, and translated into all Languages.*

CITIZENS,—It was on the 21st September, 1792, that the Convention proclaimed the liberty of France, or rather the liberty of Europe.

It is on the same day, the 21st September, 1793, that the Convention should proclaim the liberty of commerce, or rather the liberty of the seas.

It is not sufficient for you to have founded the political republick—it remains for you to found the commercial republick. The English navigation act was formed in the midst of a monarchical revolution; it bears the impression of the despot who created it. The French navigation act will be decreed in the midst of a democratick revolution; it will bear the impression of liberty and equality, which produced it.

If the French nation had resolved to give itself a navigation act, or to destroy the treaty of commerce of 1787. England would have declared against her a terrible war.

England has put herself at the head of a coalition of tyrants, to destroy our liberty; and from that moment France has acquired the right of supporting, with her cannon and her bayonet, the abolition of the treaty of commerce, and the establishment of a navigation act.

These advantages are the first fruits of this war; the establishment of liberty, the prosperity of the Republick, and the reanimation of commerce, will be the result of it.

The treaty of commerce being destroyed by a decree, will create an enormous barrier in the channel between France and Great Britain. Nothing then remains, but to knock down the intermediate obstacles created by England, between France and the other powers.

The following are our means :

For a century and a half, a navigation act, bearing the stamp of the soul of the usurper, Cromwell, has established and secured the maritime tyranny and commercial prosperity of England.

For a century and a half, the famous British navigation act, founded without regard to the rights and interests of nations, offers a series of laws injurious and invasive of the property of every people.

The law writers of Europe had proclaimed this truth; the policy of France had not suspected it. The constituent assembly, more occupied in destroying, than in creating, neither thought of the French Republic nor of the liberty of the seas. A ridiculous predilection for England, a ruinous and disgraceful commercial treaty, purchased from the ministers of Capet, had enslaved us. The political views of the cabinet of London, with regard to us, prevailed entirely in the workshops of manufacturers and in the counting houses of our merchants. In the commissioners of the customs, the artists in metallurgy, the dealers in the colonial products, and the carriers of the East India stuffs—behold our real masters.

The coasting trade, that active school of our seamen, that second basis of our navigation, that source of riches to Holland, far from being inhibited to foreigners, as is the case in England, has been carried on by foreigners.

The navigation of the colonies, infinite in its detail, immense by the extent which it gives to our commerce, this navigation, equally interesting to the husbandman and the artist, the manufacturer and the seaman, the rich and the poor—The navigation of the colonies, which enlivens our seaports, and gives motion to all the works of industry, was participated in by foreigners, and we were calm spectators.

The national marine, which grows out of ship building and the fishery, has been destroyed by the decree regarding foreign vessels as merchandise, and allowing them to be purchased; it has been destroyed, by the discouragement



ment of the fishery among us, and weakened for the want of succour, of premiums, and of the means which might triple our equipments for the fishery, and form of it a species of secondary agriculture, as more than 300 vessels might be employed each year, and replace the three millions of salted fish, which fraud or foreign commerce annually introduce into France.

Finally, foreigners, more especially the English, have made themselves masters of our navigation, with capitals known by the name of *francisations simulées* (operations consisting in covering with the French flag, and enriching with French premiums, the capitals and fortunes of the English) because we have neglected to establish, ourselves, the English law, which acknowledges and admits to the advantages of navigation only vessels built and owned within the nation.

Let us, in fine, strike at the *francisations simulées*. We have laid an embargo on the English vessels found in our ports at the commencement of the war—Here is an embargo more just and more useful to the prosperity of France—it is the completion of the navigation act—it is the seizing of and confiscating to the benefit of the Republic, all vessels belonging to the English, under a French flag, that is to say, those which are purchased and built with English capitals, and with a view to defraud us of our premiums and of our duties, under the name of a French merchant—of a French captain.

Our cruisers are destined to attack the English flag on the seas, and yet our avarice lends the French flag to the navigation and commerce of England.

Despotism itself had felt this injury of our maritime commerce. It had prohibited it at several epochs; but these numerous laws were not executed, because they allowed no reward to the informer of these simulations of capitals. It is necessary to give to the informer, a part of the value of the foreign capitals, employed in the *francisations simulées* in order to obtain success to this measure, and to carry into execution our prohibitory laws on this subject. This has been objected to, as an immoral measure. No, there is no immorality in ruining those who starve us, who ruin us, those who wish to tear from us our liberty, and to devour the fruits of our brilliant revolution.

The constituent assembly bequeathed to the first legislature too long a project of a navigation act. This legacy could not be improved by a legislative assembly more occupied in demolishing the throne of the Capet family, than in attacking the sceptre of the family of Hanover. But the time for this last is arrived.

We are at length, at the period of being able to proclaim the liberty of the seas, after having proclaimed that of men, and of the country.

Already, on the 29th of last May, the committee of publick safety in their report presented to you the necessity of publishing a French navigation act, as a means of regenerating our navigation, of reviving our commerce, encouraging ship building, of increasing the fishery, of doubling our carrying trade, by destroying the intermediate freights, and the interference of all indirect navigation in the maritime transportation of the commodities we exchange with foreign nations.

This proposition was highly applauded. You were then sensible, that after having formed the political constitution, and after having prepared the moral constitution, by publick education, you should still form the maritime and commercial constitution, by a navigation act.

The commercial and marine committee presented to you a project of it, through citizen Marec, the 3d of July last; it was scarcely discussed: an adjournment was the result of two discourses founded upon objections, of the frivolity of which the authors themselves have been sensible. It was feared, at that epoch, that the navigation act would injure the commercial relations with the neutral powers, as if the time of war and of neutrality did not form an inevitable and a rightful exception; as if Sweden had not, in the regulations of her customs, a sort of navigation act, by her rates of duties on merchandises imported into Sweden, in foreign vessels; as if the French act of navigation were not a new commercial army opposed to the commercial army of England, for the benefit of other navigating nations; finally, as if all other governments, all nations, were not strongly interested in the downfall of the English navigation act, and in the repossession of the natural rights of commerce and navigation, by every people in Europe. Let us then this day pro-

claim a law, securing those equal rights on the seas to which the nations with whom we are at peace are entitled.

Americans, Swedes, Danes, Genoese, Venetians, all you who have had the wise and useful firmness of resisting the perfidious insinuations, and the insolent threats of the English, and of our other enemies, you who have not wished to interrupt your commercial relations with a free people, receive this solemn act of French gratitude. Our enemies of Great Britain, and of the Dutch marshes, shall be no longer the agents, or rather the masters of our commerce with you. Here is the decree so much desired for the exclusion of intermediate navigators. This solemn navigation act is about being published in all the ports of France, and sent to the friendly or neutral powers; and this act of commercial independence pronounced by the French republicans, shall neither be revoked or destroyed by our enemies, till they have beaten down the tri-coloured flag now waving above this enclosure on the summit of the national hall. This is saying enough on what shall be the duration of the navigation act.

Before you are presented with the rapid picture of the immense advantages of the navigation act, and its influence on the national prosperity, I should show you the terrible stroke it will give to the maritime empire usurped by Great Britain; the still more terrible stroke it must give to her industry, her commerce, her navigation, her fabricks, her manufactures, at the same time that it will awaken other nations—call forth other governments to repossess themselves of their advantages, and take again on the tempestuous element and of commerce, the indescribable rights which genius, the compass, and their topographical situation have assigned them.

Legislators, this is not a reprisal, it is not a hostile measure, it is not an exercise of the right of war that I propose; it is a declaration of the rights of nations, it is the restitution of a natural inheritance, usurped by ambitious islanders.

Doubtless if it were necessary to have motives and considerations of a national kind to induce us to thunder against these usurpers of the seas, in order to punish these shopkeepers of Europe, to ruin these engrossers of subsistences, and to wither these dealers of kings and royal constitutions, it would be sufficient for us to present to France, now free.

the hideous picture of the crimes of the British cabinet; they are known. These are they:—

Who has meditated the destruction of neutral navigation, which was always respected by the English government?

Who has sent ambassadors to Genoa, to Venice, to Naples, to require, to command war against the French, to put a stop to all communication with her?

Who has insulted, infringed upon the flag of friendly nations, for the purpose of seizing the provisions, destined for a people, which they wished to starve, in order to enslave? It is the English government.

Who has laboured to engross around us, all the subsistences of America, of India, and of Europe, for the purpose of treating the French, as in 1783 Lord Clive treated the East Indians, to reduce them to the most absurd tyranny?

Who has had the baseness to offer us bread with chains, subsistence with a king, the means of supporting life under a devouring constitution? It is the British government.

Who have roved incessantly, like highwaymen, round our ports to offer provisions to the slaves who would accept the shameful condition of having a king, and who would also debase themselves so far as to receive an English, or Hanoverian king?

Who has dared to attack Dunkirk, with all the most destructive inventions of war, in order to recall to our remembrance the English commissary, who under the dastardly monarchy prohibited us from laying one stone upon another, and for the purpose of obtaining the foot of usurpation on the continent of Europe?

Who has endeavoured to sow division among the French, even among the patriots, with a cool and execrable calculation, by diffusing gold and corruption through commissaries under the mask of patriotism?

Who has disseminated in our cities, even in our popular societies, those political corruptors, or rather infamous agents of a still more infamous English ministry? The British government.

Who has opened in the bosom of the Republick, a consuming wound, a second Vendée, a civil war nourished by secret agents, who in the midst of our departments calculated the expenses, the means, and the progress of it?

Who has set loose upon our country, plunderers, refractory priests, and emigrant traitors? Who has purchased with gold, a part of our garrisons, corrupted the citizens and the generals? Who has thrown, by assignats and intrigues, into our fifteen battalions of the second levies of Paris, those dregs of Piedmontese, Germans, Genoese, Neapolitans, the scum of foreign countries, for the purpose of betraying our armed brothers, and of furnishing if they had been able, the Parisian name, the first which has been written by the hand of liberty, in the sacred annals of the revolution? Who has so liberally supplied the villains of the Vendée with muskets, powder, cannon on which are written, the names of those mercantile tyrants of Europe? The British government.

Who has bought over, and seduced the guardians of a seaport, belonging to the Republick, and thrown into fanaticism the people of Toulon, in order to annihilate our marine, and to destroy the inhabitants of that beautiful city?

Who has inundated with floods of corrupting gold, an opulent and industrious town, which they have instigated to rebellion, in order to force us to destroy with our own hands, this theatre of arts, and of the finest manufactures of Europe, and then to possess themselves, of the trade of silks of Piedmont, to ruin our industry, to invite our workmen over to them, and to rob us even of our genius for the manufacturing arts to which Europe had become tributary?

Who have betrayed the interests of their own nation to make war on a people who would have gloried in their esteem, and a more intimate alliance with them? This crime was reserved for the British government.

Citizens, the hatred of kings and of Carthage founded the constitution of the Roman republick; the hatred of kings, of the emigrants, of the nobles, and of the English, must consolidate the French constitution.

Let the spectacle of so many crimes rouse Europe from her lethargy; let the governments which are slaves to England cease to slumber, and let them at last perceive, near them, the precipice opened by that corrupting and corrupted government, who buy and sell men, cities, and ports, as we traffick in vile cattle, who are stockjobbers of people, as the financiers of the Rue Vivienne are stock-

jobbers of paper ; who sport with governments as the negro merchant sports with the inhabitants of Guinea, and who would wish to traffick in the political constitutions of Europe, as they do in the merchandises extorted from India.

Let the nations of the north, above all, hearken to the voice of the National Convention of France.

Here is the secret of the English.

To annihilate the maritime powers by the means of one another, the French navy by that of Spain, and then the Spanish navy when cut off from the assistance of that of France ; Holland belongs to them, the Dutch are the slaves of England. As to the marine of the North, the commercial vessels of the northern nations, from Holland as far as Russia, must pass through the channel, which is between Dunkirk and the English coasts, and consequently it is of importance to England, to have ports on each side of this strait. The atrocious audacity with which she has seized vessels, belonging to the northern powers must demonstrate to all nations, how much her designs augment their dangers, and menace the safety of their commerce, for time present and to come.

Frenchmen, Europeans, neutral powers, northern nations, you have all the same interest as ourselves, in the salvation of France. Carthage agitated Italy, London agitates Europe ; it is a wolf placed on the side of the continent to devour it ; it is a political excrescence which liberty has undertaken to destroy.

The navigation act, that we propose, is the effectual and true means of attaining that object ; it is founded on the rights of each nation ; it is founded in your most evident and incontestable interest : it is founded upon the most imperious duties of the National Convention, that of establishing the prosperity of France, and destroying the Republick's most mortal enemies.

Let us then take a cursory view, of the advantages which call for the promulgation of the navigation act. They are to aggrandize our commercial system, less to repel the industry of England, than to substitute our own in its stead, to multiply our means of navigation, to create an astonishing marine, and to tell to every nation that they should communicate directly with France, is only to

present a general view to them; I pass to more direct advantages.

From 1651, when the English navigation act, passed, all their merchants, all their politicians, all their economists, Child, Sheffield, even Smith himself agree that it is to this act, that England owes the prosperity, the superiority of her marine. This opinion has been examined, several times in France, by the citizen Ducher, who has presented to us his ideas on this important subject. The example has been given, experience is had, and nature offers to you an immense population with an army of intrepid seamen—enormous capitals—great forests—with assured relations in the north, with iron mines—with your woods of Corsica—your numerous ports—with your colonies, with your manufactures, two hundred leagues of coasts to populate by shipping—and the two seas to traverse in; such then is the act of navigation decreed by nature—it is your province to decree the act of navigation, which policy and commerce require.

The first advantage. France should discourage all second hand commerce carried on by other than her own vessels.

It is a *direct commerce* that we must have, and it is this kind of commerce, that England owes to her navigation act.

It would be humiliating to France; it would be declaring her impolitical and impotent, were she to receive commercial objects by any other vessels than those of the country which has manufactured or produced them. By this means you will attract to your ports, and be enabled to form useful connections with other nations. I will cite to you but one plain example. Why is there in the ports of London, Plymouth, Liverpool, more American vessels than in the ports of France? It is because we do not import in our own vessels, or those of the United States of America, the rice, tobacco, potashes, oils, and other articles of their growth. Why is there in the Thames more American vessels laden with grain and flour, than in our Atlantick ports? Because *Neckar* and *Roland* purchased at second hand, and seemed to be instructed to support the English commercial system, instead of purchasing directly from the United States of America.

We have left to the English the care of going to seek or to receive for us the tobaccos of Virginia, and the rice of Carolina, as well as the grain of Pennsylvania, giving them the first profit. The English make payment with their manufactures—which is giving them the second profit. We, Frenchmen, purchase these tobaccos and rice from the hands of the English, for specie, or at an enormous price in assignats, which they speculate with on ourselves—giving them here a third profit. A direct navigation, embraced by the navigation act, will restore to you all these advantages and rights.

As though it was not enough to purchase at second hand, we did not carry even our own merchandises. The mercantile marine of England was in our pay, and by us continued in it. A navigation act will destroy this abuse, and reinstate us in the receipt of these profits, impolitically lavished on the English and Hollanders.

Are we then without seamen and without marines, or rather have not our seamen, our merchants, a right to reproach us with their misery, and to obtain from us the preference to perfidious foreigners? Let us secure to our marines their occupations—suffer not the inhabitants of Amsterdam to fish and navigate for you any longer; nor let the English spin longer for our use, the wools and cottons which they purchase even in our ports.

Let foreigners no longer bring that which our fellow citizens can fabricate and transport as well and better than they. Then would you have numerous artisans, manufactures brought to perfection, your ports filled with shipping and marines. *Let us prohibit all traffick on our frontiers, and cherish our navigation.*

Let false alarms cease, by considering that our navigation will always be sufficient, when joined to that of the states from whom we shall draw productions. If our vessels, and those of the Americans can bring us tobacco for our consumption—why suffer the English to come in as a *third* party in the transportation of it? If our vessels and those of Spain are sufficient to bring her wools, why permit a Hollander to come and transport them, and thereby render ourselves tributary to him? And admitting that our navigation should in the first instance prove insufficient, the proposed act will induce that of other nations to come directly to us, and we shall endeavour ourselves to make



our own sufficient, by accelerating the progress of shipbuilding. There is no other means than under the patronage of this important act, by which our marine can rise to that degree of value and activity, which the destinies of France may require.

Second advantage. Here the national constitution presents to you all the riches which it ought to secure to us. Are we not yet weary of being the tributaries of foreign industry, of shamefully being the supporters of the vessels of our atrocious and laborious neighbours? Shall we never become tired of giving subsistence to their seamen, of seeing our most cruel enemies plough the ocean at our expense, and rendering us the slaves of the luxury and trinkets, which their industrious avarice induces them incessantly to fabricate for France?

You are desirous of having a marine, for without a marine there can be no colonies; and without colonies there can be no commercial prosperity: Then, in order to have such a marine as is necessary for the most astonishing republick that ever existed, *we must have vessels*; further, *we must build them*; still further, *we must have seamen*, and the fisheries furnish them.—*The fisheries and shipbuilding* are the cradle of the marine. The English have experienced this 150 years, and their marine is the most brilliant.

To force shipbuilding, is to create that rare and valuable reunion of men and artificers, by whose hands are produced new or repaired vessels.

To force shipbuilding, is to establish shipyards—is to form magazines—to multiply useful hands—to produce artists and workmen of every kind, who may be found at once for the peaceable speculations of commerce, and for the terrible wants of war.

To force shipbuilding at home, is to augment navigation, by the necessity of seeking timber, cordage, and the other matters necessary in various parts of France, or for the foreigner;—is to increase the vessels for transportation; is to augment the number of sailors; is to augment among us the benefits of freight; is to centuple our exchanges, our commercial relations and our profits; is to diffuse the tri-coloured flag over all seas.

For a navigating people to purchase its marine abroad, would be a strange speculation, as the marine would at-

ways be dependent on the merchants furnishing them! That of placing, as a reserve, with a foreign nation, or in a foreign shipyard, the carpenters, blacksmiths, *caulkers*, *sailmakers*, and the vessels of a nation, would be a singular commercial combination! We must therefore then build them for ourselves. The navigation act acknowledges, and privileges only those constructed in France, or in her possessions. The navigation act, then, will retrieve our marine, and rescue it from depending any longer on foreigners.

In 1747, the Hollanders, entrusted with supplying the military marine of France, obliged to enter their ports all the vessels from the Baltick and the North, laden with such naval stores as they had agreed with the French minister to bring us. A war took place, and the Hollanders immediately forced into their ports the raw materials essentially necessary for our marine, and our ports were destitute of shipping. Will you then always depend on foreigners, on their avaricious and political speculations?

Purchasing foreign vessels, is paying an enormous impost to foreigners; is proscribing our shipyards, ruining our workmen. Let us purchase the raw materials, let our ports be open to them, let those who produce these materials bring them, or let us go for them; this would secure to us every species of naval wealth: Behold the production of a navigation act.

To purchase foreign vessels, is exposing ourselves to have a bad marine, of little solidity, illy constructed, and of doubtful materials, or of short duration: such is the fruit of experience, attested by our marines. To form our marine, is to create an owner interested in its duration: This is the effect of a navigation act.

To carry on ourselves, our carrying trade, is to concert within ourselves its advantages,—is to employ national transports,—is to force shipbuilding,—is to form sailors: Behold the production of a navigation act.

To render more flourishing the only useful marine, that which merits the most attention of a republick, and which constitutes its real strength, the marine of the carrying trade, which transports without any noise, subsistence and the necessaries of life from one coast to another, and which, modest as benevolent, exposes not the life of the men employed in it, and knows no other enemies than the

financial rapacity which you have destroyed,—to favour the carrying trade : Behold the production of a navigation act.

To carry on ourselves the navigation of the colonies, is to profit by the abolition of the customhouses ; is to augment the resources of the marine ; is to secure to us an important navigation ; is to secure to us valuable returns which will nourish our commerce with foreigners : Behold the production of a navigation act.

To make a navigation act, is to favour our India commerce, is to augment that of the north, to re-animating that with the Isle of France, to augment our relations with the states of America, to prepare the means of prosperity for the south of France, a part of the Republick, so torn to pieces, so miserable, so disgraced by royalism and by treasons unheard of in the history of Frenchmen. It is to recover the commerce of the Baltick, and bring us and our natural friends together ; to form the most robust and valuable seamen ; to impoverish the English and Dutch navigation ; to re-possess our rights ; to have a legitimate share in the inheritance of the sea with all nations ; to knock down the barrier erected there by London and Amsterdam ; to provide ourselves our own subsistence ; to reduce our cruel enemies from their privileged situation on the seas ; to prohibit them from being the vehicles and the carriers of the French Republick. Every vessel which the navigation act shall produce, will be as it were setting a firebrand to a vessel of London or Amsterdam. What squadron, what naval victory can equal such a kind of success ! And should Toulon be for any time in the power of the ruffians of London and Madrid—should our destiny be to see our fine squadron of the Mediterranean purchased for English gold, lost or annihilated for us, in five years, the act of navigation will compensate that loss. Would you have an idea of the interest which England has in her navigation act ? be informed then that she would rather lose Jamaica, than revoke her act of navigation.

What reason have you therefore in being backward with the secret authors of the infamous treaty of Pilnitz ? Why have any delicacy with the corruptors of your fellow citizens, the destroyers of Lyons, the persecutors of Dunkirk, the purchasers of Toulon, the perverse founders of the new anglo-macheâvelisme ? Why have you been back-

ward with the enemies of human nature and of its rights? Their navigation act excludes you from their ports; but this is not all. The excessive duties the English receive from our vessels, interdicts our access to them for ever; the river Thames is avaricious and devouring only with regard to us; the light house duties absorb one portion of the freight of our vessels. In Holland, their parsimony, their strict economy, and the low interest of their money, enable them to navigate at a less expense; we can rival them in our marine, neither at home nor abroad, otherwise than by a navigation act.

Who can hereafter arrest the destiny of the commerce and marine of France? The marine has experienced losses, they must be repaired: it has had to struggle with pride and distinction; we must liberate it from these shackles; it is still commanded by men of a cast justly proscribed; we must rescue it from these scourges of the liberty of nations; we must also dismiss all the suspected officers remaining in its bosom.

Commerce has had errors and crimes to repair: it became subservient to counter revolutionary and federal views, from interest, from ignorance or egotism. It became anti-revolutionary and federal, because it is divested of political views, and rarely sees into futurity; because the revolution which it has forced, speculated in, and calculated upon, did not produce at this epoch as much profit as it had made in the first periods of it. But commerce will at length see that its cosmopolism ought to cease; that it has also its cargoes in the vessels of the Republick, that liberty is not calculated *at 5 per cent.* and that a democracy was always more favourable than a monarchical government to commercial prosperity, to the welfare of merchants, and to the equality of all, which till now have been valued only for them. Commerce will perceive that monarchies were always avaricious, insolent, proud and military; and that true republicks are generous, equal, simple and commercial.

Should it be objected that this act will be in opposition to our treaties of commerce with friendly and neutral nations. The first article of the project proposed, religiously maintains all the treaties: besides none of the treaties are opposed to a navigation act. and the first article has been inserted merely to silence the objections of the malevo-

lent and of those who are ignorant in political economy. Besides, those laws which rest on the faith of nations, will be always scrupulously respected by the French Republick, and we do not seek by the act of navigation but to strengthen the ties of nations but to restore the direct commercial intercourses with them, which the covetous Englishman and Hollander have interrupted for the purpose of engrossing.

What obstacle remains to be vanquished? The tyrant of the seas? But he has employed against us all his strength, and the English have cowardly fled at the approach of the French bayonet, at Dunkirk. Was he the corrupter of Toulon? But the conquest which is made by the agency of crimes and treason, is not of long duration. The English fleet would have been repulsed, if the fanaticism of the priests, the credulity of the people, the floods of British gold, and the traitorous conduct of Puissand and of Tro-golf had not given up to the dastardly and vile English, the key of the Mediterranean.

Some years ago, one would have supposed that the English blood and treasure would have been employed only in the progress of philosophy and of liberty; but it was difficult for this government, which has paid, by the loss of morals for the dangerous advantage of being the depository of the gold of the world, not to deliver itself up to a mercantile spirit, and to all the political vices profusely emanating from wealth. Has it not then seen that there is a limit to the blindness of the people; that the English government enjoys in the midst of the enormous fortunes of individuals, but an ideal publick wealth which may vanish in an instant; that it enjoys but a fictitious and momentary credit, and an unfounded paper, which party spirit may cause to vanish, and which perhaps before long may leave to a mercantile and speculating nation, only regrets, corruption, revolutionary shocks and despotism, without colonies and without marine? The league directed against France, by the despots, accomplices of George, is composed of territorial and maritime powers. As to the territorial powers, who have not the same interest as the others, let us oppose to them our republican armies, and the French youth. The maritime powers have other projects, and before long, will be divided by the result of their monstrous union: let us oppose to them the law for

the freedom of the seas; let us oppose the iron of our pikes to their guineas, our bayonet to their phalanxes, our gunners to their cavalry, and navigation act to navigation act. Let other nations follow our example, let other nations completely repossess themselves of their natural rights on the seas, and then will England be violently detached from that maritime throne which she has too long usurped. The visier of George has dared to declare a few days ago, in dictating laws to neutral nations, and daring to restrain the rights and forms of their neutrality. "France," said he, "should be separated from the commercial world, and treated as though she had but a single city, but a single port, and as if that place was blockaded by sea and by land."

*France blockaded!* Thus spoke of Rome before their just destruction, those men of punick faith, the ambitious and mercantile Carthaginians.—*France blockaded!* Nay. If it were possible to reduce her to the confined limit of a single port, of a single garrisoned city, the French nation would then sally out of its limits by a bridge from Calais to Dover, and landing with its liberty on the British territory, too long fertilized by our spoils, the heads of George and of Pitt would fall at the feet of those Englishmen who should feel themselves worthy of liberty, and the English island would raise at our side another republick, or become a desert.

But in order to construct this bridge, which is to establish our revolutionary communications with this modern Carthage, who after having drained India, wishes at her pleasure to give constitutions to Europe, let us decree a solemn act of navigation, and the mercantile island will be ruined.

It is always said that the English are the masters of the sea; but the Spaniards were the gods of the ocean under Philip II, as the English are the tyrants under George III.

The Spaniards overflowed with the gold of Mexico, and the silver of Peru, as the English are covered with the wealth of India and the treasures of the world.

Then the Spanish flag was the only one known at sea, as that of the English is the only one now seen on the ocean. However, the invincible fleet of Philip was conquered, his *Armada* so much celebrated was defeated; and the ancient kings of the seas and of Peru are no

longer any thing more than the watermen of the former, and the exploring workmen of the latter.

Let Frenchmen so intensely engaged in the revolution, pause a moment in order to contemplate its majestick and amazing progress, and then they will be as conscious of their strength as they are of their rights. Let them be for a moment spectators: The genius of liberty creating amidst the most prodigious events, a still greater prodigy, a democracy of twenty-five millions of souls, a republick of thirty thousand square leagues, boldly establishing herself upon the wrecks of a conspirator's throne, upon the ruins of a nobility as perfidious as arrogant, upon the domains of a clergy as opulent as useless, upon the judiciary corps as ruinous as impolitick, upon the feudal system as absurd as inveterate, upon titles as ridiculous as fallacious, What will they see? A free people establishing a republican government for themselves, and establishing it by common consent; punishing at the same time the treasons of their kings, their legislators, their generals, the emigrants, and their ministers of religion; forced to make a civil war in the bosom of the state, at the same time that they were employed in extinguishing the fire-brands cast on all sides by their domestick enemies; obliged to bombard their rebel towns, and to punish the desertion of their fleets; obliged to re-conquer for liberty their maritime and commercial cities, to depopulate, to reduce to ashes fanatical districts and royalized parts of the country, for the purpose of replacing in them a republican population; cutting off the slavish and suspected part in order that the free and energetick may defend their fire sides, forced to supply with provisions the principal city, the seat of the representatives, as a garrison is supplied, by requisitions; a people at the same time struggling against military Europe, and against the French federalists, against the counter-revolutionary administrations, and against all the leagued tyrants, amidst preparations for sieges, bombardments and plots calculated to add famine to all the scourges of war; this people at the same time covering all the frontiers with cannon, with soldiers, and in a word realising the expression of Pompey: *By a stroke of the foot causing the earth to bring forth armed phalanxes.*

And such is the nation that isolated merchants, too long tolerated on the side of a continent which they corrupt and

oppress, have hoped to reduce to a state of subjection or to royalize! Let them tremble to the foundation of their counting houses and workshops, when the other nations of Europe, awakened even by the clangour of their chains, shall at last perceive that Europe will be entirely free at the moment in which the influence of England shall be weakened or annihilated, her policy rendered impotent, her Indian commerce diminished and her roll reduced to that of a factor and maritime commissioner.

Now you commercial and maritime cities, rebellious towns which have eclipsed the renown of the genius of the south, *Liberty* cites you before the revolutionary tribunal of the *publick opinion*. You have falsified your commercial avocation, and the representatives of the people are occupied in enriching you alone, or in repairing the injuries you have done us. You have been the enemies of the Republick, and the Republick answers you with benefits, with a navigation act, which will amend your errors and your crimes, while in the time, a decree already projected, is about opening in all the departments canals for interior navigation, and proscribing all gewgaws, all the miserable wants of luxury, all merchandises manufactured by our irreconcilable enemies, the English. Let us have sufficient strength of mind, of patriotism, to become ourselves by our own consumption, the first benefactors of the national manufactures; let us multiply, let us bring our fabricks to such perfection as to render the wants of other nations tributary to us; let us multiply them in order to diminish those of Batavia, and of Breton. Such ought to be the result of the navigation act, until that desirable epoch, when all the other European nations, having also their navigation acts, in virtue of their natural rights, shall force England to revoke hers, and to restore to the seas and to commerce that latitude and liberty which nature, the true policy of empires and justice assigned to them.

*Let Carthage be destroyed!* Thus did Cato conclude all his speeches in the Roman senate.

Let England be ruined, annihilated! This should be the concluding article of every revolutionary decree of the National Convention of France.

The following are the projects of decrees which the committee of publick safety present to you.



*Decree of a Navigation Act.*

The National Convention, after having heard the report of the committee of publick safety, decree :

Article I. That the treaties of commerce and navigation existing between France and the powers with whom she is at peace, shall be executed according to their form and tenour, without derogating therefrom by the present decree.

i. That after the first of January, 1794, no vessel shall be reputed French, nor have a right to the privileges of a French vessel, unless she shall have been constructed in France, or in the colonies and other possessions of France, or declared to be a lawful prize taken from the enemy, or confiscated for contravening the laws of the Republick, if she does not belong entirely to Frenchmen, and if the officers and three fourths of the crew are not Frenchmen.

iii. That no foreign commodities, productions, or merchandises, shall be imported into France, or into the colonies and possessions of France, except *directly* by French vessels, or vessels belonging to the inhabitants of the country of which they are the growth, produce, or manufacture, or of the ordinary ports of sale and first exportation ; the officers and three fourths of the crews of such foreign vessels being of the country under whose flag the vessel sail ; the whole under the pain of confiscation of the vessel and cargo, and of a fine of three thousand livres, jointly and severally, against the owners, consignees and agents of the vessel and cargo, captain and lieutenant.

iv. That foreign vessels shall not transport from one French port to another French port, any commodities, productions, or merchandises of the growth, production, or manufacture of France, the colonies or possessions of France, under the penalties contained in Article iii.

v. That the tariff of the national customhouses shall be reformed and combined with the act of navigation, and the decree which abolishes the duties between France and the colonies.

vi. That the present decree shall, without delay, be solemnly proclaimed in all the ports and commercial cities of the Republick, and notified by the minister of foreign

affairs to the nations with whom the French nation is at peace.

*Decree Relative to the Licenses of Vessels under the French Flag.*

The National Convention, after having heard the report of the committee of publick safety, decree :

Article 1. That the licenses of vessels under *the French flag* shall be in three days, reckoning from that of the publication of the present decree, for those which shall be in the ports ; and in eight days from the arrival of those which shall enter, reported and deposited in the office of the national customs, together with the proofs of ownership. The unlading and departure of every vessel shall be deferred till after the delivery of an *act of francisation*.

II. That every owner on presenting a license and title of proprietor of a vessel, shall be bound to declare, before a justice of the peace, and to sign on the register of French vessels, that he is owner of the vessel, that no foreigner is interested therein directly or indirectly, and that her last cargo arrived from the colonies, or French settlements, or her present outward bound cargo for the colonies or French settlements, is not an armament on commission, nor foreign property.

III. That if the owner does not reside in the port in which the vessel lies, the consignee and the captain shall give security conjointly and individually, to report, as soon as may be, the proofs of ownership and a declaration attested and signed by the true proprietor of the vessel and cargo.

IV. That if the property of the vessel, and also that of the cargo for the commerce between France, her colonies and settlements, is not proved to be French by title and under oath, the vessel and cargo shall be seized, confiscated, and sold, and one half of the product given to the informer.

*Report on a project of an act of navigation of the French Republick, presented to the National Convention the 3d of July, 1793. In the name of the Committees of Marine, of Commerce and of Publick Safety, by Peter Marec, Deputy from Finistère, printed by order of the National Convention.*

CITIZEN LEGISLATORS,—You have referred to your diplomatic committees of marine and commerce united, the proposition made in your body, the 20th of May last, to present to you without delay a project of an act of navigation.

This object so worthy of the meditation of a republican legislator, has not been overlooked by your committee of publick safety. In the report they made to you on the 29th of May, on the state of the French Republick, they traced to you in general the invaluable advantages which would result to her from a measure, which having been adopted by England a century and a half ago, has been the most fruitful source of the prosperity of that rival power. But in a question of this nature, general considerations and observations hastily made, are insufficient to impress conviction on every mind.

Your marine committee has been employed in collecting such ideas and elements as might completely enlighten you on the importance of a navigation act, and finally determine you to establish at the side of the political constitution of the empire, this first basis of her commercial constitution. They could not unite, according to your views, with the diplomatic committee, which has not been renewed since the suppression of the committee of general defence; but they have concerted with those of commerce and publick safety, and it is in the name of these three committees that I come to present to you the result of their deliberations.

The principal end of the navigation act which we propose, is to destroy the interposition of all *indirect* navigation, in the maritime transportation of our articles of exchange with foreign nations, and in fine to put a stop to that intermediate carrying trade, so prejudicial to our commerce and marine, which hitherto has rendered us benevolent tributaries of all the maritime powers of Eu-

rope. This act has also for its object, to reserve to the national vessels the exclusive privilege of transporting the same articles of exchange from one port of the Republick to another.

This double prohibition is doubtless contrary to the principles of an indefinite commercial freedom: but such freedom perhaps would not agree with the system of an universal republick; and it is conceived that the republick of the human race will be still more difficult to realize than that of Plato. It is then our wisdom not to allow ourselves to be dazzled by the brilliant imaginations of political writers, and who warp the light of reason and experience in their specious arguments and pompous theory. It is from the example of the great nations who surround us, from that nation especially, who first knew how to apply to her navigation prohibitory regulations; it is from that source we ought to derive rules for our conduct, if we have at heart the true prosperity of our country.

France taken in a commercial point of view is the richest entrepôt of the universe; she is also the market which offers the most consumers and vent for the industry of other nations. Whence does it happen that, with so many resources and wants, with such abundance of territorial commodities, productions and merchandises, with the habit of consuming such great quantities of the commodities, productions and merchandises of foreigners, her navigation has hitherto been so languishing, her commercial marine so pitiful, so altogether destitute of the advantages which are its inherent right? Whence does it happen that the flag of her most formidable enemies has almost exclusively figured in her commercial relations? Because she was destitute of a navigation act; because a false, timid, and frivolous policy knew not how to produce, or did not dare to borrow, from a great nation proud of its wealth and of its credit, this valuable system which has contributed more to the power of that nation, than all the victories of its admirals.

In a word, it is time that the French nation should know all her advantages, and how to profit of them. It is time for her to repair all the injury she has sustained, in this respect, through the ignorance or criminal indifference of an oppressive government, more careful of preserving at any price, its despotick authority, more occupied in diplomatic intrigues or fiscal operations, more tenacious in

maintaining the false splendour of a throne at the expense of the true interests of the people, than attentive to render productive by every means in its power their agriculture, their commerce, and their industry.

Doubtless there never was a more favourable occasion for procuring to our country the benefit of a navigation act. Numerous republican armies, familiarized with victory, being now fighting for her independence and her liberty, against the very powers who are most interested in preventing us from enjoying such an act. Before the war it might have been sufficient for us to have made such an act merely with regard to England; such was the effect on Holland, when Oliver Cromwell, in 1651, had a decree passed by the British parliament.

At that epoch, according to the inquiries of one of our countrymen, the best informed at the present day, in the knowledge of our true commercial and political interests (citizen Ducher\*) the maritime commerce of the English did not consist of more than 96,000 tons of transports; in 1790, it rose to more than 800,000 tons.

Again at that epoch, according to the interesting report presented to the constituent assembly, on this subject, by citizen *Delattre*, "One half of the navigation of England was carried on by foreigners. England has imperceptibly retaken her rights; towards the year of 1700, foreigners possessed no more than the *fifth part* of this navigation; in 1725, only a little more than the *ninth*; in 1750, a little more than a *twelfth*; and in 1791, they possessed only the *fourteenth* part of it."

Our navigation a year ago, was in regard to foreign nations, still more unfavourable than the English navigation of 1651. Permit me here, to give in a concise manner the striking calculations which were laid before you on this subject, in the month of December last, by the ex-minister of the home department, in the table containing the amount of the exterior commerce of the Republic of France.

\* If the convention pass the present project of a navigation act into a decree, the country will be under obligations to citizen Ducher, who for upwards of two years past, has endeavoured to obtain the adoption of this plan with indefatigable perseverance, as well in committees of the national assembly, as by the publication of his writings. This is an act of justice which it affords me pleasure publicly to render to that excellent citizen.

The maritime transportation of our exchange with the Europeans, the Levant, the Barbary states and the Anglo Americans, estimating on a mean year, from 1787 to 1789, inclusive, has employed in the whole 16,225 vessels, measuring 1,184,170 tons, which, taking one with another, at 36 livres the ton, would produce 42,630,120 livres of freight.

There have been employed in this transportation, during the same period, only 3,763 French vessels, measuring, in the whole, 295,251 tons, making, at the same rate, 10,803,316 livres of freight.

That is to say, the French flag has appeared to come in for only a little more than *two tenths*, whilst the English flag has participated therein to nearly the amount of *four tenths*, and that of other nations in the remaining *four tenths*.

In the first six months of 1792, in near six thousand vessels, measuring five hundred thousand tons, which have been, in like manner, employed on our commercial imports, and exports, to and from the same people, the French had but *three tenths* of the total mass, whilst the vessels of England and Holland, and the Hanseatic towns, had *four tenths*, and the vessels of other nations the remaining *three tenths*.

If we view this navigation under another aspect, that of our direct relations with each of the European states, of the Levant, Barbary, and North America, it will be seen, that during the same time (taking the mean year of 1788 and 1789 inclusively) there have been mixed in the maritime transportation of our exchanges; with Spain, one hundred and ninety-nine vessels other than French or Spanish, deduction being made of the foreign vessels who might have intermeddled in this carrying trade, under either of the two flags. With Sardinia, two hundred and sixty-nine vessels, also intermedial. With the republick of Genoa, two hundred and sixty-one, similar vessels. With Holland, two hundred and fifty-three, similar vessels. In a word, with all the states of which I have spoken, two thousand three hundred and sixty-eight vessels, employed in indirect commerce, and whose tonnage amounts to two hundred and thirty thousand six hundred tons; which valued at thirty-six per ton of freight one with another, amount to eight millions three hundred and one thousand

six hundred livres carried off with impunity, in one year, from our carrying trade, merely from the want of a navigation act in France, without counting upon the considerable advantages which would otherwise result from it, for her industry and commerce, for ship building in her ports, and for the employment of the whole or even the half of these two thousand three hundred and sixty-eight intermediate vessels.

It must then appear plainly to the conviction of every person, that nothing would contribute more to the prosperity of our navigation, and consequently to every branch of our commerce and industry, than the adoption of an act, which, by severely excluding all foreigners who hitherto have forcibly taken from our fellow citizens the richest portion, if I may so express myself, of their patrimony, would in the same proportion increase the amount of their direct relations with foreign nations.

Let us hasten then citizens, to restore to our country all her rights, by adopting in this respect, a grand system, worthy of all that we have done for liberty.

If, at the epoch at which I now speak, our navigation is proportionally more languishing than that of England was, when the genius of Cromwell gave her that so renowned act, let us hope that by consecrating it in our maritime legislation, our navigation will in a short time acquire the same degree of splendour as that of our rivals. With more than two hundred and fifty leagues of coast on the ocean, and the channel, and more than one hundred on the Mediterranean, with ports as secure as extensive and commodious, with an infinite number of havens, of dock yards, of manufactures of every kind, with an immensity of people, as enterprising as industrious, with incalculable territorial riches, and a mass of colonial commodities, superior to that of all the powers of Europe united, and above all, with a free and republican constitution, let us hope that France, freed from the yoke of the feudal system, and that of the fiscal, inseparably connected with it; delivered from her kings, her nobles, her priests, raised to the happy condition of depending on those laws only, which are made by herself, and not obliged to receive them from any power on earth; let us hope, I say, that, in such a state of things, France, with an act of navigation, would behold the rapid envelopment

of all the seeds of publick and private prosperity which she contains in her bosom. Let us also hope that the decree you are about to pass, will prove more efficacious for your obtaining a peace with the belligerent maritime powers, than if they were to lose one hundred of their best vessels; and as to those, who at this moment preserve circumspect neutrality towards you, be persuaded that the inevitable effect of your navigation act, will be the attaching of them to you by indissoluble ties. All will be eager to seek an alliance with that European power, from whom they will derive most benefit, by the suppression of indirect navigation, and the immensity of its consumers. Every one, from the moment of the promulgation of your decree, will pray, and perhaps make use of secret efforts to procure you an advantageous peace, which doubtless at present, they have some interest in preventing; and besides your independence, your political liberty, the establishment of your republican constitution, will be to them as much as to yourselves—a subject of triumph and general victory.

The navigation act, as I have already said, is the basis of the commercial constitution of the Republick; or rather, it is in this respect a true constitutional act. All the other laws upon maritime navigation, should only be viewed as corollaries of this act, provisions as to the manner of its execution; in a word, merely regulating laws.

The latter may be successively presented to you by your committees. The most interesting of these are relative to the tonnage of vessels, upon the means of multiplying ship building, and of bringing them to more perfection; upon the forms of licenses and passports; upon the means of discovering and preventing *francisations*, *simulées*, &c.; and above all, upon a better tariff of rates of navigation, without which the constitutional act, in this respect, cannot produce all the effect which we have a right to expect from it.

Your committee will now confine itself to laying before you the project of that act. By prohibiting all intermediate navigation between you and each foreign nation, it extends this prohibition, not only to the transportation of the commodities, merchandises, or productions imported, of their growth, production or manufacture, but also to the transportation of those imported from the *ordinary ports*



of sale, and of the first exportation. It is necessary that such a prohibition should be as extensive as it could be made, without which a navigation act would become a mere illusory measure. The English from whom we borrow this system, have given it that extension; and indeed they are to be applauded for it.

The necessity of determining the requisite qualities for enjoying the privileges of a *French vessel*, that is to say, for the exclusive admission to carry on our direct navigation, in concurrence with the vessels of the people, from whom we receive our articles of supply; this necessity, I say, was an immediate consequence of the prohibition of all indirect navigation. The project of the act regulates these qualities; it also determines the only evidence by which we could know the vessels of the nation with whom we may trade; and it is easily perceived, that if we did not impose in this respect, those conditions which are most conformable to our interest, every day crowds of intermediate vessels would borrow the flag of such nation; and we should have employed but half the means for abolishing indirect navigation. Besides, these conditions have a tendency to favour the direct navigation and commerce of such nation. By them it is put in the happy necessity, of multiplying by every means, its ship building, nauticks, and maritime population; and if, in the meanwhile, its own vessels and mariners are insufficient for the exportation of its commodities and merchandises, then it belongs to us alone to supply that deficiency, and our navigation would then receive a further increase from this source, and our commerce an additional degree of prosperity.

Thus every thing concurs, citizens, to induce you to adopt the project of the navigation act, which I am instructed to present to you. It is a national right you are about to proclaim, after having solemnly recognised the sacred rights of man and of citizen, and founded the freest constitution under the globe.

If all nations ought to recognise the equality, the liberty of nature and the safety of society in the exposition of the doctrines of that immortal declaration, all the maritime nations ought to recognise the rights of property in the dispositions of our navigation act. Would to heaven that all had the courage or the wisdom to follow our example.

Then there would be no exclusive privilege between one nation and another; and were the act of navigation adopted by all the maritime powers of the globe, it would in some degree realize that indefinite commercial liberty, which without doubt is the first element of commerce, but which at present in particular, is not suitable to the interests of any commercial nation.

With so many powerful inducements to decree an act of navigation, you doubtless will not in the existing circumstances, be withheld by the apprehension that such a disposition would injure the obtaining of supplies for the Republick which they are obliged to draw forth from foreigners. It is an acknowledged principle with the English themselves, and constantly practised among them, that in time of war neutral vessels are excepted, of right, from the dispositions of the navigation act. This act therefore will not add to those restrictions which the maritime war at present imposes on the maritime transportation of our exchanges or of our supplies; and neutral vessels will continue to bring us every thing which we dare not confide to our own.

Neither will you be deterred by an apprehension of injuring the personal interests of some hundreds of cosmopolite capitalists, of selfish commissioners, for whom the want of a navigation act in France, has been the principal, the most fruitful source of their colossal fortunes. The general interest of the country, that of her labourers, of her manufacturers, of her artists, of her seamen, her merchants, and all her *sans culottes*, to whom you will assure employment and bread—These reasons should determine you—These reasons should influence you exclusively in your deliberations. All will bless you; all will look upon the act of navigation, as one of the most precious gifts you could bestow on your countrymen, next to the constitutional charter which you have just digested. When Oliver Cromwell had, through the medium of his parliament, established a navigation act, all the ports of England manifested, by illuminations, the joy which that memorable act gave them; and the English people forgot for a moment, that they received this gift from the hand of a tyrant. How great then ought the transports of our fellow citizens to be, when they receive

your decree from the same hands, which have given them the declaration of rights, and the French constitution!

May France be enabled, in the end, therefore, to boast also of having a navigation act; may it henceforward be the basis of her policy, as it is about being that of her commerce. May she soon become more rich, more flourishing, more happy, than she has been under the most brilliant reigns of her despots, and never treat with foreign powers, without her constitution in one hand, and her navigation in the other; and astonished Europe will doubtless see her merchants become one day, her only ambassadors, like those of London and Amsterdam formerly, negotiating at foreign courts, the most important interests of their country, and after having weighed the destinies of the two worlds, and secured the prosperity and glory of their country, reassuming the peaceable pursuits of commerce.

The following is the project of the decree.

*Act of Navigation of the French Republick.*

The National Convention after having heard the report of their Committees of marine, of commerce, and of publick safety, considering that the French nation has the incontestible right of securing by every method, the prosperity of her agriculture, commerce and industry; that nothing has a more direct tendency to this end than a navigation act; and that in the solemn declaration of this act, she only makes use of the same right which she acknowledges to belong to all other nations, decrees as follows:

Article 1. That no foreign commodities, productions, or merchandises shall be imported but *directly* by French vessels, or those belonging to the inhabitants of the country of which they are the growth, produce or manufacture, or to the inhabitants of the country of the ordinary ports of sale and first exportation; the officers and three fourths of the crew of a foreign vessel being of the country whose flag the vessel bears; the whole on pain of confiscation of the vessel and cargo, and a fine of three thousand livres, jointly and severally against the owners, consignees, and agents of the vessel and cargo, the captain and lieutenant of the vessel.

II. That foreign vessels shall not transport from one French port to another French port, any commodities, productions or merchandises of the growth, produce or manufacture of France, the colonies or possessions of France, under the penalties declared in article 1st.

III. That after the 10th of August next, no vessel shall be reputed French, nor enjoy the privileges of a French vessel, unless such vessel shall have been built in the colonies or possessions of France, or declared a good prize taken from an enemy, or confiscated for contravention of the laws of France, and unless the officers and three fourths of the crew are Frenchmen.

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## MESSAGE

OF THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
JAN. 20, 1794.

HAVING already laid before you a letter of the 16th of August, 1793, from the Secretary of State to our minister at Paris, stating the conduct, and urging the recall of the minister plenipotentiary of the Republick of France, I now communicate to you, that his conduct has been unequivocally disapproved, and that the strongest assurances have been given that his recall should be expedited without delay.

GEO. WASHINGTON.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS. JAN. 22, 1794.

I FORWARD to you, extracts from the last advices from our minister in London; as being connected with communications already made.

GEO: WASHINGTON.

*Extract of a Letter from Thomas Pinckney, to the Secretary of State. London, Aug. 12,\* 1793.*

I CONTINUE to receive assurances from him, of the desire of this government so to conduct the measures they think themselves justified in pursuing towards the neutral powers, as to render them as little detrimental to our commerce as the state of warfare existing in Europe will admit; and on complaint of some irregularities committed by British privateers, he requested me to select some instances where the evidence is clear, in order for criminal prosecutions to be instituted against the offenders, in which he promised the fullest support of the law officers of the crown, and I am now endeavouring to fix upon some strong cases where our evidence may be sufficient to ensure conviction. I believe it to be the desire both of the government and of the people in general here to be upon good terms with us; but the line of conduct pursued to the neutral powers, in which I do not perceive any symptoms of relaxation, cannot but create dissatisfaction. From the department of state, I generally obtain explicit answers on such subjects as they are competent to decide, but where references are made thence to other departments, which is frequently the case, the delays are very great, especially in the business with the admiralty.

Truly extracted from the original, Jan. 22, 1794.

GEO: TAYLOR, JR.

Chief Clerk in the Department of State,

*Order of the Admiralty, enclosed in the letter of Aug. 12, 1793. Sept. 3, 1793.*

ORDERED,—That freight and reasonable expenses shall be allowed to all masters of neutral carrier ships, and be a charge upon the cargoes whether condemned, or restored, or ordered for farther proof of neutral property; provided always, that no mala fides, or prevarication shall appear, or be justly presumed, or suspected, on the part of any neutral master, and that such neutral master shall make oath that such freights are not already paid for or engaged for to be paid by the owners of the said cargoes in view of every event of capture or otherwise. Demurrage shall

\* Probably a mistake.

† Minister for Foreign Affairs

be allowed, and considered as a reasonable expense, only in cases where the ship shall be pronounced to have been unjustly seized and brought in for adjudication, or bulk-broken, and his majesty's instructions disobeyed, or where there has been actual and wilful damage done, and misusage of persons or property by the captor, or when the time of detention for the purpose of unlivery of the cargo, or repairing such damage, shall exceed the time specified in the charter party, or when the neutral master shall not refuse or neglect to take away his ship upon bail offered to be given by the captors for freight, and reasonable expenses. That where the value of corn and naval stores sold to his majesty shall be decreed to be paid to any neutral claimant; the owner, in cases where such corn, provision, and other naval stores, by any treaty or particular stipulation, shall be held to be not contraband, and so not confiscable, the captor who shall have brought in such privileged ships and cargoes, in consequence of his majesty's orders and instructions, and who shall have given bail to be answerable, upon unlivery of the same, for freight and reasonable expenses, in case that any shall be allowed, shall be discharged from his bail, but that the freight, and such reasonable expenses, shall be decreed to be added to the price of the cargo, and to be paid for by his majesty to the neutral owner, in cases of restitution, and in cases of condemnation shall be added in like manner to the price of the cargo, and paid to the captor by his majesty.

Freights and reasonable expenses where captors and claimants cannot agree, shall be referred to be settled by the deputy registrar, and merchants appointed by the court; the report nevertheless shall be subject to revisal by order of the court, upon objections made by either party.

A true copy of the original, Jan. 22, 1794.

GEO. TAYLOR, JR.

Chief Clerk in the Department of State.

*Extract of a Letter from Thomas Pinckney to the Secretary of State, dated London, Nov. 11, 1793.*

TUSCANY has been obliged to abandon its neutrality. Genoa has been forcibly urged to the same measures by

the commanders of a combined Spanish and British fleet, who entered their port and seized a French frigate and some armed vessels lying there. A minister from that Republick was received at the last levee.

A proclamation is issued, directing our vessels from Pennsylvania, Jersey, and Delaware, to perform a quarantine of 14 days.

Truly extracted from the original, Jan. 22, 1794.

GEO. TAYLOR, JR.

Chief Clerk in the Department of State.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
LETTERS FROM FRENCH MINISTER. FEB. 7, 1794.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
GREAT BRITAIN AND SPAIN. FEB. 24, 1794.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE TO  
SPAIN AND ALGIERS. MARCH 8, 1794.

[See Vol. Confidential Documents.]

## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES TO CONGRESS.

MARCH 5, 1794.

THE Secretary of State, having reported to me upon the several complaints which have been lodged in this office against the vexations and spoliations on our commerce since the commencement of the European war, I transmit to you a copy of his statement, together with the documents upon which it is founded.

GEO. WASHINGTON.

*Philadelphia, March 2, 1794.*

SIR,—In your message to both Houses of Congress, on the 5th of December, 1793, you inform them, that “the vexations and spoliations, understood to have been committed on our vessels and commerce by the cruisers and officers of some of the belligerent powers, appeared to require attention: That the proofs of these, however, not having been brought forward, the description of citizens, supposed to have suffered, were notified, that on furnishing them to the executive, due measures would be taken to obtain redress of the past, and more effectual provisions against the future,” and that “should such documents be furnished, proper representations will be made thereon, with a just reliance on a redress proportioned to the exigency of the case.”

On my succession to the department of state, I found a large volume of complaints, which the notification had collected, against severities on our trade, various in their kind and degree. Having reason to presume, as the fact has proved, that every day would increase the catalogue, I have waited to digest the mass, until time should have been allowed for exhibiting the diversified forms, in which our commerce has hourly suffered. Every information is at length obtained, which may be expected.

The sensations excited by the embarrassments, danger, and even ruin, which threaten our trade, cannot be better expressed, than in the words of the committee of Philadelphia. After enumerating particular instances of injury, their representation to government proceeds thus: “On



these cases, which are accompanied by the legal proofs, the committee think it unnecessary to enlarge, as the inferences will, of course, occur to the Secretary; but they beg leave to be permitted to state other circumstances, which, though not in legal proof, are either of such publick notoriety as to render legal proof unnecessary, or so vouched to the committee as to leave them in no doubt of the truth of them.

“ It has become a practice for many of the privateers of the belligerent powers to send into port all American vessels they meet with, bound from any of the French ports in the West Indies to the United States; and it is positively asserted, that the owners of some of them have given general instructions to their captains to that effect—And though many of those vessels have been afterwards liberated, yet the loss by plunder, detention and expense, is so great as to render it ruinous to the American owner:—In many cases, where the cargoes have been valuable, the owners of the privateers, after acquittal, have lodged appeals which they never intended to prosecute, but merely with a view of getting the property into their hands upon a valuation made so unfairly, as to ensure them a considerable profit, even if they should be finally made liable.

“ Fourteen days only are allowed to an American owner to make his claim, which renders it impossible for him, except he is on the spot, and every difficulty which a combination of interested persons can devise, is thrown in the way, to prevent his getting security; and in few instances can it be done, but by making over his vessel and cargo to the securities, and thereby subjecting himself to the heavy additional charge of commission, insurance, &c.—It may be added, that the most barefaced bribery is sometimes practised to prevail on unwary boys, or those who know little of the obligation of an oath, to induce them to give testimony in favour of the captors.

“ Beside the cases here enumerated, the committee have information of a number of vessels belonging to this port, being captured and carried into different ports: but as the legal proofs are not come forward, they forbear to mention them.

“ It is proper, however, for them to add, that, besides the loss of property occasioned by those unjust captures and detentions, the masters and crews of the vessels are

frequently subjected to insults and outrages, that must be shocking to Americans. Of this the case of captain Wallace is an instance.—There are others within the knowledge of the committee, of which they only wait the legal proof to lay them before the Secretary.

“To this last list of grievances the committee are sorry to find it their duty to add, that by reason of the vexation, loss, and outrages, suffered by the merchants of the United States, its commerce already begins to languish, and its products are likely to be left upon the hands of those who raise them. Prudent men doubt the propriety of hazarding their property, when they find that the strictest conformity with the laws of nations, or of their own country, will not protect them from the rapacity of men who are neither restrained by the principles of honour, nor by laws sufficiently coercive to give security to those, who are not subjects of the same government.

“The committee conclude this representation with an assurance, that they have, in no degree, exaggerated in the statement they have made, and that they will continue to communicate all such information, as they may further receive; of which nature, before the closing of this report, they are sorry to add, is that of the irruptions of the Algerines from the Mediterranean, in consequence of a truce concluded with that regency, it is said, by the British minister, on behalf of Portugal and Holland. This alarming event, to which some American ships, we hear, have already become victims, is of so distressing a nature, as must soon deprive us of some of the most lucrative branches of our commerce, if not speedily checked or prevented. The immediate rise it has produced in insurance, and the fears it may instil into our seamen and commanders, are of a nature highly deserving the serious consideration of government, on whose protection and zeal for the interests, commercial and agricultural, of the country, the committee implicitly rely.”

In a supplementary letter the committee of Philadelphia make this conclusion, “that the cases which they recite, and others less formally announced, serve to show, that there are frequent instances of suppression of papers, registers, &c. very prejudicial to our shipping on their trials, and of injuries by the destruction of letters, to the

general correspondence of the country with foreign nations.”

When we examine the documents which have been transmitted from different parts of the Union, we find the British, the French, the Spaniards, and the Dutch, charged with attacks upon our commerce.

It is urged against the British,

1. That their privateers plunder the American vessels, throw them out of their course by forcing them, upon groundless suspicion, into ports, other than those, to which they were destined; detain them, even after the hope of a regular confiscation is abandoned; by their negligence, while they hold the possession, expose the cargoes to damage, and the vessels to destruction; and maltreat their crews.

2. That British ships of war have forcibly seized mariners, belonging to American vessels, and in one instance under the protection of a Portuguese fort.

3. That by British regulations and practice our corn and provisions are driven from the ports of France, and restricted to the ports of the British, or those of their friends.

4. That our vessels are not permitted to go from the British ports in the islands without giving security (which is not attainable but with difficulty and expense) for the discharge of the cargo in some other British or a neutral port.

5. That without the imputation of a contraband trade, as defined by the law of nations, our vessels are captured for carrying on a commercial intercourse with the French West Indies, although it is tolerated by the laws of the French Republick; and that for this extraordinary conduct no other excuse is alleged, than that by some edict of a king of France this intercourse was prohibited; and

6. That the conduct of the admiralty in the British islands is impeachable for an excess of rigour, and a departure from strict judicial purity; and the expenses of an appeal to England too heavy to be encountered, under all the circumstances of discouragement.

Against the French it is urged,

1. That their privateers harass our trade no less than those of the British.

2. That two of their ships of war have committed enormities on our vessels.

3. That their courts of admiralty are guilty of equal oppression.

4. That besides these points of accusation, which are common to the French and British, the former have infringed the treaty between the United States and them, by subjecting to seizure and condemnation our vessels; trading with their enemies in merchandise, which that treaty declares not to be contraband, and under circumstances not forbidden by the law of nations.

5. That a very detrimental embargo has been laid upon large numbers of American vessels in the French ports;\* and,

6. That a contract with the French government for coin has been discharged in depreciated assignats.

Against the Spaniards, the outrages of privateers are urged;

And against the Dutch, one condemnation in the admiralty is insisted to be unwarrantable.

Under this complication of mischief, which persecutes our commerce, I beg leave, sir, to submit to your consideration, whether representations, as far as facts may justify, ought not to be immediately pressed upon the foreign governments, in those of the preceding cases for which they are responsible.

Among these, I class, 1. The violences perpetrated by publick ships of war. 2. Prohibitions, or regulations inconsistent with the laws of nations. 3. The improper conduct of courts. 4. Infractions of treaty. 5. The imposition of embargoes; and, 6. The breach of publick contracts. How far a government is liable to redress the rapine of privateers, depends upon the peculiarities of the case. It is incumbent upon it, however, to keep its courts freely open, and to secure an impartial hearing to the injured applicant. If the rules prescribed to privateers be too loose, and opportunities of plunder or ill treatment be provoked from that cause, or from the prospect of impunity, it is impossible to be too strenuous in remonstrating against this formidable evil.

\* There is reason to believe that the embargo was removed in Dec. last, and the detention compensated by an order of the committee of publick safety, in France.

Thus, sir, have I reduced to general heads the particular complaints, without making any inquiry into the facts beyond the allegations of the parties interested.

I will only add, that your message seems to promise to Congress, some statement upon these subjects.

I have the honour, sir, to be, &c.

EDM. RANDOLPH.

The President of the United States.

True copy.

GEO. TAYLOR, JUN. C. C. D. S.

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO SPANISH COMMISSIONERS. MARCH 12, 1794.

[See Vol. Confidential Documents.]

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## MESSAGE

FROM THE PRESIDENT OF THE UNITED STATES RELATIVE  
TO DEMAND OF FRANCE FOR MONEY. MARCH 18, 1794.

[See Vol. Confidential Documents.]

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## MESSAGE

OF THE PRESIDENT OF THE UNITED STATES TO CONGRESS.  
APRIL 4, 1794.

I LAY before you three letters from our minister in London; advices concerning the Algerine mission, from our minister at Lisbon, and others; and a letter from the minister plenipotentiary of the French Republick, to the Secretary of State, with his answer.

GEO. WASHINGTON.

*London, December, 26, 1793.*

DEAR SIR,—This serves to cover an \*additional instruction, which, though dated the 6th of November, was made publick, at the admiralty, but a few days ago.—I only received it from our proctor last evening.

I am, dear sir, &c.

THOMAS PINCKNEY.

Secretary of State.

I mention the circumstance of the dates, because it appears to me of some importance.

*London, January 2, 1794.*

DEAR SIR,—At the moment when I was preparing to go to the conference with lord Grenville, this morning, I received a note from him, excusing himself from the meeting. I then endeavoured to see Mr. Burges, but without success; and as this is the last hour for writing by the packet, I must send the enclosed additional instruction, without any explanation obtained from the ministry. The Danish minister is sick, and at Bath; but the Swedish minister appears alarmed at this measure, as I am informed the mercantile interest, connected with America, appear to be, from a committee of them having waited on Mr. Pitt. Upon this instruction, as it stands, it is unnecessary for me to make any comment. If a repeal or modification of it should take place, or if I can obtain the principles upon which this government has issued it, I will immediately communicate.

Toulon is again possessed by the French Republick. We have not yet the particulars.

I remain, dear sir, &c.

THOMAS PINCKNEY.

The Secretary of State.

[The other communications, accompanying the last message of the President, will be printed first in the next volume.]

<sup>26</sup> This follows the letter from Mr. Pinckney of Jan. 2, 1794.

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