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**REVIEW**

OF

**THE VETO MESSAGE OF PRESIDENT PIERCE**

OF FEBRUARY 17, 1855,

ON THE BILL RELATING TO FRENCH SPOILIATIONS.

*James H. Causten*

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## REVIEW

*Of the Veto Message of President Pierce of February, 17, 1855, on the bill, relative to French Spoliations,*

The veto message of President Pierce on the bill "To provide for the ascertainment and satisfaction of claims of American citizens, for spoliations committed by the French prior to the 31st of July, 1801," challenged a prompt exposition of such of its objectionable features as were deemed injurious to the prerogatives and rights of Congress, and to the rights of the claimants, for whose relief Congress had voted the bill. For that purpose the Hon. John M. Clayton, of the United States Senate, who had elaborately examined the subject in all its ramifications, and uniformly advocated the cause of the claimants for more than a quarter of a century, considered it incumbent on himself to make such exposition before the Senate; and for that purpose caused to be prepared the documents hereto subjoined, marked A, B, C, (see appendix,) to which he would refer in his contemplated speech, and would also, by motion, cause said documents to be printed for the use of the Senate.

Unfortunately for the claimants, the pressure of other business, thence to the close of the session, occupying all the time of Congress, prevented his carrying that intention into effect; and I am authorized to say that to that cause alone should the omission be ascribed, and that it has caused him unfeigned regret.

It seems, therefore, to devolve on the undersigned, as the protector of the claimants, to point out *some* of the prominent errors into which the President has fallen, or rather his advisers have led him, which may hereafter be more judiciously disclosed, and in a tone of reasoning more forcible and impressive, by the enlightened and estimable Senator before mentioned. The writer will claim no further merit than fidelity to the truth, having no pretensions to display, no unkind feelings to indulge, nor favor or affection to court or fear; and though conscious that a weak blow recoils, while a strong one penetrates, the respectful caution due to the executive office, and to the incumbent charged with it, will be carefully observed.

While the veto message expressly admits that there is no constitutional question involved in this case, it contends that the Executive has, of right, the power to veto any private bill submitted to him by Congress. If the exercise of such arbitrary power be tolerated by Congress, their constitutional prerogative and duty "to pay the debts" of the nation, are at once annihilated. How the early high authorities of our country regarded this matter will be seen on reference to the proceedings in 1791 on the bill to incorporate a Bank of the United States, which was approved by President Washington on the 25th February, of that year. The President and his Cabinet entertained doubt of the constitutionality of the measure; whereupon Mr. Jefferson prepared an official opinion, which appears to have led to the approval of the bill. The opinion concludes thus:

"The negative of the President is the shield provided by the constitution to protect against the invasion of the legislature: 1st, the rights of the Executive; 2d, of the judiciary; 3d, of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and is, consequently, one of those intended by the constitution to be placed under his protection. It must be added, however, that unless the President's mind, on a view of everything which is urged for and against this bill, is tolerably clear that it is unauthorized by the constitution, if the *pro* and the *con* hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the constitution has placed a check in the negative of the President."

The veto message under consideration does not charge Congress with "ambition or interest," but it does charge that "they are clearly misled by error;" and it does charge the Senate of 1801 with conduct that would disgrace the lowest o.

mankind. To these two specific charges, passing over for the present divers others for future notice, a few remarks will be mainly directed. Preliminary thereto, however, it is proper to state, in brief, such outline of the claims, and of the negotiations relating to them, as shall render the subject-matter and remarks intelligible.

From 1793 to the date of the convention of 1800, France had captured American vessels and cargoes to a very great extent: first, on the ground of necessity; her crops having failed, and her people being threatened with famine—for these she promised indemnity, and did in fact pay for some of them, and passed laws, yet unexecuted, for a small other portion. Subsequently, and during an unexampled war between nearly all Europe combined against France,\* for the avowed purpose of starving the French nation in punishment for beheading her King, the United States entered into a treaty with England, (who was at the head of said coalition) by the terms of which the latter was permitted to seize our provision vessels, bound to France, on paying for their cargoes a small profit on the invoice cost: this was Mr. Jay's treaty, so called, dated November 19, 1794, long held under advisement, and ratified in February, 1796. Under the provisions of said treaty, the United States considered, as of its own impulse, and so carried into full effect, that the right of France, under her treaty with us of 1778, to the use of our ports for her ships of war, privateers, and their prizes, to the exclusion of those of her enemies—which she had for years enjoyed with our entire consent—should no longer continue, but should be enjoyed by her enemy, England. The United States had also refused to execute the guarantee of the French islands, all of which had consequently fallen into the hands of Great Britain. These two important rights of France, viz: the use of our ports, and the guarantee of her islands, were perpetual obligations; for which she gave us a priceless consideration, in the achievement and guarantee of our independence.

At the period of the announcement of Mr. Jay's treaty, France was in a state of frenzy; her islands captured, famine in her territory, a frightful civil war in her very vitals, the ports of the United States shut against her cruisers and prizes, and her supplies of food from the United States wholly cut off by British capture, with our assent; and the allied vindictive armies crowding against France with such overwhelming force as threatened to crush her. These exciting circumstances led her to charge the United States with "perfidiously" co-operating with her enemies; and in a revengeful spirit she ordered that the ocean should be swept of American vessels, including those bound to French ports. And to add to the severity of this order, she chartered her vessels of war to privateersmen for a share of the booty they might acquire by capturing American vessels, and so framed her laws that condemnation should with certainty follow every capture. This outrageous conduct was continued for several years, and nearly destroyed American commerce. In order to make sure the condemnation of every captured vessel, the French government revived an ancient municipal law of France which declared to be lawful prize every vessel found without having on board a *role d'equipage*—a document not required by our treaties with France, and which it was well known no American vessel carried.

In one of the communications to the French government, our envoys, in 1797, remarked:

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\* At this period, the captures of American vessels by the French were greatly increased, of which the American minister at Paris complained to that government. The reply of the Minister of Foreign Affairs to Mr. Monroe, dated October 14, 1793, is as follows:

"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 speak 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."

"It cannot escape notice that the question of the *role d'equipage* may involve in it every vessel taken from the United States."

And in the report of their proceedings by the envoys, made to our Secretary of State, dated October 22, 1797, they say:

"The subject of the *role d'equipage* was also mentioned; and we asked what assurance we could have if France insisted on the right of adding to the stipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make should be observed. M. Bellaney said that he did not assert the principle of changing treaties by municipal regulations, but that the Directory considered its regulation concerning the *role d'equipage* as comports with the treaty. We observed to him that none of our vessels had what the French termed a *role d'equipage*; and that, if we were to surrender all the property which had been taken from our citizens, in cases where their vessels were not furnished with such a *role*, the [our] government would be responsible to its citizens for the property so surrendered; since it would be impossible to undertake to assert that there was any plausibility in the allegation that our treaty required a *role d'equipage*."

And in Mr. Marshall's journal of proceedings at Paris, as reported to our Secretary of State, dated December 24, 1797, appears the following:

"I would positively oppose any admission of the claim of any French citizen if not accompanied with the admission of the claims of the American citizens of property captured and condemned for want of a *role d'equipage*. My reason for conceiving that this ought to be stipulated expressly was a conviction that, if it was referred to commissioners, it would be committing absolutely to chance as complete a right as any individual ever possessed."

It would appear, therefore, that the captured vessels were condemned on the ground stated; and it will not be overlooked that this is the identical class of cases that were embraced in the 2d article of the convention of 1800, and for which the vetoed bill made provision.

The rapacity with which American vessels were pursued by France will be seen in the following official report of the Secretary of State to Congress of January 18, 1799, from a single French port, St. Domingo. All the other French ports in the West Indies and Europe, and also Spanish ports, exhibited a like conduct:

"The commissioners of the French government at St. Domingo, in February, 1797, wrote to the Minister of Marine, (and the extract of the letter appeared in the official journal of the Executive Directory, of the 5th June,) 'that having found no resource in finance, and knowing the unfriendly disposition of the Americans, and to avoid perishing in distress, they had armed for cruising; and that already eighty-seven cruisers were at sea; and that, for three months preceding, the administration had subsisted, and individuals been enriched, with the products of those prizes. That the decree of the 2d July [which directs the French cruisers to treat neutrals as the English treat them, and to capture vessels bound to or from English ports] was not known to them until five months afterwards. But the shocking conduct of the Americans, and the indirect knowledge of the intentions of our government, made it our duty to order reprisals even before we had received official notice of the decree. They felicitate themselves that American vessels were daily taken; and declare that they had learnt, by divers persons from the continent, that the Americans were perfidious, corrupt, the friends of England, and that, therefore, their vessels no longer entered the French ports unless carried in by force. After this recital before the Council of Five Hundred, Pastoret, a distinguished member, made the following remarkable reflections:'

"'On reading this letter, we should think that we had been dreaming; that we had been transported into a savage country, where men, still ignorant of the empire of morals and of laws, commit crimes without shame and without remorse, and applaud themselves for their robberies, as Paulus Æmilius or Cato would have praised themselves for an eminent service rendered to their country. Cruisers armed against a friendly nation! Reprisals, when it is we ourselves who attack! Reprisals against a nation that has not taken a single vessel of ours! Riches acquired by the confiscation of the ships of a people to whom we are united by treaties, and whom no declaration of war had separated from us! The whole discourse of the agents may be reduced to these few words: Having nothing wherewith to buy, I seize; I make myself amends for the property which I want by the piracy which enriches me; and then I slander those whom I have pillaged. This is robbery justified by selfishness.'"

The American vessels then, and subsequently, captured in the spirit and manner thus described, were the identical vessels for which compensation is now claimed from the United States, and provided for in the vetoed bill now under consideration. The clear liability resting on France to respond in damages for these violent depredations has never been doubted either by France or the United States; the former freely admitted her liability, and the latter inflexibly insisted on the justice

of the claims as against France. The considerations which induced the United States to offer, at a subsequent date, these spoliation claims of American citizens to France, in set-off of political claims of a national character, alleged to be due to her from the United States, will be hereinafter explained.

The extent of the depredations on American commerce by French cruisers is not a matter of speculation. On the 18th of January, 1799, the Secretary of State, Mr. Pickering, made a report to Congress, in which he says :

"On the 24th of May, 1798, the minister [Talleyrand] sent his principal secretary to inform Mr. Gerry that his government did not wish to break the British treaty, [Mr. Jay's ;] but expected such provisions as would indemnify France, and put her on a footing with that nation. Yet that treaty had been made by the French government its chief pretence for those unjust and cruel depredations on American commerce which have brought distress on multitudes and ruin on many of our citizens; and occasioned a total loss of property to the United States of probably more than twenty millions of dollars; besides subjecting our fellow-citizens to insults, stripes, wounds, torture, and imprisonment."

A dispassionate reader of President Pierce's inaugural speech, would suppose he had this very case in view in using the following language :

"The rights which belong to us as a nation are not alone to be regarded, but those which pertain to every citizen in his individual capacity, at home and abroad, must be sacredly maintained. So long as he can discern every star in its place upon the ensign, without wealth to purchase for him preferment, or title to secure for him place, it will be his privilege, and must be his acknowledged right, to stand unabashed even in the presence of princes, with a proud consciousness that he is himself one of a nation of sovereigns, and that he cannot, in legitimate pursuit, wander so far from home that the agent whom he shall leave in the place which I now occupy will not see that no rude hand of power or tyrannical passion is laid upon him with impunity."

The sincerity of this proffered pledge of protection by the President has been made worse than doubtful by the ungracious veto on the bill for the relief of that class of sufferers. He was under no obligation to make such pledge; but, having voluntarily made it, he could not violate it with impunity.

In the month of July, 1797, a mission of three envoys, Messrs. Pinckney, Marshall, and Gerry, was sent to France to demand compensation due to our merchants for French spoliations; and to endeavor to purchase a release of the United States from the guarantee of the French islands, for which they were authorized to offer to France a war subsidy in money or provisions to the amount of two hundred thousand dollars annually. That mission failed to accomplish anything except the acknowledgment of the justice of these claims; for, during their residence in France, that government submitted to them, on the 8th of November, 1797, a proposition containing the following :

"There shall be named a commission of five members, agreeably to a form to be established, for the purpose of deciding upon the reclamations of the Americans, relative to the prizes made on them by the French privateers.

"The American envoys will engage that their government shall pay the indemnifications, or the amount of the sums already decreed to the American creditors of the French republic, and those which shall be adjudged to the claimants by the commissioners. This payment shall be made under the name of an advance to the French republic, who will repay it in a time and manner to be agreed on."

Strange to say, our envoys declined this liberal proposition, so framed, because of the avowed inability in France to pay promptly, and upon the ground that England would regard the transaction as a covert aid to France, and probably lead to war.

When the envoys returned to the United States, the French depredations were much extended; whereupon our government, by legislative action, dated July 7, 1798, declared the treaties with France null and void from that date, upon the alleged ground that France had repeatedly violated them: whereas, in point of fact, the treaty of *alliance* had never been violated by her; but, on the contrary, her full and more than complete compliance with its provisions had commanded and obtained our highest admiration, and most grateful thanks. Besides, the treaty containing the guarantee of the French islands, and the treaty securing to France the exclusive use of our ports for her ships of war, privateers, and prizes,



were perpetual obligations—on their face they were to be in force “forever.” It was, therefore, utterly impossible that the United States could deprive France of the benefits, or release herself from the obligations so stipulated, by any legislative act whatever, since nothing but war, or the consent of the contracting parties to a treaty, can terminate a treaty; and France contended, with irresistible force, that even war could not have annulled these treaties, they being perpetual on their face, and for that perpetuity she had paid a full and satisfactory equivalent.

The real motive for that annulling act is thus disclosed by the three envoys to France on a second mission, viz: Messrs. Ellsworth, Davie, and Murray, instructed in October, 1799, who, in their note to the French ministers, dated Paris, July 22, 1800, say:

“That it had become impossible for the United States to save their commerce from the depredations of French cruisers, but by resorting to defensive measures; and that, as, by their constitution, existing treaties were the supreme law of the land, and the judicial department, who must be governed by them, is not under the control of the Executive or Legislative, it was also impossible for them to legalize defensive measures, incompatible with the French treaties, while they continued to exist. Then it was that they were formally renounced, and from that renunciation there resulted necessarily a priority in favor of the British treaty, as to an exclusive asylum for privateers and prizes.”

This second mission effected the negotiation of the convention of September 30, 1800. Their instructions, after reciting the French depredations on our commerce, proceed thus:

“This conduct of the French republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and still willing to leave open the door to reconciliation with France, the United States contented themselves with preparations for defence and measures calculated to protect their commerce. \* \* \* First. At the opening of the negotiation, you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French republic or its agents. \* \* \* The following points are to be considered as *ultimata*: First. That an article be inserted for establishing a board, with suitable powers, to hear and determine the claims of our citizens, for the causes hereinbefore expressed, and binding France to pay or secure payment of the sums which shall be awarded.”

Very early in the negotiation under said instructions, the American envoys brought forward for consideration the spoliation claims of American merchants; whereupon the French ministers at once and freely admitted them to be justly due by France, but at the same time insisted on the *uninterrupted continuance of the treaties of 1778*, which the envoys contended were annulled by the act of Congress before mentioned.

On the 11th of August, 1800, the French ministers, in a note to the envoys, say:

“In the first place, they will insist upon the principle already laid down in the former note, viz: that the treaties which united France and the United States are *not broken*; that even war could not have broken them; but that the state of misunderstanding which has existed for some time between France and the United States, by the acts of some agents rather than the will of the respective governments, has not been a state of war, at least on the side of France.

“If the reflections presented on this subject in the note of the French ministers, of the 8th of the present month, suffice to lead the ministers of the United States to the acknowledgment of the treaties, the first consequence which will result from them, and which the ministers of France will be eager to recognise anew, is, that the parties on both sides ought to be compensated for the damages which have been mutually caused by their misunderstanding.”

The envoys proposed to defer the payment of the French spoliations until the United States should restore to France her claimed rights under the old treaties; but the French ministers refused, and this refusal shows that France held the old treaties as of greater value than the spoliation claims.

Various propositions were made by the respective ministers, in which the spoliation claims were regarded as indisputable on both sides, and that the sole difficulty lay in the continuous operations and indemnities incurred under the old treaties. Very ingenious and elaborate arguments *pro* and *con* were offered, when, finally, the American envoys yielded the point at issue by offering:

"1st. Let it be declared that the former treaties are renewed and *confirmed*, and shall have the same effect as if no misunderstanding between the two powers had intervened, except so far as they may be derogated from by the present treaty.

"5th. There shall be a reciprocal stipulation for indemnities, and these indemnities shall be limited to *individuals, &c.*"

The first act of the envoys, after their declaration that the old treaties were in continued force, was an effort to purchase the two onerous articles thereof, viz: the guarantee and the exclusive use of our ports: for the first they offered an annual war subsidy of one million of francs; and for the reduction of the use of our ports from *exclusive* to that of the most favored nation, three millions. The French ministers would accept, they said, a war subsidy of two millions annually, or a capital of ten millions, for the extinguishment of the guarantee; but as to the use of our ports, no sum that could be named would induce them to accept of the slightest modification; its full and exclusive effectual force was absolutely insisted on as an abiding *sine qua non* to further proceedings. Our envoys then offered the whole spoliation claims in exchange for the French claim to the old treaties, with a modification of the right to use our ports from exclusive to that of the most favored nation; but the French ministers were inflexible—they would not submit to any relaxation or modification of the right in any shape or degree whatever.

The envoys were greatly embarrassed, since the use of our ports had been granted to Great Britain by Mr. Jay's treaty, and she was then enjoying the same; consequently it was utterly impossible to yield to the exclusive use claimed by France, or even to permit to France an equal participation. Their embarrassment was greatly increased by the rapid and alarming progress of the quasi war, then fast running into a real war, which it was seriously apprehended would speedily result. Confessedly to avoid such an impending consequence, the envoys proposed to the French ministers on the 20th August, 1800, to recognise the claims on both sides, viz: the claim of France to the old treaties and the responsibilities incurred under them, and the claim of the United States for the undisputed spoliation claims due to her citizens, and to consign these claims respectively to a subsequent negotiation. That such an article in the proposed treaty, with another article providing for the restoration of public ships, another article providing for captured property not condemned, but in a state of sequestration, and another article providing for the payment by France of the "*debts*" (for supplies, contracts, &c.) due to American citizens, would open the way to a prompt reconciliation, and an easy arrangement by other articles in the proposed treaty for the future relations of the two governments.

The French ministers accepted the proposition, and corresponding articles were incorporated into the treaty, and the negotiation closed by the signature of the respective ministers to the convention of September 30, 1800, which was forthwith ratified by Bonaparte, First Consul.

The second article of the convention contained the recognised claims of France with respect to the old treaties and indemnity under them, and of the United States for the spoliation claims of their citizens, and a pledge on both sides to discuss and settle them at a convenient time, *and nothing else*; and this time could not exceed eight years, the duration of the convention being so limited afterwards when ratified by the United States. The article is as follows:

"ART. 2. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:"

ART. 3 provides for the restoration of captured public ships.

ART. 4 provides for the restoration of captured property not definitively condemned, or which may be captured before the exchange of ratifications.

"ART. 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States; *but this clause shall not extend to indemnities claimed on account of captures or confiscations.*"

The other articles relate to the commerce and navigation between the two States in future, and are not material to be here noticed.

The convention so framed, and bearing the ratification of the First Consul of the French republic, was submitted to the Senate, who, on the 3d of February, 1801, advised and consented that the convention be ratified, provided that the 2d article be expunged, and that the duration of the convention be limited to eight years. And being so modified, it was sent back to France for confirmation, without any suggestion of the motive for expunging the 2d article. The chief object was to get rid thereby of the old treaties: of this there can be no possible doubt; but being without explanation, the act was susceptible of a two fold interpretation of the intention, viz: an offer to offset the spoliation claims against and in discharge of the old treaties, or to obtain a release from the old treaties, and yet hold France liable for the spoliations, *under the law of nations*. That article was the only ligament that held the old treaties; and if that was expunged by consent, then the claim of France would thenceforward and forever be obliterated, and without any equivalent; but the effect would be wholly different on the spoliation claims, because they were sustained by the law of nations. In fact, the spoliation claims derived a very limited support from the old treaties, and would have been valid claims against France if the treaties had never existed, since international law would have fully sustained them.

That this was the view taken by the French government, is clearly manifested in an official despatch from the French Minister of Foreign Relations (Talleyrand) to M. Pichon, the French minister to the United States, dated Paris, August 4, 1801, in which he says:

“The government [of France] has preferred to terminate this debate in the manner the most conformable to the interests and to the sentiments of the two nations. However, as, in ratifying without explanation, the two governments would have found themselves in unequal position relative to the pretensions expressed in the suppressed article; the suppression of this article releasing the Americans from all pretensions on our part relative to ancient treaties, and our silence respecting said article leaving us exposed to the whole weight of the eventual demands on this government relative to indemnities, it has become necessary that a form be introduced into the act of ratification, in order to express the sense in which the government of the Republic understand and accepted the abolition of the suppressed article.”

Accordingly, the French government ratified the convention, “with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *provided, that, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article.*”

President Jefferson submitted the convention, thus ratified on condition, to the Senate on the 19th of December, 1801, who “resolved, that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation.”

The condition thus prescribed by the First Consul, and accepted by the Senate and President, (the treaty-making power,) at once put an end to the spoliation claims as against France, and affixed the responsibility for them upon the United States; the latter having obtained from France, in a barter of their own seeking, a satisfactory equivalent for them, for the benefit of the nation—a benefit of inestimable value, in the release from the old treaties.

It is manifest that the condition prescribed by the First Consul in his ratification was the pivot on which the whole matter at issue turned. If that condition had not been accepted by the United States, the convention could not have existed for a moment; but it was accepted and confirmed, and thereby became the supreme law of the land: therefore, said condition on the one part, and the acceptance thereof on the other part, are not only as binding as if incorporated in the body of the convention itself, but in fact the only acts that give to the convention any vitality or validity whatever.

In reference to the matters just stated, President Pierce has ventured to express in his veto message, in consecutive order, the following extraordinary declarations,

which I have placed in specific propositions, so that I may remark on them in the like order :

"1st. The obligations of the treaties of 1778, and the convention of 1788, were mutual, and estimated to be equal.

"2d. But however onerous they may have been to the United States, they had been abrogated, and were not revived by the convention of 1800, but expressly spoken of as suspended until an event which could only occur by the pleasure of the United States.

"3d. It seems clear, then, that the United States were relieved of no obligations to France by the retrenchment of the 2d article of the convention.

"4th. And if thereby France was relieved of any valid claims against her, the United States received no consideration in return.

"5th. And that, if private property was taken by the United States from their own citizens, it was not for public use.

"6th. The correspondence of our ministers engaged in negotiations, both before and after the convention of 1800, sufficiently proves how hopeless was the effort to obtain full indemnity from France for injuries inflicted on our commerce from 1793 to 1800, unless it should be by an account in which the rival pretensions of the two governments should each be acknowledged, and the balance struck between them."

In answering the above propositions, I shall offer public documents as far as may be, rather than my own remarks, because of the weight to which they are entitled. To the first proposition, I answer, that, to say that the said obligations were mutual and equal, is an evasion of the question at issue. The question being wholly with respect to the *execution* of these obligations, and particularly with respect to the guarantee of the French islands and the use of our ports, on these two points I shall now remark ; and first on the guarantee.

No one, to this day, has ever complained that France had failed to execute the guarantee on her part with the utmost and even extravagant fidelity ; nor has any one ever complained that she had violated the treaty of alliance in any particular. But, on the other hand, France complained of the inexecution of the guarantee by the United States ; and I venture the assertion that no man can be found so reckless as to assert that we did execute it. In carrying into effect the guarantee of our independence, France expended, *in money*, 1,440,000,000 of livres, (as computed by Mr. Jefferson,) besides the blood of her citizens, ships-of-war, supplies of all kinds, donations to us of large sums of money, loans of other sums, and endorsing loans made to us by other powers, &c., &c., while the guarantee of the French islands on our part has cost us nothing. And this the President states as "*mutual, and estimated to be equal.*"

On the 18th of September, 1793, the French minister addressed the following complaint to our Secretary of State : "That the Secretary of War, to whom I communicated the wish of our government of the Windward islands, to receive promptly some fire-arms and some cannon, which might put into a state of defence possessions guaranteed by the United States, had the front to answer me, with an ironical carelessness, that the principles established by the President did not permit him to lend us so much as a pistol." And again, on the 14th November, 1793, the same minister wrote to our Secretary of State : "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 guarantee 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."\* And again, on the 11th of August, 1795, said minister's successor wrote to our Secretary of State : "Besides, I will observe to you that my government has ordered me to claim the literal execution of our treaties," &c.

And again, on the 15th November, 1796, the same minister thus wrote to our Secretary of State :

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\* Mr. Jefferson to Mr. Madison, April 3, 1794 : "As to the guarantee of the French islands, whatever doubts may be entertained of the moment at which we ought to interpose, yet I have no doubt but that we ought to interpose at a proper time, and declare both to England and France that these islands are to rest with France, and that we will make a common cause with the latter for that object."

"The undersigned, minister of the French Republic, now fulfils to the Secretary of State of the United States a painful but sacred duty. He claims in the name of American honor, in the name of the faith of treaties, the execution of that contract which assured to the United States their existence, and which France regarded as the pledge of the most sacred union between two people, the freest on earth."

The minister then protests against Mr. Jay's treaty, and announces the suspension of his functions near the United States; adding:

"That the government of the United States and the American people are not to regard the suspension of his functions as a rupture between France and the United States, but as a mark of just discontent, which is to last until the government of the United States returns to sentiments and to measures more conformable to the interests of the alliance, and the sworn friendship between the two nations."

But all these demands to execute the guarantee were disregarded, as our government had resolved not to execute it, on the ground that it would involve us in the war in which France was on the defensive in contest against the combined powers of Europe; and, accordingly, Mr. Monroe was instructed, on his mission to France, on the 10th of June, 1794, to declare to France that "we are unable to give her aids of men or money."

This plea of inability was a direct admission of obligation, and wholly unavailing in effect, since a subsequent pecuniary compensation, as damages, might reasonably be required by France, and could not with propriety be refused; and such was exactly what occurred during the negotiation that led to the convention of 1800. Whether, in this, France was right or wrong, it is not necessary to decide; it is enough to say that she set up a claim and pertinaciously maintained it, which it was our great aim to get rid of. It is certain that we considered the guarantee a right in France, and of great value, as we had, in 1797, instructed our envoys to offer to France an annual war subsidy of two hundred thousand dollars, in lieu of an adequate force, perhaps our whole force, which the guarantee article required. And it is proper to add, that, in consequence of our refusal or non-execution of the guarantee, all the French islands fell by capture, before the arms of Great Britain, without the slightest remonstrance on the part of the United States. Whether we were bound to redeem the islands and resume the guarantee "*forever*," need not be remarked on. All that can be said of the guarantee is, that it was fully executed by France, and not at all by the United States—and this the veto message describes as "*mutual, and estimated to be equal*."

With respect to the exclusive use of our ports by France, which was the real point of difficulty in adjusting our affairs with France in 1800, its importance requires that it should be well understood. It is notorious that she enjoyed that right for several years, with our full assent, though against the earnest remonstrance of her enemy, Great Britain; and it is equally notorious that when we deprived her of this admitted right, and gave it to her enemy, England, under Mr. Jay's treaty, our whole country was convulsed by the act; which was the very foundation of the two great political parties in the United States which exist to this day. The Democratic party took the side with France, and the Federal party the side with England. The right was nevertheless given to England, against the violent protests of France.

The event thus described is too important to be hastily passed on; I shall therefore give official proof both of the right being in France, and of her being deprived of it.

In a letter from Mr. Jefferson, Secretary of State, to the British minister, dated September 9, 1793, he says:

"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."

And, accordingly, France continued to use this acknowledged right, exclusively, down to the summer of 1796—being three years of war between England and France. The promulgation of Mr. Jay's ratified treaty was then announced, by

which it was found, *on our own construction*, that France was not only deprived of this exclusive right, but that it was conferred on her then vindictive enemy, England.

It will scarcely be believed, at this day, that such an invasion of the rights of France was contemplated by our government; but, in the instructions of our Secretary of State, Edmund Randolph, to Mr. Jay, dated May 6, 1794, after proposing the terms of a treaty, and stating in ten sections the reciprocal items which should compose it, the following section appears, viz: "11. *You may discuss the sale of prizes in our ports, while we are neutral; and this, perhaps, may be added to the considerations which we have to give, besides those of reciprocity.*"

This gross and palpable violation of our treaty of amity and commerce with France, of 1778, in the midst of war, and taking from our ally her admitted and most important right and giving it to her enemy, is one of those startling acts of violence that can obtain credence only on irresistible proof—and that proof is here; viz: On the 15th of July, 1796, our Secretary of State, Mr. Pickering, reported to the President as follows:

"Mr. Adet asks whether the President has caused orders to be given to prevent the sale of prizes conducted into the ports of the United States by vessels of the Republic, or privateers armed under its authority. On this I have the honor to inform you, that the 24th article of the British treaty having explicitly forbidden the arming of privateers and the selling of their prizes in the ports of the United States, the Secretary of the Treasury prepared, as a matter of course, circular letters to the collectors to conform to the restrictions contained in that article, as the law of the land. This was the more necessary, as formerly the collectors had been instructed to admit to an entry and sale the prizes brought into our ports."

This is much worse than *non execution* of the treaty. The reciprocal right in favor of the United States had been freely used by them in the ports of France during our revolutionary war—and this, too, the veto message describes as "*mutual, and estimated to be equal.*"

Another point on which France indignantly protested and complained, may be stated in this connexion, viz:

By Mr. Jay's treaty, England was authorized to capture our provision vessels bound to France—then threatened with famine, and assailed by Europe in arms, for the avowed purpose of starving the French nation—on her paying ten per cent. on the invoice cost of cargo; flour being then, within the British market, about eight dollars per barrel, and in Paris forty dollars and upwards. The treaty was long held under advisement, and was not ratified till two years after its date, and then only by the casting-vote of the presiding officer in each house of Congress. During this delay, our Secretary of State wrote to Mr. Monroe, our minister at Paris, dated July 14, 1795:

"The treaty with England is not yet ratified by the President; nor will it be ratified, I believe, until it returns from England, if then. \* \* \* The late British order for seizing provisions is a weighty obstacle to a ratification. I do not suppose that such an attempt to starve France will be countenanced."

And Mr. Adams, our minister at London, on the 25th August, 1795, was instructed to negotiate the exchange of the ratifications of Mr. Jay's treaty; and first to remonstrate against the British order to seize provisions bound to France. The instructions state:

"Minute instructions cannot now be given concerning that order, as our accounts of it are very imperfect. But if, after every prudent effort, you find that it cannot be removed, its continuance is not to be an obstacle to the exchange of ratifications."

The provision order was not removed, the ratifications were exchanged, and the British continued to capture provision vessels, *but ceased to pay for their cargoes.* And this, too, the veto message describes as "*mutual, and estimated to be equal.*"

The two acts just mentioned, stung the French government to madness; it ordered the ocean to be swept of American vessels; charged our government with being "*perfidious,*" and by way of punishment, seized on American property, and insulted our citizens, indiscriminately.

2d. Proceeding to the second proposition—the abrogation of the old treaties by acts of Congress.

The principle that governs and settles this point is clearly laid down thus authoritatively in the “Federalist,” page 405 :

“Others, though content that treaties should be made in the mode proposed, are averse to their being the *supreme* law of the land. They insist, and profess to believe, that treaties, like acts of assembly, should be repealable at pleasure. This idea seems to be new and peculiar to this country ; but new errors, as well as new truths, often appear. These gentlemen would do well to reflect, that a treaty is only another name for a bargain ; and that it would be impossible to find a nation who would make any bargain with us which should be binding on them absolutely, but on us only so long and so far as we may think proper to be bound by it. They who make laws may, without doubt, amend or repeal them ; and it will not be disputed that they who make treaties may alter or cancel them : but still let us not forget, that treaties are made not by one only of the contracting parties, but by both ; and consequently, that as the consent of both was essential to their formation at first, so must it ever afterwards be to alter or cancel them. The proposed constitution, therefore, has not in the least extended the obligation of treaties. They are just as binding and just as far beyond the lawful reach of legislative acts now, as they will be at any future period, or under any form of government.”

France complained, with great force, that our act of Congress, which declared the old treaties null and void, was of itself a direct violation of them, and she held us accountable for it. If it could be admitted to be a valid act, still the previous responsibilities incurred under the old treaties, by both parties, would certainly not be annulled thereby. Great responsibilities had been incurred on both sides prior to the date of that annulling act ; most of the spoliation by France, and all of the alleged violation of the old treaties with her by the United States—including the non-execution of the guarantee, the shutting her off from the use of our ports, and the contract permission to England to seize our provision vessels, &c., &c.—had all occurred prior to that annulling enactment.

At an earlier period, France loudly complained of the President’s proclamation of neutrality of April 22, 1793, as a violation of the old treaties, as insidious in character, and unfriendly in tendency.

President Washington laid a copy of the proclamation before Congress by message, in which he says :

“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. \* \* \* 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,” &c.

Mr. Madison in very strong terms denounced the proclamation in the newspapers of the day. He said :

“Had he [the President] consulted his Vattel, instead of his animosity to France, he would have discovered, that however humiliating it might be to wait for a foreign logic to assist the interpretation of an act depending on the national authority alone, yet, in the case of a treaty, which is as much the treaty of a foreign nation as it is ours, and in which foreign duties and rights are as much involved as ours, the sense of the treaty, though to be learnt from the treaty itself, is to be equally learned by both parties to it. Neither of them can have a right more than the other, to say what a particular article means ; and where there is equality without a judge, consultation is as consistent with dignity as it is conducive to harmony and friendship. Let Vattel, however, be heard on the subject : ‘The third general maxim or principle on the subject of interpretation of treaties is, that neither the one nor the other of the interested or contracting powers has a right to interpret the act or treaty at its pleasure. For if you are at liberty to give my promise what sense you please, you will have the power of obliging me to do whatever you have a mind, contrary to my intention and beyond my real engagement ; and, reciprocally, if I am allowed to explain my promises as I please, I may render them vain and illusive by giving them a sense quite different from that in which they were presented to you, and in which you must have taken them in accepting them.’”

It cannot, with truth, be affirmed, therefore, that the treaties were annulled by our act of Congress ; nor were they annulled in any other manner, until first *suspended* by the 2d article of the convention of 1800, and afterwards, by the consent of the contracting parties, abrogated forever by the retrenchment of said article.



3d. Proceeding to the third proposition—that the United States were relieved of no obligations to France by the retrenchment of the 2d article of the convention of 1800.

It cannot be denied that we were under onerous treaty stipulations with France, which large offers of money could not purchase—the guarantee, use of our ports, &c.; and it cannot be denied that we are now freed from them. How comes this relief? It has been already proved that it could not be effected by our annulling act of Congress of July 7, 1798; and especially that obligations at the date of the convention of 1800, and so recorded on its face, which our offer of large sums of money had, in that year, failed to purchase, could not have been previously released in July, 1798, the date of said act; such an assertion would be absurd. Nor could the release flow from war; since both parties declared they were not at war, and settled the differences that had existed on that principle.

When the First Consul submitted the convention to the French Chambers for ratification, it was referred to a commission of the body, who reported thereon the facts and principles embraced in it; and in respect to war they said:

“Twas getting past recovery; war would have broken out between America and France, if the Directory, changing its system, and following the counsels of prudence, had not opposed moderation to the unmeasured conduct of the President of the United States.”

And the instructions to our envoys to France of October 22, 1799, under which the Convention of 1800 was concluded—and there certainly could not have been war after that—contain the following, after stating our complaints against her:

“This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce.”

In adopting the defensive measures here referred to, we authorized the capture of certain armed French vessels,\* and recaptures from them. In one of the latter class, on a question of salvage, it was decided by the Supreme Court that there was *partial imperfect war as to that class of cases*; but the court did not decide or intimate that there was a perfect or general war that would in any degree affect existing treaties or claims.

The opponents of the French spoliation bill (including President Pierce's veto message, by innuendo) heralded forth the decision in this salvage case as conclusive of war with France, which would of itself defeat said spoliation bill; but without reflecting that the Supreme Court cannot make war, either by declaration or decision, the constitution having conferred that power exclusively on Congress.

The attempt to establish war by this miserable salvage case, only shows the feebleness of those who resort to it; for, if it were even admitted that there had been actual and general war, that would have extinguished both the old treaties and the spoliation claims. Still, those who rely on war to defeat these claims would not be sustained by such admission; because the claims of both parties were recognised and saved by the *treaty of peace* of 1800—as they must improperly call the *convention* of that year, though not a *treaty at all*. It was merely a convention; and no one ever heard of a *convention of peace*; and, besides, it was limited to a duration of eight years, which would make it a truce only for that period, if war had existed; and at the expiration of the eight years, the war must have been resumed or a *treaty of peace* then concluded—neither of which was either contemplated or occurred. But the two governments uniformly and in the most decided terms declared that there was no war between them at any time, and that they settled the existing differences upon the principle of unbroken peace. It is, therefore, wanton and fruitless untruth, to now assert that war impaired or affected the spoliation claims.

\* Some of our zealous cruisers considered this authority extended to the capture of all French vessels, and under that mistake captured eight French *merchant* ships; but our courts promptly decreed their restoration to their owners, their capture being wholly illegal. If war had existed, these vessels would have been good prizes.



Referring to my authorities in answer to the 4th proposition, I shall now proceed to it, viz :

4th. That if France was released by said retrenchment of the obligation to satisfy the spoliation claims, the United States received no consideration in return.

If that were true, (which is not admitted,) the claims would not be affected injuriously thereby, nor would it in the slightest degree lessen the obligation on the United States to satisfy them.

On the 27th of August, 1793, the Secretary of State, Mr. Jefferson, by order of President Washington, announced in the public newspapers the following offer of agency in behalf of the spoliation claimants, with a correspondent pledge of the government to account to them ; and this offer and pledge has never been modified or repealed, or redeemed, viz :

"I have it in charge from the President to assure the merchants of the United States concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas, or in foreign countries, contrary to the law of nations or to existing treaties ; and that, on their forwarding hither well-authenticated evidence of the same, proper proceedings will be adopted for their relief."

With implicit confidence in this direct and imposing overture. the sufferers by French spoliations very generally hastened to the Department of State evidence of their losses, and large masses of evidence thus collected within the following seven years was from time to time forwarded to France by the department, without retaining on its files any record thereof, and is thus in its possession to this day, and wholly unaccounted for to the proprietors.

The unredeemed pledged faith of their government is all that remains of their losses. The French government promptly admitted their claims, and even ratified a convention for the ultimate satisfaction of them ; but the United States, for their own purpose, chose to release France from the obligation voluntarily, and now, with the boldness of truth, allege that they "received no consideration in return."

If no consideration was had, then our government yielded them up to France as a donation without equivalent, and that would of itself have fixed the responsibility to respond for them firmly on the United States ; but the fact is otherwise ; a full and satisfactory consideration was obtained—one of our own seeking, and to the whole extent demanded, to wit : a release of our government from the onerous treaties and responsibilities under them, as before stated ; and it is neither just nor honorable to set up a frivolous pretext, that is without a shadow of plausibility, to defeat what the proper tribunal, Congress, has so repeatedly declared to be an honest debt of the nation.

In a letter from our minister at Paris to the French Secretary of State, of April 17, 1802, he says :

"It will, sir, be well recollected by the distinguished character who had the management of the negotiation that the payment for illegal captures, with damages and indemnities, was demanded on one side, and the renewal of the treaties of 1778 on the other ; that they were considered of equivalent value, and that they only formed the subject of the second article."

5th proposition—That if private property was taken by the United States from their own citizens, it was not for public use.

What is this ? twenty millions of dollars in property taken from our citizens by their government, and not for the public use ! This inexplicable solecism is wholly beyond my comprehension. If not taken for public use—the only justifiable reason for taking it at all—for what purpose was it taken ? Whatever the answer to this question may be, there is no hazard in saying, that the President can never convince the claimants that their property was or could be taken by their government for any other purpose than the public use ; and that when taken, which is admitted on all sides, the obligation to pay for it is established by the imperative constitutional command. It has been established, on the declaration of our Secretary of State, that, up to 1799, the value of American property captured by the French amounted to twenty millions of dollars. What has become of that property ? It was confessedly in the hands of the French, but no longer there. Satisfaction was

demand of France on the allegation that the claims were just and must be paid; and our envoys in 1799 were instructed to inform France that we should require of her, "as an indispensable condition of the treaty, a stipulation to make full compensation" for the identical vessels for which the vetoed bill made provision.

Napoleon, at St. Helena, in dictating the history of the convention of 1800, says:

"The suppression of this article [2d] at once put an end to the privileges which France had possessed by the treaty of 1778, and annulled the just claims which America might have made for injuries done in time of peace. This was exactly what the First Consul had proposed to himself in fixing these two points as equiponderating each other."

And such was precisely the understanding of the United States, from the proviso of the First Consul in his conditional ratification of the convention with the 2d article expunged, viz: In a letter from Mr. Madison to Mr. Livingston, of December 18, 1801, he says:

"The convention with the French republic, as finally exchanged by Mr. Murray, arrived here on the 9th of October last. As the form of ratification by the French government contained a clause declaratory of the effect given to the meaning of the treaty by the suppression of the 2d article, &c., \* \* \* I am authorized to say that the President [Mr. Jefferson] does not regard the declaratory clause as more than a legitimate inference from the rejection by the Senate of the 2d article, and that he is disposed to go on with the measures due under the compact to the French republic."

The Senate accepted and confirmed said declaratory clause, and it thereby became a part, and the most essential part, of the convention.

But the veto message has not only given a wholly different interpretation to this confirmed act of the Senate, but has imputed odious and dishonorable motives to those Senators who voted it, by charging them with a mental reservation that should destroy its whole effect, in the language following:

"Now, it is clear that in simply resolving that they considered the convention as fully ratified, the Senate did, in fact, abstain from any express declaration of dissent or assent to the construction put by the First Consul on the retrenchment of the 2d article. If any inference beyond this can be drawn from their resolution, it is that they regarded the proviso annexed by the First Consul to his declaration of acceptance as foreign to the subject, as nugatory, or as without consequence or effect. Notwithstanding this proviso, they considered the ratification as full."

There was nothing left for inference; the fact of concurrence and adoption of the conditional ratification by the First Consul was complete, in the declaration of the Senate, that "they considered the convention as fully ratified."

The veto message regards the limitation of the convention to eight years as valid and binding; but it could not be so without the declaratory clause of the First Consul being accepted and confirmed by the Senate. And if that limitation be valid, then the retrenchment of the 2d article, including the declaratory clause, must necessarily be valid in toto. And as the two subjects—the French claims on one side, and the spoliation claims on the other side—were indissolubly connected in said declaratory clause, so they were both acquitted and discharged by offset against each other, by its adoption by the Senate. There is no escape from this conclusion.

If the proviso by the First Consul to his ratification "was nugatory, or foreign to the subject, or without consequence or effect," why was it put there? And after being put there, why did President Jefferson hesitate to promulgate the convention without the express action of the Senate? And why did he consider it only a legitimate inference from the rejection of the 2d article by the Senate?

Mr. Madison, in his instructions to Mr. Charles Pinckney, our minister at Madrid, says:

"The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them."

And Chief Justice Marshall, who was one of the envoys sent to France in 1797, and afterwards was our Secretary of State, thus declared to the Hon. Wm. C. Preston, John C. Calhoun, and the Hon. Mr. Leigh, as set forth in Mr. Preston's

letter of January 29, 1844, and read to the Senate by the Hon. John M. Clayton. It says :

"Having been connected with the events of that period, and conversant with the circumstances under which the claims arose, he was, from his own knowledge, satisfied that there was the strongest obligation on the government to compensate the sufferers by the French spoliations ; and Mr. Preston adds, I most heartily desire that the long-delayed and very inadequate justice now proposed to these unfortunate claimants will be made this session."

And Timothy Pickering's letter of November 19, 1824, was also read to the Senate by Mr. Clayton, in which, speaking of the retrenchment of the 2d article of the convention of 1800, he says :

"This implied a reciprocal abandonment of the old treaties, and the claims for depredations up to that time, September, 1800. Thus the government *bartered* the just claims of our merchants to obtain a relinquishment of the French claim for a restoration of the old treaties, especially the burdensome treaty of alliance, by which we were bound to guaranty the French territories in America. On this view of the case, it would seem that the merchants have an equitable claim for indemnities from the United States."

Mr. Pickering was our Secretary of State for many years, during which these spoliations took place, and directed the negotiations connected with them.

If the First Consul and President Jefferson, who ratified the convention, and Mr. Madison and Mr. Pickering, who, as Secretaries of State, conducted the negotiations leading to it, and Chief Justice Marshall, one of the envoys to France to demand compensation for these claims, are worthy of belief—which no man can doubt—then it must be conceded that these claims were taken by the United States and applied to the public use ; and, consequently, that President Pierce is in error in asserting the contrary.

6th proposition—Objecting to a balance being struck between the two governments, as a matter of principle.

A very brief remark on this will suffice—for it is the universal practice of all governments ; and no other mode of settling conflicting claims between governments, or between individuals, has yet been discovered. And a striking example of this practice is seen in the fact that President Pierce has just closed a commission, appointed by himself, to adjust mutual claims existing between Great Britain and the United States.

If a balance of national claims had been struck, as we had no national claim to offset the national claim of France, there would be found an immense sum due to France from the United States ; but there would also be found a sum due from France for these spoliation claims to our citizens of probably twenty millions of dollars.

Our government chose to consider the French claims against it to be equal in value to twenty millions of dollars ; and, without consulting the said individuals, took their *cestui que trust* fund, then in its hands, and paid the national debt to France ; and now, the President tells the claimants that their property was not taken to the public use. He does not deny that their property was taken by the government, but *only equivocates* by saying that it was *not* for the public use.

I have thus answered the six propositions, and, I trust, established that there is not one of them either tenable or plausible.

The numerous and gross errors in the message, which lead to a misrepresentation of the whole subject at issue, cannot fail to arrest the attention of every reader of ordinary intelligence. Self-respect, and the respect to the high office he holds, and respect to the judgment previously expressed of those to whom the message is addressed, would certainly have induced the President to guard against such misrepresentation, if time and opportunity had served to examine the case with ordinary care ; doubtless, he has confided in the judgment of others, and has in consequence been led astray. And having thus placed himself out of the pale of that high and commanding veneration which every citizen is always predisposed to accord to our Chief Magistrate, and having thereby challenged the truth to come forth, if it has aught to say against the facts and assumptions so adduced, it is proper and just that a response be made in terms that cannot be misunderstood.

But inasmuch as the preceding exposition has already covered several of the fallacies set forth in the message, and as the tortuous course adopted in their introduction forbids them to be followed seriatim, it will suffice now to reply specifically to the following passages, numbered 1 and 2, on which the message mainly relies :

1st. "It will be perceived by the language of the 2d article, as originally framed by the negotiators, that they had found themselves unable to adjust the controversies on which years of diplomacy and of hostilities had been expended ; and that they were at last compelled to postpone the discussion of those questions to that most indefinite period, a 'convenient time.' All, then, of these subjects, which was revived by the convention, was the right to renew. when it should be convenient to the parties, a discussion which had already exhausted negotiation, involved the two countries in a maritime war, and on which the parties had approached no nearer to concurrence than they were when the controversy began."

It would have been more candid to have stated that there was no controversy with respect to the spoliation claims. During the whole negotiation, from 1793 down to the signature of the convention of 1800, the French government uniformly and constantly admitted its liability for the spoliation claims of our citizens ; and that liability embraced every case of capture of an American vessel, since, by the treaty of 1778, no such capture could be legal even in the very strongest case of carrying contraband goods to the enemies of France. A French cruiser was not allowed to approach within cannon shot of an American vessel, nor to board her by a boat with not exceeding three men, and then only to ascertain her national character—so says the treaty.

The sole controversy, therefore, was with respect to the national claim of France upon the government of the United States, for non-performance of the guarantee in the treaty of alliance, and for violation of the treaty of amity and commerce, in depriving France of the exclusive use of our ports, and giving that right to her enemy, England, to specify no other matter ; and on this alone was the 2d article of the convention of 1800 founded, and at the instance of the American ministers, confessedly to avoid impending war, then nearly reached. As a guarantee to France that her claim should be discussed, and satisfactorily adjusted thereafter, she coupled with it the spoliation claims ; and these two subjects only were embraced in, and proposed by the 2d article of the convention ; but they were of totally different character, the spoliation claim being without controversy, while the French national claim alone was contested.

2d. "The obligations of the treaties of 1778 and the convention of 1788 were mutual, and estimated to be equal. But however onerous they may have been to the United States, they had been abrogated, and were not revived by the convention of 1800, but expressly spoken of as suspended until an event which could only occur by the pleasure of the United States. It seems clear, then, that the United States were relieved of no obligation to France by the re-trenchment of the second article of the convention ; and if thereby France was relieved of any valid claims against her, the United States received no consideration in return ; and that, if private property was taken by the United States from their citizens, it was not for public use."

That the obligations of the treaties of 1778 were mutual and equal in character was never disputed by any one ; but that is not the matter at issue : were they mutually and equally *performed*, is the real question.

The obligations here referred to are—the guarantee of the French islands, and the exclusive use of our ports ; the guarantee being "forever," and the other without limitation.

That France executed the guarantee on her part (and gave us the free use of her ports) up to, and beyond the very spirit and letter of her engagement, is matter of history. And it is unfortunately also matter of history, that the United States refused to execute the guarantee of the French islands ; and that, although we freely acknowledged the exclusive right, and permitted the use of our ports to France for several years, yet, without consulting her, we suddenly deprived her of that right and use, and gave them to her enemy, England, in the midst of the then existing war between them. The non-performance on the part of the United States of these two obligations, therefore, constituted a valid complaint by France, and a valid claim to indemnity for the consequences. And thus, without any national claim

on the part of our government, and an enormous claim set forth by France, the message decides them to be *mutual, and estimated to be equal*.

When the message states that the treaties had been abrogated, (by the act of Congress of July 7, 1798,) "and were not revived by the convention of 1800, but expressly spoken of as suspended," it follows, that, if *suspended* only in 1800, it is absurd to say they had been abrogated years before. There is some method in taking this absurd position; it was not accidental, but to avoid the admission of a fact which would be fatal to the unsound conclusion immediately drawn from it, viz: "that the United States were relieved of no obligation to France by the retrenchment of the 2d article of the convention."

The President had just before admitted that the old treaties were merely *suspended* by said 2d article; and now he contends that they were *abrogated* by it, making the terms suspended and abrogated synonymous.

The truth is, that our envoys were driven to the wall by the French *sine que non*, not that the old treaties should be revived, but that they were not broken or impaired by our act of Congress, or in any other manner; and our envoys were therefore compelled, as of right, to admit the French imperative demand, that the uninterrupted legal continuance of the old treaties should be fully acknowledged, and they did so. And having thus yielded said admission, and their several efforts to buy off the onerous articles—the guarantee and use of our ports—with large sums of money, having failed, they proposed, as a last alternative, to consign the subject, with said admission, to the 2d article of the convention; to which the French ministers assented by coupling with it the spoliation claims. The unavoidable admission by our envoys was both true and legal; because the treaty of alliance which contained the guarantee had never been, in any respect, violated by France, nor, on principle, could any treaty be annulled by a mere act of Congress; and especially one like this, which, on its face, was to endure "*forever*."

It is not here assumed that the admission of our envoys did *revive* the old treaties; but it is assumed that the continuous obligation of them was irresistibly and absolutely maintained by France up to the conclusion of the convention; whereby she agreed not to cancel or annul them, but to merely suspend them, together with the indemnities claimed by her under them, for ulterior negotiation. And in that shape the convention was ratified by the First Consul.

But if it were, for the sake of the argument, admitted that the old treaties were abrogated, either by the act of Congress, or by their suspension in the convention of 1800, the claim of France would not terminate there; "the indemnities mutually due or claimed" still remained to be disposed of; those termed *due* being the spoliation claims, and those termed *claimed* being those preferred by France for non-performance and violations of the old treaties, together with the political damages resulting from them. From these, at least, the United States were released, if it could be conceded that the old treaties were abrogated. But they were suspended merely, and the resumption of negotiation on them did not depend, as the President alleges, on "an event which could only occur by the pleasure of the United States," but rather by the pleasure of France, as her interest in such resumption soon became very evident; for immediately after the convention was definitively confirmed, a fierce war broke out between England and France which lasted many years, the first effects of which were the capture of all the French islands by the English. And France would doubtless have withdrawn said suspension, and claimed the execution of the guarantee, (if nothing more,) if the old treaties had not been abrogated by the confirmed mutual retrenchment of the 2d article of the convention; which act closed forever all claims to the old treaties and indemnities, at the price of the spoliation claims of our citizens alone.

The errors in the veto message hereinbefore remarked on, are very small matters compared with one I shall now cite, which scarcely bears the character of error, viz:

"The zeal and diligence with which the claims of our citizens against France were prosecuted, appear in the diplomatic correspondence of the three years next succeeding the convention of 1800; and the effect of these efforts is made manifest in the convention of 1803, in which provision was made for payment of a class of cases, the consideration of which France had at all previous periods refused to entertain, and which are of that very class which it has been often assumed were released by striking out the second article of the convention of 1800."

It is not a little mortifying to be compelled to say, that the two facts thus set forth are glaringly misstated; just the reverse is the truth. France never refused to entertain these claims; nor does the convention of 1803 make provision for them, or any one of the hundreds, probably thousands, of which the class consists. But the inexcusable blunder does not stop even there; the President has here again confounded *torts* with *debts*, and set out that the first were provided for by the convention of 1803; whereas, in fact, the *torts* were expressly excluded, and the debts alone provided for by it. The *torts* had been bartered away to France three years previously, to wit, in 1800; and there remained nothing to provide for by the convention of 1803 but the debts. And neither in the negotiation in 1803, nor in any subsequent negotiation, has one word been said with respect to the *tort* claims so bartered away through the 2d article of the convention of 1800. After such perpetual release of France, it would have been absurd and ridiculous in the claimants, and no less so by their government, to have expected from France to resume an obligation to satisfy a class of claims for which she was fully released by reason of an acknowledged satisfactory consideration, and without any reserve, three years previously. Consequently, the convention of 1803 neither contemplated nor contained such a resumption; it was nothing more than a supplement to the convention of 1800, which contained no such provision, but had for its sole object to carry into effect the 4th and 5th unexecuted articles, viz: the 4th, with respect to "property captured and not yet definitively condemned, or which may be captured before the exchange of ratifications;" and the 5th, to debts; this article closing with these emphatic words: "*But this clause shall not extend to indemnities claimed on account of captures or confiscations.*"

The President has not *overlooked* the closing clause of the article I have just cited and italicised, for he has quoted the very same words in his veto message; but it seems to have been mentally suppressed in his remarks, and apparently for the purpose of avoiding self-conviction of entire refutation of his groundless deductions.

The following brief summary may render the subject more clear, viz: The captures which had been condemned were definitively closed by the ratification of the convention of 1800, by which they were bartered away to France; whereas the claims for captures not condemned, and the claims for debts due from France to our citizens, were consigned to the convention of 1803 for adjustment and payment.

The word "debts" was defined to embrace contracts, supplies, detentions by embargoes, and prizes made at sea, in which the Council of Prizes had ordered restitution, which, not being complied with in kind, were regarded as debts for their sum of value.

The veto message proceeds thus:

"This is shown by reference to the preamble, and to the 4th and 5th articles of the convention of 1803, by which were admitted, among the debts due by France to citizens of the United States, the amounts chargeable for 'prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention of 1800.'"

On this it need only be said, that the convention of 1800 does not contain one word on the subject of *appeal*; nor was a single case of that character provided for in, or admitted under, the convention of 1803:

The veto message proceeds thus:

"And this class was further defined to be only 'captures of which the Council of Prizes shall have ordered restitution, it being well understood that the claimants cannot have recourse to the United States otherwise than he might have had to the French republic, and only in case of the insufficiency of the captors.'"

As the Council of Prizes did not come into existence until the 27th of March, 1800, and as the laws of France extended the right of appeal to only three months from the original sentence, (in ordinary cases,) and as such original sentence was founded on old laws of France, revived and enforced for the very purpose of effecting the certain condemnation of every captured American vessel, as before stated, it necessarily followed that very few appeals were taken before March, 1800—the great mass of captures were made before that date—since such appeals would not only have been idle and fruitless, but made under heavy bond and security, and attended with heavy costs, and thus only have increased the loss sustained by the capture; and such impressions were still operative on the captured after the erection of the Council of Prizes, in which tribunal few placed any confidence. These circumstances, and the period of three months having elapsed in nearly all the cases long before March, 1800, the result was, that but a comparatively few cases were brought before the Council of Prizes; and the chief part of those which were so acted on were definitively condemned by it. And all those captures, probably much exceeding one thousand in number, which were not brought before the Council of Prizes, were held to be definitively condemned; and this is the class of cases which were embraced in the 2d article of the convention of 1800, and subsequently bartered away to France by our government by the ratifications thereof.

It is understood that the Council of Prizes ordered the restitution of but sixteen of our captured vessels. These constituted debts; and very few of them (six only) were allowed by the board acting under the convention of 1803.

As before stated, in cases of restitution ordered, and not complied with, such were regarded as *debts*, and therefore were embraced in the provisions of the convention of 1803; and for the payment of these and of other debts so provided for, the French government placed in the hands of the United States twenty millions of francs (being so much of eighty millions of the purchase money for the territory of Louisiana) to cover said debts, which were to be discharged, principal and interest from their date, through an American board setting at Paris, whose awards were to be paid as fast as liquidated by drafts of the American minister at Paris on the Treasury of the United States.

It is clear, therefore, that the words in the article referred to, "shall not have recourse to the United States," means, *shall not partake of the fund of twenty millions of francs*. It must not be overlooked that France was here paying her own debts, and for that reason was allowed by the terms of the convention of 1803 a supervisory decision on each and all of them. She was therefore determined to make that fund cover as much debt as possible, and with that view she (perhaps surreptitiously) introduced the clause in the convention of 1803 making certain debts, those in ordered restitution cases, to be due by her "only in case of the insufficiency of the captors;" thus compelling the claimants to first look to the captors for satisfaction. This was both unjust and unfortunate for the claimants, as the captors could not be found, and as the one year limited to the board was too short to search for them through the French colonies. There were sixteen cases of this description, of which the board awarded in favor of six of them; the remaining ten cases never received to this day any compensation whatever. Said board made awards of principal and interest to the whole amount of twenty millions of francs, and at that point closed the commission, leaving wholly unsatisfied a number of debts, amounting, with said ten cases, to the sum of one million four hundred and eighty-eight thousand eight hundred and thirty-three dollars, as stated in the instructions of Mr. Van Buren, Secretary of State, to Mr. Rives, of July 20, 1829, (see Appendix F.) not one cent of which has yet been paid. For these pre-terminated claims the United States are clearly liable, however, because our ministers, who negotiated the convention of 1803, officially admitted to our government, that, for the sum of twenty millions of francs, they had agreed that the United States should pay all the debts, and that, believing the claims would not exceed sixteen millions, they had obtained the acknowledgment of France that the excess should inure to the United States; and on that event they felicitate themselves



and their government on so advantageous a bargain. But it was soon thereafter discovered that the debts would greatly exceed twenty millions; whereupon our minister contended that France should pay the excess. But the French minister decided definitively, "The convention of 1803 foresaw the whole case; the whole of the American claims are to be placed to the account of the Federal government." And one of our ministers, (Mr. Livingston,) in communicating this result to our government, in his letter of 14th September, 1804, says:

"It would be candid to own, that, in one of the drafts which was substantially agreed to, we justified the construction the [French] minister has put upon the treaty. This article was, in rewording the convention, struck out without attention by Mr. Marbois; and as we saw the advantage it might give us, was not observed on by Mr. Monroe and myself till he had left us; and, indeed, it seems to be almost too sharp to say we were to gain if the debts fell short, but not lose if they exceeded."

In fact the convention of 1803 is full of blunders, which Mr. Livingston accounts for thus, in the letter to our Secretary of State of May 3, 1804:

"The fact was, I had drawn the convention with particular attention; it did not exactly meet Mr. Monroe's ideas, to whom the subject was new. It produced some modifications; and these again, which would have fully answered our purpose, were struck out by Mr. Marbois' wish to give a preference to debts that had a certain degree of priority in the French bureaus. The moment was critical; the question of peace or war (between England and France) was in the balance, and it was important to come to a conclusion before either scale preponderated. I considered the convention as a trifle compared to the other great object, [the purchase of Louisiana;] and as it had already delayed us many days, I was ready to take it under any form, being persuaded that the intention was fully declared, and that the interest of both nations concurred with the justice due to individuals in giving it a liberal construction."

That, in a hasty and imperfect examination of a subject so wide-spread, the President should fall into some errors, might naturally be expected and excused; but it was neither expected nor can be excused that he should so shape the facts in the case as to cover the conclusions and assumptions he has ventured to assert; and these are freely set out on every page of his veto message, some few of which I have hereinbefore remarked on, while the mass of others have been passed over from lack of space, having already extended the review beyond readable limit. There is, however, one great and inexcusable error in the message, which, if true, would be what is evidently but unfairly designed it should be, a death-blow to these claims. Its manifest absurdity seems to have been overlooked in the hot haste to annihilate the claims by a bold but unfounded assertion, to wit: that notwithstanding these claims were bartered away and final discharge given to France by the convention of 1800, they were nevertheless revived, acknowledged and paid, under the convention of 1803. And to this absurdity the President has added another equally glaring, to wit: that, although the spoliation claims amounted to twenty millions of dollars, and the debt-claims to twenty millions of francs in addition, yet both these sums were paid and forever discharged with twenty millions of francs only. That I may do the President no injustice in this, I will cite the words of his message, viz:

"As to claims of citizens of the United States against France, which had been the subject of controversy between the two countries prior to the signature of the convention of 1800, and the further consideration of which was reserved for a more convenient time by the second article of that convention—for these claims, and these only, provision was made in the treaties of 1803, all other claims being expressly excluded by them from their scope and purview."

In this declaration the President has placed himself in an inextricable dilemma, for if, as he says, the claims were thus paid, then he admits that they *ought* to have been paid: and when it shall be clearly proved (as shall be done presently) that the claims were not thus or in any other manner paid, his admission stands that they ought to have been paid, and consequently ought *now* to be paid.

The declaration of the President above cited fully confirms my former remark, that he has confounded *torts* with *debts*; and that unfortunate error runs through the whole message, and renders it not only obscure, but incongruous and unintelligible. That declaration, besides, reverses the whole order of facts, and for proper correction, should be thus modified:



As the claims of citizens of the United States against France, which had been the subject of negotiation between the two countries prior to the signature of the convention of 1800, and the further consideration of which was reserved for a more convenient time by the second article of the convention—that class of claims being spoliations exclusively—were definitively settled through the final ratifications of said convention, by which they were bartered to France in set-off against her claim upon the United States, under the treaties of 1778, and never thereafter brought forward or discussed by either party. And the claims which were provided for by the supplementary convention of 1803, were those exclusively which were reserved as against France by the 4th and 5th articles of the convention of 1800, viz: *for captured property not condemned, and for debts due to our citizens.*

Now in order to place the President altogether in the wrong, it only becomes necessary to show that not one of the spoliation claims embraced by the second article of the convention of 1800 was allowed by the board of commissioners or otherwise paid under the convention of 1803, or in any other manner; and this is clearly established by the copy of an official report of said board, which states the names of the vessels embargoed, and of those that furnished supplies, the names of their owners in whose favor awards were made, and on what account such awards were declared; and in like manner a detailed description of the claims which were rejected by the board, by which it will appear that of the sixteen prize cases in which restitution was ordered by the council of prizes, six were allowed, two rejected, and eight not brought forward; and that only twenty-four cases of capture (without order of restitution,) being part of more than one thousand cases of capture embraced in the second article of the convention of 1800, were submitted to said board, and in every instance rejected. (Appendix A, and explanatory correspondence, B and C.)

It is not matter of surprise that so few cases of this latter class were submitted to the board, since the 4th article thus emphatically excluded them: "But this clause shall not extend to indemnities claimed on account of capture or confiscations."

The following statement will exhibit the number of captures embraced by the 2d article of the convention of 1800:

A list of vessels made up with care, and from every source within the collection of the past thirty-four years, and embracing—		
1st. Vessels captured by the French;		
2d. Vessels captured by the French and Spaniards in conjunction;		
3d. Vessels engaged in furnishing supplies to the French;		
4th. Vessels detained at Bordeaux by embargo—		
Make together an aggregate of vessels.....		2,290
Subject to the following deductions:		
1st. Vessels paid for by special laws of France .....		14
2d. Vessels paid for under the convention of 1803—		
For embargoes .....	103	
For contracts.....	270	
For prize causes under order of restitution .....	6	
	—	379
3d. Vessels rejected under convention of 1803—		
For contracts or supplies.....	102	
For prize causes.....	26	
	—	128
4th. Vessels paid for under Florida treaty .....		173
5th. Vessels rejected under do. ....		191
6th. Vessels paid for under the convention with France of 1831, being for captures made by the French between the date of signature and the ratification of the convention of 1800.....		4
	—	889
Vessels outstanding.....		1,401

Brought forward.....	1,401
From these 1,401 vessels should be deducted the like proportion of rejected cases as above, and thereby cover every contingency, including loss of proof, &c., &c.	
128	
191	
Thus 889 : 319 :: 1,401 .....	503
	<u>898</u>

Leaves 898 vessels to be accounted for, being those bartered away to France under the convention of 1800, and for which the vetoed bill provided.

These 898 vessels valued by estimate at \$14,000 each, make an aggregate of twelve million five hundred and seventy-two thousand dollars—that sum being the consideration given to France, of the claimants' property, in discharge of the claim of France against the United States, under the treaties of 1778. Consequently, a like amount was due to the claimants, for their property so taken and applied to the public use, at the date of the final ratification of the convention, of September 30, 1800, to wit: on the 21st of December, 1801; and the total amount thereof remains unpaid to this day.

In addition to the 898 captured vessels, above mentioned, for which France was held liable until released by the United States, as before explained, she had captured many other of our vessels; in which wrong Spain had participated by the use of her ports and by profit of the prizes—and for these Spain alone was held liable by the United States, to whom she made satisfaction, in the cession of the Floridas. (See Appendix D)

Immediately after the promulgation of convention of 1800, a considerable number of the claimants presented memorials to Congress, from Baltimore; Philadelphia; Alexandria; New York; Port Royal, Virginia; Washington, North Carolina; Charleston, South Carolina; Hartford, Connecticut; New London, Connecticut; Portsmouth, New Hampshire; Norfolk, Virginia; Salem, Massachusetts; Nantucket; Portland, Maine; Newburyport, Massachusetts; Essex County, Virginia; and others. These memorials were referred to a committee, composed of Mr. Giles, Mr. Eustes, Mr. Mitchell, Mr. Lowndes, Mr. Milledge, Mr. Tallmadge, Mr. Robert Wilson, Mr. Davis, and Mr. Gregg. Before that committee reported, a considerable debate took place on the subject of the claims, and propositions to satisfy them,\* during which no one expressed the least doubt of the obligation on our government to pay them; and it was urged "that these claims were the more just as the government of the United States had received an ample remuneration for any demands which it might satisfy, in the abandonment on the part of the French government of our previous guarantee of the French West India possessions."

\* From the journal of the House of Representatives, January 31, 1803 :

"On motion made and seconded that the House do come to the following resolution :

"Resolved, That provision ought to be made by law to indemnify the citizens of the United States, who, in carrying on a lawful trade to foreign parts, suffered losses by the seizure of their property, made by unauthorized French cruisers, or by any French cruisers, without sufficient cause, in violation of the rights of American commerce, during the late war between Great Britain and the French republic, and whose claims for indemnity against the said republic were renounced by the United States by their acceptance of the ratification of the treaty lately made with France"—

Said resolution was postponed for two days, when a motion was made to take it up for consideration; when,

"It was resolved in the affirmative—yeas *sixty-five*, nays twenty-six.

"Another motion was then made; and the question being put that the said motion be referred to the consideration of a Committee of the Whole House, it was resolved in the affirmative.

"Another motion was then made; and the question being put that the same be the order of the day for Tuesday, the 1st of March next, it passed in the negative—yeas 18, nays 74.

"Resolved, That the said motion be the order of the day for Monday, the 14th instant."

On the 26th February, 1803, on a motion that the House of Representatives resolve

Unfortunately for the claimants, the repeal of the internal taxes was then the order of the day, a measure to which the then dominant party and their Chief, Mr. Jefferson, who had just been elected President, stood specially pledged before the country—and to that popular measure alone may be ascribed the postponement of the discussion referred to. The subject was subsequently resumed by Congress: the proceedings and result thereof appear in the debate as published at the time, taken from the *National Intelligencer*, and will be found in Appendix E.

The internal taxes were accordingly repealed; and thus Congress parted with the means to satisfy these claims: and, for that reason, although a favorable report was made on them, and no adverse vote had thereon, they were postponed from time to time, on refusals to take up for consideration motions in their favor.

On the 26th of December, 1806, the subject was again referred by Congress to a committee of Messrs. Marion, Eppes, Clinton, Tallmadge, Cutts, Dickson, Blunt, Findley, and Tenny—whose report contains the following:

“From a mature consideration of the subject, and from the best judgment your committee have been able to form of the case, they are of opinion that this government, by expunging the 2d article of our convention with France of the 30th September, 1800, became bound to indemnify the memorialists for their just claims, which they otherwise would rightfully have had on the government of France for the spoliations committed on their commerce by the illegal captures made by the cruisers, and other armed vessels of that power, in violation of the law of nations, and in breach of treaties then existing between the two nations; which claims they were, by the rejection of the said article of the convention, forever barred from preferring to the government of France for compensation.”

On the 5th of March, 1824, the Senate, by resolution, requested the President to lay before that body the correspondence between the two governments on the subject:

“Also, how far, if at all, the claim of indemnity from the government of France for the spoliations aforesaid was affected by the convention entered into between the United States and France, on the said 30th of September, 1800.”

This call resulted in bringing first to light the whole correspondence of the several negotiations with France in relation to the spoliation claims, extending through the entire period from 1792 down to the final ratification of the convention of 1803; which was printed, by order of the Senate, in a large octavo volume of 840 pages; and is now the 5th volume of Senate documents of the first session of the 19th Congress. These important documents were transmitted to the Senate by message of President John Q. Adams, accompanied by a lucid report of Mr. Clay, Secretary of State, which was adopted and confirmed by the President.

The distinguished ability and integrity of these justly exalted functionaries were safe guarantees that their action in the matter would establish a confidence in their report not to be shaken; nor has any one to this day raised the slightest doubt of the facts it sets forth, or the conclusions founded on them. But, on the contrary, those who opposed the claims set up their own vague and unfounded inferences, passing by, without notice, this unanswerable document; not one of them having ever recognised in argument its existence. I feel justified in giving an extensive extract from it, as follows:

“The closing paragraph of the resolution of the Senate enjoins another duty, which, from the ambiguous manner in which it is expressed, the Secretary feels some difficulty in clearly comprehending. The Senate resolved, ‘that the President of the United States be requested to cause to be laid before the Senate, copies, &c., and concludes by requesting to cause also to be laid before the Senate, ‘how far, if at all, the claim of indemnity from the government of France for the spoliations aforesaid was affected by the convention entered into between the United States and France, on the 30th of September, 1800.’

“The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility to the American sufferers from French spoliations, which the convention of 1800 extinguished on the part of France, or devolved on the United States, the Senate itself being most competent to decide that

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itself into a Committee of the Whole on the above motion, it passed in the negative—yeas 21, nays 48.

This strange result, after the large favorable vote, as above shown, was evidently produced by the repeal of the internal taxes, and the party determination to support the President in that leading popular measure.

question. Under this impression he hopes that he will have sufficiently conformed to the purposes of the Senate, by a brief statement, prepared in a hurried moment, of what he understands to be the question.

"The second article of the convention of 1800 was in the following words: 'The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows:'

"When the convention was laid before the Senate, it gave its consent and advice that it should be ratified, provided the second article be expunged, and that the following article be added or inserted: 'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications;' and it was accordingly so ratified by the President of the United States on the 18th day of February, 1801, and on the 31st of July, of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause, as a part of it: 'The government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *provided that, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article.*'

"The French ratification being thus conditional, was nevertheless exchanged against that of the United States, at Paris, on the same 31st July. The President of the United States considering it necessary again to submit the convention, in this state, to the Senate, on the 19th day of December, 1801 it was resolved by the Senate, that they considered said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact.

"The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoliations, under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th November, 1788. Whatever obligations or indemnities from those sources either party had a right to demand, were respectively waived and abandoned, and the consideration which induced one party to renounce his pretensions, was that of the renunciation by the other party of his pretensions. What was the value of the obligations so reciprocally renounced, can only be matter of speculation.

"The amount of the indemnities due to citizens of the United States was very large; and on the other hand, the obligation was great, (to specify no other French pretensions,) under which the United States were placed in the 11th article of the treaty of alliance of 6th February, 1778, by which they were bound forever to guaranty from that time the then possessions of the crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered at or not long after the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain, from France.

"The fifth article of the amendments to the constitution provides, 'nor shall private property be taken for public use without just compensation.' If the indemnities to which citizens of the United States were entitled for French spoliations prior to the 30th of September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the constitution, and whether equitable considerations do not require some compensation to be made to the claimants."

This report, and accompanying documents, brought from the secret archives of the State Department, where they had slept for a quarter of a century without notice of our government, or even knowledge of the claimants, unfolded what had theretofore remained a mystery, but now a flood of light. It disclosed that the treaty-making power had released France from her responsibility for these claims, for the benefit of the nation; and that fact induced the claimants to memorialize the Senate primarily, considering it essential that the Senate should lead the way to their relief; being best qualified to determine two essential facts: first, that the Senate had bartered their claims to France; and, second, that the United States had assumed the responsibility to pay them. The action of the Senate was therefore invoked, and the claimants are bound to gratefully acknowledge the justice with which their applications have been regarded, by voting bills for their partial relief seven different times—two of which were also voted by the House of Repre-

sentatives and submitted to the President for approval, but were in both instances vetoed.

Since this published correspondence, thirty-two reports in favor of the claims have been made in the two houses of Congress, by committees of the highest grade, and not one adverse report; and it is a remarkable fact, that whenever either House was brought to a vote on the subject, it has uniformly resulted in favor of the claimants; and it is also an imposing and remarkable fact, that said published correspondence induced the *legislatures of fourteen States*, respectively, to pass resolutions instructing their Senators and requesting their Representatives in Congress to vote for the relief of the sufferers.

Under such circumstances, added to the clear merits of the claims, and more than fifty years expended in their most searching investigation by eight successive Senates and twenty-five Houses of Representatives, with no new fact found to their prejudice, it might be naturally concluded that all opposition ought and would cease; and that any attempt even to raise a doubt should be regarded as a fore-gone conclusion—the emanation of an unsound mind.

Our government held the depredations of the French as robbery, but do not appear to reflect that it remains a robbery, and does not change that character in whatever hands the property may be found, nor until the property be restored to the rightful owners.

The claimants are in pursuit of stolen goods, and trace them into the possession of their own government; shall it be said they will not restore them? Who shall say so? Will the President, the sworn protector of the claimants, be the leader of such an act?

Shall the decided will of Congress, to whom the constitution has commanded the duty of “paying the debts of the nation,” and who have under their constitutional responsibility declared this sacred debt shall be paid, be arbitrarily overruled, their authority treated with contempt and annihilation, by a heartless and unfounded tissue of absurdities and abstractions manifesting nothing but deep rooted hostility, and cunningly arranged assumptions, that render the denunciation wholly unintelligible?

Why, France, the robber, exhibited some sympathy for the sufferers, by actually paying some of them voluntarily, and promising to pay all; and, during the discussions immediately preceding the signature to the convention of 1800, proposed again and again a direct stipulation for their satisfaction. But the United States, who had promised the proprietors protection, and taken in charge the evidence of their losses with that view, and gave a solemn pledge to pursue and account for their claims, stepped in and sold the claims for its own benefit, locked up the evidence of the sale for more than twenty years, and then tells the claimants: first, that the claims are worthless; second, that they were not sold; third, that they were paid; and now, that they are fraudulent; and by implication charge those who voted the bill under consideration as participants in the fraud. They are yet living, however, and will, at no distant day, have an available opportunity to defend themselves. But the veto message has done worse than that; it holds out that the Senate of 1801, who voted in favor of the condition prescribed by the First Consul to his ratification of the convention of 1800, did so *with a mental reservation that that condition should be regarded by them as null and void, and have no effect*. At such a charge the calumniator should fear the rising of the venerable dead in their defence.

By charging others with such an act, the chalice may fairly be returned to his own lips. But no one will believe that the universally respected objects of this most ungracious and uncalled for denunciation were capable of such an outrage on all propriety. If the President should hold it to be true, however, which no sound mind could do, still it would not justify him in adopting it for the purpose of defeating these claims; but in common honesty he should regard it as the supreme law of the land, and apply it still to the benefit of the claimants.

The claimants lost their twelve to twenty millions of dollars by the violent acts

of the French, and yet not one word of sympathy has found its way to the veto message; but, on the contrary, the robber, France, is complimented for the fidelity with which she has discharged her obligations—and the United States also, for having completely discharged its duty. The compliments are thus expressed:

“This review of the successive treaties between France and the United States has brought my mind to the undoubting conviction that while the United States have, in the most ample and the completest manner, discharged their duty toward such of their citizens as may have been at any time aggrieved by acts of the French government, so, also, France has honorably discharged herself of all obligations in the premises towards the United States.”

Well, say the claimants in answer, Mr. President, you have made out to your own satisfaction that both governments have acted very honorably in the premises, but that is not the object of our inquiry; we desire to know what has become of our 898 vessels, our property, worth more than twelve millions of dollars. Be pleased to tell us.

The President infers hostility to the claims, and want of merit in them, from the circumstance that none of his predecessors had thought them worthy of being recommended to Congress.

A sufficient answer to this far-fetched objection would be, that it is neither the duty nor the practice of the Executive to take such action on private claims; and, besides, it would be received with disfavor, and regarded as usurpation.

But, if the President *really* meant to convey what this objection implies, how does it happen that he has not in a single instance so recommended a private claim? Many hundreds of such claims have been constantly pending since his elevation to the office, and yet he has not noticed any one of them; if his inference is entitled to any respect, then he is hostile to all of them. He could not, if he would, determine the merits of private claims, for that or any other purpose, as it would require research, cross-examination, and much time, which his ordinary and imperative duties would not permit.

When these claims were pending in Congress during the administration of General Jackson, and when the public debt was discharged, he was importuned to notice these claims favorably by message, on the ground that the current revenue being free from the public debt, would accumulate, and thus furnish adequate means to discharge this sacred debt of the nation. He asked why his predecessors did not so recommend them? and was answered that there was good reason for their silence, viz: that when the obligation arose, in 1801, the government funds were too low; the war with England followed and greatly increased the public debt; and then the sinking fund system was adopted, by which the whole surplus revenue beyond the current and indispensable expenditure was pledged to the discharge of the public debt; so that no money remained that could be applied to this object until the revenue should be released from the funded debt, which was then accomplished. He said such was indeed the case; but, said he, the subject is before the *proper tribunal, Congress*, and it would be altogether improper for him to interfere; adding, he might sign a bill for the relief of the claimants, but could take no steps to obtain one. On a subsequent occasion a deputation from a convention held in New York waited on President Jackson with a similar request to that just mentioned; to which he replied, Why, gentlemen, I can kill your case as I killed Mrs. Decatur's case, by recommending it to Congress. Do you not see that if I should do so, every political opponent I have there will at once be opposed to your claims? do you wish that? The deputation was at once satisfied of the impolicy and impropriety of their request, and forthwith withdrew it.

While the French were thus depredating on our commerce, England, for several years prior to 1796, committed like depredations, for which she made compensation, however, under Mr. Jay's treaty, to the amount of ten million three hundred and forty-five thousand dollars. And again, under the treaty of 1814, for negroes and other property, one million four hundred and ninety-seven thousand dollars.

France, also, for like depredations on our commerce prior to the year 1800, made compensation to the government of the United States in political considerations

satisfactory to them, under the convention of that year, amounting in 1799, as estimated by our ministers, at fifteen to twenty millions of dollars; but the United States having failed to pay over this indemnity to the claimants, their right to claim, and the obligation on the United States to pay, has become the matter now under consideration. France, also, for *debts* contracted with our citizens prior to 1800, made satisfaction for them, under the convention of 1803, to the amount of twenty millions of francs—equal to three million seven hundred and fifty thousand dollars; and a further undefined amount merged in the acquisition of Louisiana. And again, under the convention of 1831, for depredations, made satisfaction to the amount of twenty-five millions of francs.

Spain, also, for depredations prior to 1795, made compensation under the treaty of that year, to the amount of three hundred and twenty-five thousand dollars.

And again, for like depredations, under the treaty of 1819, to the amount of five millions of dollars, and a further undefined amount merged in the acquisition of the Floridas. And again, for further depredations, under the treaty of 1834, to the amount of six hundred thousand dollars.

Denmark, also, for depredations, made compensation under the treaty of 1830, to the amount of six hundred and thirty thousand dollars.

Naples, also, for depredations, made compensation under the treaty of 1832, to the amount of one million nine hundred and twenty-five thousand dollars.

Mexico, also, for depredations, under the convention of 1839, made compensation to the amount of two million and twenty-six thousand dollars; and again, under the treaty of 1848, to the amount of three and a quarter millions of dollars.

Peru, for depredations on our commerce, under the treaty of 1841, three hundred thousand dollars. Besides, from Holland, Portugal, Chili, &c., &c.

It thus appears that all the foreign governments that depredated on our commerce have made satisfaction; and that our own government is now the only one in default, and that in the most ancient and most obligatory case of them all; in which the United States accepted public political considerations of inestimable value, in payment; but these being in their nature neither transferable nor divisible, could not, therefore, be paid over in kind: our government has taken advantage of that circumstance down to this time, by not giving to the individual claimants either an equivalent or any part thereof, but retains the whole to the public use.

That the sufferers from these violent acts of France had the warm sympathy of their cotemporaries, and that it was intended to make the wrong-doers respond at once and in the whole at the time, is evident from the following quotation from Tucker's *Life of Jefferson*, showing the opinions of both Mr. Jefferson and Mr. Madison:

"The propositions of Mr. Madison, to which Mr. Jefferson refers in his letter in April, [3d, 1794,] were founded on his own report to Congress, at the beginning of the session, on the commercial relations of the United States. They were framed in strict conformity with the retaliatory policy recommended in the report, and were probably prepared with his concurrence, as a manuscript draught of them was found among his papers. They proposed to lay specific duties on different branches of manufactures; to lay additional tonnage duties on the vessels of those nations who had no commercial treaty with the United States; to reduce the duties on the vessels of those who had such treaty; to retaliate all the restrictions which were imposed by other nations, whether on the commerce or the navigation of the United States, either by the like restrictions or a tonnage duty; and, lastly, to reimburse the citizens of the United States for the losses they had sustained, by the illegal procedures of other nations, out of the additional duties laid on the products and shipping of such nation."

The last paragraph of the veto message says:

"I am, of course, aware that the bill proposes only to provide indemnification for such valid claims of citizens of the United States against France as shall not have been stipulated for and embraced in any of the treaties enumerated. But in excluding all such claims, it excludes all, in fact, for which, during the negotiations, France could be persuaded to agree that she was in any wise liable to the United States or our citizens."

The President asks, "What remains; and for what is five millions of dollars appropriated?"



The reply is simple and easy. It is not for any of the claims stipulated for and embraced in any of the treaties subsequent to 1800; but for those for which specific stipulations were rendered impossible; because the second article of the convention which embraced an obligation on both nations to arrange their mutual claims, was retrenched—the United States using these claims in payment for the consent of France to the abrogation of the ancient treaties—and failing to respond to their owners for private property so taken, for public use.

In the foregoing remarks on the veto message, I have felt at liberty, and a duty, to use strong language, seeing that the provocation is great, and demands, or at least justifies it; for in so grave a matter the President cannot be permitted, with impunity, to assume the right to make the facts in the case to suit his hostile intention. It may be, however, that, although the message bears the signature of the President, and the responsibility for its contents necessarily rests on him, yet it may be the work of some other mind or unskilful hand. I hope such may be the fact, and that the respectable members of his cabinet may be equally clear of its imperfections. But whoever may be its real author or prompters, the long suffering claimants may with great propriety say, in the language of poor old Job, "Miserable comforters are ye all!"

JAMES M. CAUSTEN.

WASHINGTON, D. C., April 25, 1855.

#### APPENDIX A.

[The following lists of decisions, including all allowed and all disallowed, made on claims of American citizens against the French government for "debts," by the board of American commissioners at Paris, appointed to carry into effect the convention with France of April 30, 1803, are copied from their "Registre" thereof, now on the files of the Department of State.]

*"An alphabetical index to the certificates of admittance."*

No. of certificate.	Page.	Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.
74	140	Minerva, of Baltimore . . .	Allen, Russell . . . . .	Embargo.
76	140	Harmony . . . . .	Alcorn, Michael . . . . .	Embargo.
83	140	Industry . . . . .	Atkins, Ambrose . . . . .	Embargo.
113	146	Thomas . . . . .	Andrews, Nehemiah . . . . .	Embargo.
145	151	Washington . . . . .	Ash, N. V. . . . .	Embargo.
170	180	Hannah . . . . .	Armroyd, Geo., and Thos. Kenny . . . . .	Supplies.
181	190	.....	Armstrong & Barnewell . . . . .	Supplies.
242	242	Mary Ann . . . . .	Adams, Knowles . . . . .	Prize cause.
302	340	Rebecca . . . . .	Amory, Rufus G. . . . .	Supplies.
316	355	Joanna . . . . .	Arnold, Thomas . . . . .	Supplies.
10	65	.....	Barry, James . . . . .	Supplies, 19 & 20.
21	70	Robin . . . . .	Brook, John . . . . .	Supplies, 69.
22	71	Active, (Capt. Jacob. Art.) . . . . .	Bernard, Dugan & Co. . . . .	Supplies, 107.
24	73	Olive Branch . . . . .	Buffington, John . . . . .	Supplies, 35.
34	88	.....	Burrows, John . . . . .	Supplies, 106.
36	89	Union . . . . .	Beard, Richard . . . . .	Supplies, 71.
46	106	Eliza . . . . .	Burrowdale, John . . . . .	Supplies, 30.
57	136	Friendship . . . . .	Blackhuese, William . . . . .	Embargo.
72	140	Hope . . . . .	Butman, Samuel . . . . .	Embargo.
106	145	Harriet . . . . .	Bentley, James . . . . .	Embargo.
107	145	Hector . . . . .	Baker, Thomas . . . . .	Embargo.
108	145	Patern . . . . .	Blackington, James . . . . .	Embargo.
115	149	Bethia . . . . .	Bramble, John . . . . .	Embargo.
144	151	Penelope . . . . .	Bray, J. . . . .	Embargo.
149	162	Sydney, Fame, Maggy . . . . .	Barney, Josina . . . . .	Supplies, 12.
173	182	Neptune . . . . .	Brook . . . . .	Supplies.
176	186	Betsy . . . . .	Boyer, Daniel . . . . .	Supplies.
177	186	Hoc . . . . .	Billing, Robert . . . . .	Supplies.
185	194	Unity . . . . .	Bowers, Samuel . . . . .	Supplies.
191	198	Hannah . . . . .	Brown, Moses . . . . .	Supplies.
205	211	.....	Butler, Anthony . . . . .	Supplies.
211	215	.....	Britten & Massey . . . . .	Supplies.
210	214	Harmony . . . . .	Baguenaunt & Co. . . . .	Supplies.



## Alphabetical index to the certificates of admittance—Continued.

No. of certificate.	Page.	Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.
216	219	.....	Beale, Benjamin .....	Supplies
218	220	Sally Laura.....	Boss, J. L., or Gibbs & Channing.....	Supplies.
230	231	Milley.....	Bethel & Cooper.....	Supplies.
231	232	Charlotte.....	Boot, Henry William.....	Supplies.
237	233	Franklin.....	Brian, James.....	Supplies.
239	240	Malabar.....	Bell, Wm., and Jos. Bell and Jos. Watson.	Supplies.
241	242	.....	Breuil, Francis.....	Money advanced.
257	253	Rising Sun.....	Betts, Wm. M.....	Supplies.
268	268	.....	Bousquet, A. and Jno.....	Supplies.
273	272	Ulrick Rook.....	Brush, Jesse.....	Prize cause.
279	277	Thomas Wilson.....	Butler, Anthony.....	Supplies.
289	311	Hope.....	Burr, Isaac.....	Supplies.
292	316	.....	Baeker, T. H.....	Supplies.
295	327	Samuel.....	Black, Alexander.....	Supplies, 36.
310	347	Amy.....	Brown, Wyer & Tracy.....	Supplies.
322	362	.....	Beale, Benjamin.....	.....
327	371	Lark.....	Bickley, Daniel.....	Supplies.
336	395	Liberty, Mary.....	Brown, N.....	Supplies.
*347	409	Rambler.....	Blagge, John.....	Prize cause.
351	414	Patriot, Active.....	Biddle, Js., and Js. Brobson.....	Supplies.
2	38	.....	Clark, J. J.....	Supplies, 7.
19	69	Nancy.....	Crousillat, Louis.....	Supplies, 120.
38	91	Columbia.....	Carhart, William.....	Supplies, 25.
39	91	Seaflower.....	Cook, Solomon.....	Supplies, 26.
53	136	Ann.....	Coleman, Prince.....	Embargo.
65	139	President.....	Carhart, William.....	Embargo.
73	140	Polly.....	Carter, Thomas.....	Embargo.
75	140	Minerva, of Peppereboro.....	Cutts, J.....	Embargo.
80	140	Eliza.....	Clark, Joseph.....	Embargo.
87	142	Mary.....	Church, John.....	Embargo.
91	142	Speedwell.....	Crawford, James.....	Embargo.
96	144	Baring.....	Cooper, Samuel.....	Embargo, 53.
119	149	Fame.....	Coleman, John.....	Embargo.
122	149	Elizabeth.....	Clift, Nathaniel.....	Embargo.
124	149	Sally.....	Collins, John.....	Embargo.
128	150	Sans-Souci.....	Crozier, J.....	Embargo.
147	151	Hunter.....	Chipman, Thomas.....	Embargo.
152	166	Polly.....	Congdon, —.....	Supplies.
160	172	Swanwick.....	Cassin, John.....	Supplies.
161	173	.....	Calman, Joseph.....	Supplies.
167	178	Three Friends.....	Clark, John, <i>alias</i> McCormick.....	Supplies.
175	184	Charming Betsey.....	Clark, Wm.....	Supplies.
186	194	Mary.....	Cassan, Samuel.....	Supplies.
187	195	Boston.....	Clark, Robert, <i>alias</i> Robt. Rodez.....	Supplies.
192	199	Phoebe.....	Clement & Taylor.....	Supplies.
193	200	Friendship.....	Cutter, Nathaniel.....	Supplies.
204	210	Betsey Dolphin.....	Crowninshield, Benjamin, with Moses Townsend and Jas. Cheever.	Supplies.
206	211	Nancy, Illinois.....	Clement & Taylor.....	Supplies.
217	220	Mary.....	Callaghan, Luc.....	Supplies.
240	241	Jane.....	Crawford & Co., James.....	Supplies.
255	257	Dispatch.....	Comerais, —.....	Supplies.
280	278	.....	Causland, Rogers, Saunderson, Wm. Prestman & Co., and Robt. Wells.	Supplies.
158	171	Ann.....	Coleman, Prince, <i>alias</i> Rotch & Rodman ..	Supplies.
299	336	Barbara.....	Clark, —.....	Prize cause.
309	346	Thomas, Eliza, Venus.....	Crafts, Morris, Tunno, & Cox.....	Supplies.
311	348	Plumper.....	Cutts, Richard.....	Supplies.
325	367	Russell.....	Crafts, E. and W.....	Embargo.
330	389	.....	Carrell, Edward.....	Supplies.
341	399	Lark, William.....	Codman, Stephen.....	Supplies.
28	79	.....	Dunlap & Irvin.....	Supplies, 121.
31	83	Lydi.....	Dunham, Cornelius.....	Supplies, 28.
81	140	Di na.....	Dickey, James.....	Embargo.
105	145	Patuxent Planter.....	Dorset, F.....	Embargo.
118	149	Starling.....	Drew, Clement.....	Embargo.
133	150	Ruby.....	Dexter, Samuel.....	Embargo.
142	150	Peggy.....	De by, Jonathan.....	Embargo.
202	209	Sarah Ann.....	Duncan, William.....	Supplies.
213	217	Whim, Fanny.....	Derby, John.....	Supplies.
270	269	Rebecca.....	Dorn, Andrew C.....	Supplies.
251	252	.....	Derby, —.....	Supplies.
277	275	.....	Denton & Hall.....	Supplies.
284	295	.....	Dunant, Edward, and Isaac Mackee.....	Supplies.
314	354	Anna.....	Dunant, Edward, and John McCulloch.....	Supplies.
331	395	.....	Duthil & Wachsmuth.....	Supplies.
332	395	Hope.....	Dunant & Gilpin.....	Supplies.
340	397	.....	Duthil, Stephen.....	Supplies.
354	415	.....	Dupasquier, L.....	Supplies.
32	87	Sally.....	Edgar, William.....	Supplies, 68.
55	136	Diana.....	Emery, Robert.....	Embargo.

\* Is in Gen. Armstrong's hands.

## Alphabetical index to the certificates of admittance—Continued.

No. of certificate.	Page.	Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.
86	142	Good Friends.....	Ellison, J. H.....	Embargo, 104.
123	149	America.....	Ewing, James.....	Embargo.
250	251	.....	Endicott, Jno.....	Supplies.
287	309	Polly.....	Ellison, Henry.....	Supplies.
315	355	Christiana.....	Ellis, Thomas.....	Supplies.
62	139	Two Pollies.....	Fairchilds, W.....	Embargo.
79	140	Liberty.....	Fields, John.....	Embargo.
101	144	Fame.....	Frazier, Alexander.....	Embargo.
102	144	Molly.....	Farrel, Joshua.....	Embargo.
164	176	.....	Fenwick, Joseph.....	Money advanced.
197	203	Patriot.....	Falconer, Forman, Betts, & Price.....	Supplies.
209	214	.....	Frazer, Nalbro'.....	Supplies.
235	237	.....	Fellows, Nathaniel.....	Money advanced.
1	36	.....	Griffiths, T. W.....	Supplies, 3.
4	43	.....	Grubb, James.....	Supplies, 18.
9	65	Betsy.....	Girard, Stephen.....	Supplies, 45.
30	82	Hannah.....	Griste, John.....	Supplies, 23.
42	100	Severn.....	Goodrich, Jared.....	Supplies, 65.
45	105	Nautilus.....	Griffin, Gustavus.....	Supplies, 24.
53	136	Lydia.....	Gardner, Shubael.....	Embargo.
68	139	Nancy.....	Gerrish, William.....	Embargo.
70	139	Two Brothers.....	Greenleaf, Amos.....	Embargo.
114	149	Thomas Wilson.....	Goelet, T. F.....	Embargo.
139	150	Nancy.....	Gage, Joshua.....	Embargo.
143	150	Betsy.....	Greenleaf, Jacob.....	Embargo.
161	173	.....	Grubb, Mathers and Will., (Josh. Calnan)	Supplies.
189	196	Mary.....	Goodhue, Joseph, <i>alias</i> Pettingel & Smith..	Supplies.
190	198	Martha.....	Gucolby, —.....	Supplies.
198	205	Happy Return.....	Geers, Solomon.....	Supplies.
218	220	Sally Laura.....	Gibbs & Channing, <i>alias</i> T. L. Boss.....	Supplies.
232	233	Lucy.....	Goddard, Nathaniel.....	Supplies.
246	248	Ruby, Peggy.....	Gay, Ebenezer, and Saml. Toplif.....	Supplies.
260	260	.....	Gamble, James.....	Money advanced
293	317	Eagle.....	Gamble, Richard, <i>alias</i> Jacob Shoemaker.....	Supplies.
308	345	Peggy.....	Gilmore, Robert.....	Supplies.
312	350	.....	Greenleaf, John.....	Supplies.
317	357	Friendship.....	Geyer, Fred'k, Wm. & Son.....	Supplies.
334	395	.....	Goix, Nicholas.....	Supplies.
14	65	.....	Higginson, John.....	Supplies, 11.
17	68	Barbara.....	Higginson & Parsons.....	Supplies, 122.
18	69	Peters.....	Hayes, Judah.....	Supplies, 105.
25	74	.....	Harrison, George, <i>alias</i> Jas. Thayer.....	Supplies.
37	90	Sally.....	Hemphill, James.....	Supplies, 32.
53	136	Penelope.....	Hammond, B.....	Embargo.
140	150	John.....	Howland, P.....	Embargo.
166	263	Washington.....	Higgins, Augustin, and David Spear.....	Supplies.
188	196	.....	Holmes, John, <i>alias</i> Samuel Walker.....	Supplies.
201	207	Polly.....	Hodges, Daniel.....	Supplies.
266	265	Sally.....	Hatch, Samuel.....	Supplies.
275	274	.....	Hazlehurst, Isaac.....	Supplies.
208	213	Lovely Lass.....	Hogan, P.....	Supplies.
300	339	Regulator.....	Hall, Edward.....	Supplies.
338	396	Mary.....	Haley, Nathan.....	Supplies.
349	414	La Petite Marguerite.....	Hollingsworth, Ths. and Sl.....	Supplies.
64	139	Merchant.....	Jones, John.....	Embargo.
98	144	Mary.....	Jones, Rowling.....	Embargo.
104	144	Union.....	Johnson, Thomas.....	Embargo.
120	149	Molly.....	Johnson, Henry.....	Embargo.
212	216	Peggy and Polly.....	Jackson, Abraham.....	Supplies.
247	248	.....	Jeffry & Russell.....	Supplies.
258	259	.....	Johnson, John.....	Supplies.
339	397	.....	Jackson, D. and Chs.....	Supplies.
82	140	Martin.....	Knowles, Caleb.....	Embargo.
170	180	Hannah.....	Kenny, Thomas, and Geo. Armroyd.....	Supplies.
222	225	Sedgwick, Polly & Betsy.....	Kimbal, Wm., and Josh. White.....	Supplies.
333	395	William.....	Kirk & Lukens.....	Supplies.
353	414	Susan.....	Kindall, Ephraim.....	Supplies.
5	45	.....	Livingston, John R.....	Supplies, 15.
23	73	Success.....	Low, —.....	Supplies, 21.
47	109	Lark.....	Lovett, Samuel.....	Supplies, 37.
60	136	Sally.....	Lamb, Daniel.....	Embargo.
61	139	Richmond.....	Lee, Robert.....	Embargo.
78	140	Connecticut.....	Little, Alexander.....	Embargo.
117	149	Favorite.....	Lewis, Samuel.....	Embargo.
168	179	Juno.....	Lynch, William.....	Supplies.
174	183	Sally.....	Lewis, Samuel.....	Supplies.
238	239	.....	Livingston, Peter William.....	Supplies.
243	243	Betsy.....	Loring, George.....	Prize cause.
256	257	.....	Laussat, Anthony.....	Supplies.
265	264	Fairy.....	Lee & Broughton.....	Supplies.
272	177	.....	Le Ray, Jacques D.....	Supplies.

## Alphabetical index to the certificates of admittance—Continued.

No. of certificate.	Page.	Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.
301	339	Fame.....	Lyman, Theodore.....	Supplies.
313	351	Sally.....	Lynham, George.....	Supplies.
352	414	Betsey, Union.....	Lunt & Treadwell, (Captains).....	Supplies.
13	65		Murray, George William.....	Supplies, 13.
33	88	Juno.....	Maxwell, Archibald.....	Supplies, 70.
40	97	Molly.....	Mitchell, John.....	Supplies, 62.
41	98		Miller, Joseph J.....	Supplies, 54.
43	100	Union.....	Munroe, William.....	Supplies, 83.
50	134	Andrews.....	Makins, Samuel.....	Supplies, 99.
54	136	Vulture.....	March, John.....	Embargo.
63	139	Prudence.....	Miller, William.....	Embargo.
88	142	Somerset.....	Miller, Christopher.....	Embargo.
112	146	John.....	Miller, J.....	Embargo.
136	150	Rambler.....	Minor, Elnathan.....	Embargo.
138	150	Union.....	Milligan, John.....	Embargo.
165	177		Massay, Charles.....	Supplies.
167	178	Three Friends.....	McCormeck, alias John Clark.....	Supplies.
180	188		McCurrach & Co., James.....	Supplies.
183	192		Mitchel, John.....	Supplies.
184	192		Mountflorencce, James C.....	Supplies.
194	201	Betsey and Patty.....	MacCreery, William.....	Supplies.
229	231		Mactiea & Stewart.....	Supplies.
245	247	Patuxent.....	Miller & Robertson, Tunno & Cox.....	Supplies.
253	253		Mickle, Robert.....	Supplies.
254	256	Martin.....	Moltey, —.....	Supplies.
263	262		Myers, Moses.....	Supplies.
284	295		Mackee, Isaac, and Edward Dunant.....	Supplies.
294	318	Urania.....	Milward, alias Jacob Shoemaker.....	Supplies.
318	358		Man & Foltz.....	Supplies.
320	359	Apollo.....	Mallebay & Durand.....	Supplies.
344	404		Marratt, John.....	Supplies.
16	68	Thorn.....	Norton, Thomas.....	Supplies, 31.
172	182	Andrew.....	Norton, Constant.....	Supplies.
305	342	Kitty.....	Nones, David B.....	Supplies.
345	404		Nones, Benj.....	Supplies.
346	404	New Jersey.....	Nichlin, Ph. & R. E. Griffith.....	Prize cause.
59	136	Hibernia.....	O'Brien, Joseph.....	Embargo.
99	144	Favorite.....	Orne, J.....	Embargo.
116	149	Harmony.....	Osmond, J.....	Embargo.
153	167		O'Brien, Michael Morgan.....	Supplies.
264	263	Romulus.....	Ogier, Thomas.....	Supplies.
321	361		Otis & Mackay.....	Supplies & money.
26	74	Ann, Leonora.....	Pitcairne, Joseph, or Wm. Smith.....	Supplies.
56	136	Columbia.....	Pote, William.....	Embargo.
67	139	Diana.....	Pease, Martin.....	Embargo.
89	142	Fanny.....	Perry, Gamahel.....	Embargo.
100	144	George.....	Prowse, Daniel.....	Embargo.
110	145	John.....	Pollard, John.....	Embargo.
111	145	Chloe Ann.....	Prentice, Stanton.....	Embargo.
129	150	Zephyr.....	Pepper, Isaac.....	Embargo.
134	150	James.....	Palmer, R.....	Embargo.
135	150	Two Sisters.....	Pike, George.....	Embargo.
148	160	Commerce.....	Preble, Enoch.....	Embargo.
150	165		Porkins, Burlington & Perkins.....	Supplies.
155	169	Hannah.....	Parrot, John.....	Supplies.
156	169		Pitcairne, Joseph.....	Supplies.
159	171	Betsey.....	Phillips, Isaac, or Willis and Yardley.....	Supplies.
163	175		Petit and Bayard.....	Supplies.
169	179	Experiment.....	Poole, Joseph, alias Rd. H. Wilcocks.....	Supplies.
171	181	Trial.....	Penniston, Richard.....	Supplies.
189	197	Mary.....	Pettingel and Smith, alias J. H. Goodhue.....	Supplies.
203	209		Purveyance, Samuel.....	Supplies.
214	218		Purveyance, Samuel.....	Supplies.
219	221	Nymph.....	Patterson, William.....	Supplies.
226	228	Patty.....	Payne, Thomas.....	Supplies.
233	233	George.....	Patterson, William.....	Supplies.
236	238	Polly.....	Plankinhorn, John.....	Supplies.
244	244	Francis.....	Patton, Robert.....	Supplies.
259	259		Pratt, Son & Kintzing.....	Supplies.
297	332	Kitty.....	Patton, Robert.....	Supplies.
307	345		Potter, Abyah, alias Nathan Tingley.....	Supplies.
319	359	Friendship.....	Prebble & Co.....	Supplies.
337	395		Parsons, Eben.....	Supplies.
343	399	Betsey.....	Pennock, William.....	Supplies.
20	70		Randall, Paul Richards.....	Supplies, 111.
66	139	Hannah.....	Russell, William.....	Embargo.
85	140	Betsey.....	Reading, keed.....	Embargo.
100	144	Active.....	Robertson, John.....	Embargo.
126	150	Thomas.....	Revell, John.....	Embargo.
141	150	Jane.....	Rodgers, John.....	Embargo.
187	195	Boston.....	Rodey, Robert, alias Robert Clark.....	Supplies.

## Alphabetical index to the certificates of admittance—Continued.

No. of certificate.	Page.	Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.
261	261	Nancy .....	Rhodes, James, and Hannah Aborn.....	Supplies.
274	273	.....	Robinson, James.....	Supplies.
266	275	.....	Ralston, Robert.....	Supplies.
158	171	Ann .....	Rotch & Rodman, <i>alias</i> Prince Colmon....	Supplies.
329	374	.....	Robert, Francis.....	Supplies.
342	399	Hannah .....	Robinson, William.....	Supplies.
323	36	Perseverance, Edward, William.	Stewart, D.....	Supplies.
324	364	Nancy.....	Shoemaker, Thomas.....	Supplies.
326	370	.....	Seton & Maitland.....	Supplies.
335	395	.....	Shoemaker, Jacob.....	Supplies.
350	414	Active.....	Sheafe, James.....	Supplies.
3	39	.....	Smith, Reuben.....	Supplies, 8.
6	45	.....	Sands, Joseph.....	Supplies, 14.
7	46	.....	Snow, Isaiah.....	Supplies, 33.
12	65	.....	Sadier, Henry.....	Supplies, 55.
15	65	.....	Skipwith, Fulwar.....	Supplies, 115.
22	71	Active.....	Stewart, Walter, <i>alias</i> Bernard, Dugan & Co	Supplies.
26	74	Ann, Leonora.....	Smith, Wm., <i>alias</i> Josh. Pitcairne.....	Supplies.
29	180	.....	Skipwith, Fulwar.....	Supplies, 113.
44	101	Oncida .....	Sheffield, Robert.....	Supplies, 29.
48	118	.....	Skipwith, F.....	Supplies, 114.
49	119	.....	Skipwith, F.....	Supplies, 117.
51	136	Hope.....	Shadwick, Nathaniel.....	Embargo.
58	135	Cumberland.....	Scott, Andrew.....	Embargo.
77	140	Hannah.....	Springer, William.....	Embargo.
92	142	Aurora.....	Seaward, John.....	Embargo.
97	144	Minerva.....	Snell, James.....	Embargo.
109	145	Nancy.....	Sargent, Nathaniel.....	Embargo.
127	150	Maryland.....	Speaker, J. M.....	Embargo.
146	150	Hope.....	Shillaber, Benjamin.....	Embargo.
151	166	.....	Sieman, Paul.....	Supplies.
154	168	Barbara, Port-au-Prince.....	Stewart & Plunket.....	Supplies.
162	175	.....	Steinmetz, John.....	Supplies.
166	263	Washington.....	Spear, David, and Augustin Higgins.....	Supplies.
178	187	Eliza.....	Stone, Robt., and Josh. White.....	Sup. lies.
195	202	Friendship.....	Smith & Wood.....	Supplies.
196	202	Hannah.....	Servos & Shoemaker.....	Supplies.
199	205	.....	Smith & Ridgway.....	Supplies.
200	206	Sally.....	Smith & Ridgway.....	Supplies.
224	226	Sally, Sally, Peggy, Lark.....	Smith & Ridgway.....	Supplies.
225	228	.....	Stewart & Plunket.....	Supplies.
227	229	.....	Schutt, Gaspard C.....	Supplies.
228	230	Morning Star.....	Shoemaker, Jacob.....	Supplies.
249	251	.....	Sieman, Paul.....	Supplies.
271	270	Pacific.....	Sheafe, James, and Richard Salter.....	Prize cause.
283	286	.....	Smith & Buchanan.....	Supplies.
288	310	.....	Savage, Josiah.....	Supplies.
293	317	Eagle.....	Shoemaker, Jacob, <i>alias</i> Rd. Gamble.....	Supplies.
294	318	Urania.....	Shoemaker, Jacob, <i>alias</i> Milward.....	Supplies.
298	335	Sally, Anna.....	Summere, Joseph.....	Supplies.
303	341	Harmony.....	Seal, Joshua.....	Supplies.
306	344	Experiment.....	Saltonstall, G.....	Supplies.
8	48	.....	Taney, Simmonds & Co.....	Supplies, 10.
25	74	.....	Thayer, James, <i>alias</i> G. Harrison.....	Supplies, 112.
90	142	Harmony.....	Tegler, Diederick.....	Embargo.
137	150	Catherine.....	Teer, William.....	Embargo.
157	170	.....	Townsend, John.....	Supplies.
204	210	Betsey, Dolphin.....	Townsend, Moses, and other.....	Supplies.
215	218	Eliza.....	Townsend, Penn.....	Supplies.
245	247	Patuxent.....	Tunno & Cox, and Miller & Robertson.....	Supplies.
246	248	Ruby, Peggy.....	Tapliff, Samuel, and Eben. Gray.....	Supplies.
248	249	.....	Taylor, John.....	Supplies.
269	268	John.....	Tittermary, Jno.....	Supplies.
286	305	.....	Thompson, John.....	Supplies.
290	312	Montgomery.....	Topliff, —.....	Supplies.
352	414	Union, Betsey.....	Captains Treadwell and Lunt.....	Supplies.
356	418	.....	Thompson & Co.....	Supplies.
285	305	.....	Vanuxem, James.....	Supplies.
296	332	.....	Vanuxem, James.....	Supplies.
328	373	.....	Vinson, James.....	Supplies.
11	65	Menter.....	Whitesides, Peter.....	Supplies, 13.
27	78	Genet.....	Wales, Ephraim.....	Supplies, 38.
35	89	Sophia.....	Willing, Leonard.....	Supplies, 44.
52	136	Dallas.....	Wildes, William.....	Embargo.
69	139	Franklin.....	Wildridge, James.....	Embargo.
71	139	Neptune.....	White, Lemuel.....	Embargo.
84	140	Genet.....	Wales, Ephraim.....	Embargo.
94	144	Peter.....	Wall, Thomas.....	Embargo.
95	144	Caroline.....	Wilder, Peter.....	Embargo.
103	144	Massachusetts.....	White, J.....	Embargo.

*Alphabetical index to the certificates of admittance—Continued.*

No. of certificate.	Page.	Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.
121	149	Nymph.....	Webb, Thomas.....	Embargo.
125	150	Agnes.....	Wells, Richard.....	Embargo.
130	150	Carolina Planter.....	White, Henry.....	Embargo.
131	150	Nancy.....	West, Edward.....	Embargo.
132	150	Eliza.....	Worsley, James.....	Embargo.
169	179	Experiment.....	Wilcocks, R. H., <i>alias</i> Josh. Poole.....	Supplies.
178	187	Eliza.....	White, Josh. and Robt. Stone.....	Supplies.
179	188	Patty.....	West, Nathaniel.....	Supplies.
182	191	Sylvan.....	Welsh, John.....	Supplies.
188	196	.....	Walker, Samuel, <i>alias</i> J. Holmes.....	Supplies.
207	212	.....	Wall, Samuel.....	Supplies.
221	224	Speedwell.....	Whis, John.....	Supplies.
222	225	Seaflower, Polly & Betsey	White, Joseph, and Wm. Kimball.....	Supplies.
223	225	Pigon.....	Waddell, Henry L.....	Prize cause.
234	236	Betsey.....	Wat & Peirce.....	Supplies.
252	253	.....	Wilson, Benjamin.....	Supplies.
262	261	Polly.....	White, Joseph, and Andrew Dunlap.....	Supplies.
267	266	.....	Wells, Titus.....	Supplies.
278	276	.....	Welman & C. A. Denton.....	Supplies.
281	278	.....	Weeks & Tucker.....	Supplies.
282	285	Betsey.....	Wilder, Samson V. S.....	Supplies.
291	312	.....	Windship, Abiel.....	Supplies.
304	341	Speedwell.....	Wood, Abiel.....	Supplies.
348	414	Zephyr.....	Waldo, the heirs of.....	Supplies.
355	416	.....	Wellman, jr., Timothy.....	Supplies.
93	142	Britannia.....	Young, Joseph.....	Embargo.
220	223	Ariel, Elizabeth, Betsey, Ceres.	Yellot, Oliver and Thompson.....	Supplies.

*An alphabetical index to the certificates of rejection.*

Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.	No. of certificate.	Page.	Observations.
Missing.....	Andrews, John.....	Supplies.....	7	77	Property of James Swan, who hath established houses of commerce in partnership with foreigners and agent of the French republic during the revolution.
Nancy.....	Allen, Howard.....	Prize cause.....	124	330	Vessel captured after 30th Sept., 1800.
	Bouellet, M., <i>alias</i> Dubesse & Lacroix	.....	173	417	The claimants citizens of France.
	Bauvais, — Burlington, John W.	.....	174 29	417 96	The claimant a citizen of France. Indemnity for losses by capture on a voyage to the United States. A British subject.
Hero.....	Blunt, Geo. Frost.....	.....	35	103	Freight and indemnity for capture, not brought before the council of prizes.
Peggy.....	Buissin, Joseph.....	.....	39	107	Cargo confiscated, and demurrage claimed by the insurers at Philadelphia.
Baring.....	Bentain, Paul, <i>alias</i> Wm. Hoskins.	Bills, Isle of France.	43	110	Bills of exchange arising from the property of James Swan. (See the 1st article on this list.)
	Barney, Joshua.....	Supplies and money.	64	158	The claimant in the service of France when the claim originated.
	Bentalow, Paul.....	Colonial bills, 118.	65	159	No evidence of the payees being citizens of the United States, or of their having acted as agents of such in the premises.
Hearts of Oak...	Burrows, John.....	Colonial bill..	68	280	A bill granted for indemnity.
	Brown & Francis, <i>alias</i> Jas. Swan.	Value of vessel.	71	281	<i>Vid.</i> Swan, James.
Two Sisters...!	Bowers, Jonathan, <i>alias</i> Jos. Savage.	.....	79	287	<i>Vid.</i> Savage, Joseph.
Eliza.....	Barnard, Tristram...	Indemnity.....	83	288	For depreciation of assignats paid according to contract. The claimants engaged at the time in covering French property.
Seaflower.....	Boland, James.....	Indemnity.....	88	292	Freight of 200 passengers from France to Guada'oupe.
	Barney, Joshua.....	Balance of account, &c.	104	300	Supplies.

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Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.	No. of certificate.	Page.	Observations.
	Barney, Joshua.....	Balance of bill of exchange.	107	301	The claimant an officer in the French service when these claims originated.
Brinthall.....	Barney, Joshua.....	Freight.....	117	307	
	Beale, Benjamin.....		141	362	Property sold under the order of the French government at Senegal, and purchased by individuals.
Lucy.....	Blanchard, Samuel.....		152	375	Indemnity for losses upon his property put in requisition.
	Bruneau, —.....		158	393	Bill of exchange; no proof of citizenship of original payee.
Kapparen.....	Capt. Blom.....				
Young Frederick	Capt. Harden.....		161	402	No proof of the property taken by the French.
	Barneval, Geo.....		165	403	A statement to show that certain ordinances exist, but none produced.
	Boulet, M.....		172	417	The claimant a citizen of France.
Jane.....	Crowell, —.....		12	84	Indemnity for damage and pillage in port.
Polly.....	Christie, Richard.....		13	85	Indemnity for demurrage and claim for ship, never before the council of prizes.
	Cabot, Elie.....		15	86	Indemnity, &c.
John.....	Clark, John.....		22	93	Indemnity for capture and damages, never before the council of prizes.
Fame.....	Coleman, John.....		23	94	Do. do. do.
Peace.....	Colley, William.....		25	95	Do. do. do.
Prosperity.....	Craig, James.....		26	95	Do. do. do.
Trenton.....	Cook, William.....		36	103	Indemnity for property plundered by a French frigate.
Baring.....	Cooper, Sam <sup>l</sup> , alias Jas. Swan.	Indemnity.....	44	110	See James Swan.
Peace.....	Colley, William.....		48	115	Demurrage.
Eunice.....	Carlton, —.....		60	154	Indemnity for detention.
Louisa.....	Chaugneur, Pierre.....		66	159	Ditto, the claimants not citizens of the United States.
Russell.....	Deyme & Co.....				
Minerva.....	Crawford & Donaldson, alias James Swan.	Indemnity.....	70	280	See James Swan.
	Classen, —.....		77	284	No proof of property being American.
	Cooper, John.....		81	288	An American armed vessel sold to the French minister in the United States and delivered to the French admiral at sea, and captured by the British. The claimant in the French service when the transaction took place.
Liberty.....	Crawford, Jas.....	Indemnity.....	84	290	Indemnity for detention and losses upon payments made.
	Collet, James.....	Freight.....	91	293	Freight for coasting voyages from Ostend.
	Cruger & Co.....		94	296	Supplies. The original payees not citizens of the United States, nor any proof of their having acted as agents for the claimants.
	Collet, James.....	Freight and demurrage.	102	299	Freight and indemnity.
	Callender, Benj.....		139	353	An account current of the claimant, not supported by any proof.
Hiram.....	Courtenay, Robert.....		157	393	Demurrage.
Abigail.....	Dunham, —.....		4	76	Indemnity for capture and detention, never before the council of prizes.
	Dangerfield, Bart <sup>w</sup> .....		24	94	Do. do. do.
Tammany.....	Dupoy, Bertrand.....		113	304	Supplies. No proof to support the claim. The papers stated to have been burnt.
Cincinnatus.....	Dickey, —.....	Indemnity.....	120	316	Demurrage.
	Denton & Hall.....		129	323	Sundry ordonnances issued at St. Domingo in payment for transportation of merchandise, services in the hospital, repairs to barracks, or payable to Frenchmen.
George and Liberty.	Dunant, Edward.....		155	392	Indemnity for a forced sale of cargoes at St. Domingo.
	Dumas & Renaudet.....		156	392	Claim for an interest in the proceeds of a French prize, put in requisition by the agents of the French government at Guadaloupe.
	Dubois, Abraham.....		144	366	No proof to support the claim.
Sally.....	Eldred, Thomas.....	Indemnity.....	85	290	Indemnity for detention. No proof of citizenship of the claimant.
Mary.....	Fleming, John.....		100	288	Supplies; not American property; the claimants foreigners.

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Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.	No. of certificate.	Page.	Observations.	
Rozier.....	Frost.....	.....	101	299	Supplies; not American property; the claimants foreigners.	
	Giraud, Mautice.....	.....	8	77	Property of James Swan. (See the first article on this list.)	
Four Friends ...	Glenn, Joseph.....	.....	19	93	Freight and indemnity for capture. Never brought before the council of prizes.	
Carolina.....	Gerrist, Samuel.....	.....	34	103	Freight; property stranded.	
Jerusha.....	Giles, E.....	.....	50	116	Indemnity for detention.	
Lydia.....	Gladd, Erick.....	.....	52	153	Do.	
Fair American..	Gillies, Robert.....	.....	53	128	The property not ascertained to be American.	
	Girard, Stephen.....	.....	57	133	Freight of passengers.	
Tiber.....	Gilman, Peter.....	.....	86	291	Freight of <i>deportees</i> from Brest to Guadaloupe, and value of ship condemned by the British.	
	Girard, Stephen.....	.....	93	295	Five bills of exchange. The original payees not citizens of the U. States, nor any proof of their having acted as agents for such of the claimants.	
	Girard, Stephen.....	.....	98	298	Nine bills of exchange, already liquidated, and paid by inscription upon the "Grand Livre" of France.	
	Girard, Stephen.....	.....	114	306	Indemnities.	
	Graves, Boonen.....	.....	121	319	Two bills of exchange. No proof of the citizenship of the original payees.	
	Gregory, John.....	.....	140	357	Damage sustained in his property by the troops at Dunkirk.	
	Gilchrist, Adam.....	.....	171	416	See Martin Thomas.	
Woodrup Sims..	Hodgson, John B.....	.....	21	93	Indemnity for capture and detention. Never brought before the council of prizes.	
Henry.....	Hodge, Henry.....	.....	33	102	Indemnity for capture and detention. Never brought before the council of prizes.	
	Hoskins, Wm, <i>alias</i> Paul Bentalon.....	.....	43	110	See Paul Bentalon.	
Betsey.....	Hurd, Joseph, and George Lane.....	.....	87	292	Indemnity.	
	Hainault, Clotilde.....	.....	112	703	Included in the case of Jos. J. Miller, which was certified for admittance under the number 41.	
Pattern.....	Higgenson, Stephen.....	.....	118	308	Ship and cargo captured. Never brought before the council of prizes.	
Sally.....	Hall, John.....	.....	145	368	No proof to support the claim.	
Madison.....	Hanock, Samuel.....	.....	148	369	Capture. Never brought before the council of prizes.	
Maria Carolina..	Jenne, Benjamin.....	.....	16	92	The property of James Swan. See the first article on this list.	
John.....	Jennings, Daniel.....	.....	30	99	Freight and demurrage.	
Swanwick.....	Jangher, John.....	.....	45	11	Freight of passengers. Chartered by the French consul general at Philadelphia.	
Theodosia.....	Justice, J.....	3	66	49	115	
Eliza.....	Jones, John Coffin, <i>alias</i> James Swan.....	.....	73	289	See Swan, James.	
Young, James.....	Jackson, Hen, <i>alias</i> James Swan.....	.....	74	282	Do.	
Enterprise.....	Ingraham.....	.....	11	84	Indemnity; paid.	
Friendship.....	Insurance Company of N. America. 4.....	.....	103	300	Whose premium was paid.	
American.....	Insurance Company of N. America. 5.....	.....	106	301	Do.	
Maria.....	Insurance Company of N. America. 5.....	.....	111	303	Do.	
John, James....	James, Johnson.....	2	146	368	Indemnity for detention.	
Rochuck.....	Kinsman.....	2	92	28	98	Indemnity for capture and detention. Never brought before the council of prizes.
Governor Milfin	Kemp.....	3	48	42	110	Freight of passengers. Chartered by the French consul general at Philadelphia.
Kensington....	Kerr, Walter.....	2	103	47	115	Indemnity for capture and detention. Never brought before the council of prizes.
Mercury.....	Keown.....	6	Freight, &c.....	137	351	Chartered by a French house for the French government.
Gluckstern, Tin-Marken, and Columba Fortunata.	Kertland, Thomas	4	.....	952	403	No proof of the property taken by the French.

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Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.	No. of certificate.	Page.	Observations.
Cassius.....	Kone, Frederick.....	.....	171	416	See Martin, Thomas.
	Loup, J. & B.....	.....	9	78	Vessel condemned by United States.
	Luttaitre..... 4	.....			
Ann and Susan.	Lane, Richard.....	.....	54	128	Indemnity for capture and detention, not brought before the council of prizes.
	Le Rey, James D....	30 bills of exchange.	115	306	The original payees not citizens of the United States, and no proof of their having acted as agents of the claimant.
	La Rousselliere.....	8 bills of exchange.	168	416	No proof of citizenship of the original payees.
	Lapeire, J.....	.....	164	403	A statement that there exists an ordonnance for supplies, but none produced.
	Hazlchurst, Isaac...	.....	149	371	No proof that the original payees were citizens of the United States, or that they acted as agent for the claimant.
Mary.....	Haley, Nathan.....	.....	107	410	Freight and demurrage.
Hawk.....	Halsey, Thomas	.....	109	416	An open account current; no proof but the oath of the party stating an ordonnance to have been burnt.
	Lloyd.	.....			
Apollo.....	McGruder, James...	.....	40	108	Demurrage.
Portsmouth.....	Monk.....	.....	46	111	Freight and demurrage.
	Murray, James V., and William Lawrence.	.....	63	158	Paid.
	Murray & Mumford.....	.....	82	288	Indemnity for damage done to their ships, and demurrage.
Brothers.....	Murray, James V....	.....	99	298	Supplies, French property, and paid two-thirds in "bons" and one-third in "rentes perpetuelles."
General Wayne.	Manwaring, John...	Freight.....	147	369	Ship chartered by a French merchant; property covered in the name of the captain.
	Martin, Thomas, and others.	.....	171	416	No proof except a statement that certain ordonnances did exist, but are lost.
	Nott, William.....	Supplies.....	95	295	No proof of the delivery of the property.
Three Friends..	Norton, ———	.....	110	302	Freight.
	Nathan freres... }	.....	134	326	The first not citizens of the United States.
	Denton & Hall... }	.....			
Fame.....	Newell, Thomas.....	.....	170	416	Capture. Released by the council of prizes; but no proof of the insufficiency of the captors.
	.....	.....			
Friendship.....	Olney, Henry.....	.....	41	109	Indemnity for capture and detention, never brought before the council of prizes.
Romulus.....	Ogier, Thomas.....	.....	128	323	Freight and demurrage.
Gen. Mattevill.	Oliver, Francis J...	.....	160	394	No proof of the citizenship of the original payees.
	.....	.....			
Ruth.....	Peters, John.....	.....	32	102	Indemnity for capture and detention, never brought before the council of prizes.
Iris.....	Parker, Jonathan...	.....	62	158	Indemnity for detention.
	Pett & Bayard.....	28 bills of exchange.	92	295	The original payees not citizens of the United States, nor any proof of their having acted as agents for the claimants.
Phoenix.....	Pintard, John M....	.....	97	297	Freight.
	Priper, Henry.....	.....	136	348	No proof of American property.
	Perron.....	2 bills of exchange.	159	393	No proof that the original payees were citizens of the United States, nor of their having acted as agents for such.
Tin-Marken, Young Frederick, Gluckstern, Columbia Fortunata.	Phillips, Henry.....	.....	163	403	No proof of the property taken by French.
Rover.....	Patin.....	Capture.....	166	409	Released by the council of prizes; no proof of the insufficiency of captors.
Little Cherub...	Reide, Robert.....	.....	1	75	Indemnity for capture and detention. Never brought before the council of prizes.
	Ramsden, Thomas...	.....	6	78	The property of James Swan. (See the first article of this list.)
Mary.....	Russell, William.....	.....	14	85	Indemnity for losses by capture on a voyage to the United States. A British subject.
	Randall, Paul Richard.	.....	67	279	Bill of each. No proof of the American citizenship of the payees.



*Alphabetical index to the certificates of rejection—Continued.*

Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.	No. of certificate.	Page.	Observations.
Amelia.....	Ramsden, Thomas..	.....	90	293	Freight of provisions on account of the French government, landed at Brest.
Fame .....	Russell, Joseph.....	.....	108	302	Freight and indemnity.
	Reilly, Thomas.....	.....	123	320	No proof of American citizenship of the claimant.
	Rigault, Charles.....	Bills of exchange.	131	325	No proof of citizenship.
	Robert, Francis.....	11 bills of exchange.	.....	.....	No proof of the original payees being citizens of the United States, nor of their having acted as agents of the claimants.
Success, Polly, and Recovery.	Sinclair, John.....	.....	3	76	Freight and indemnity. French national property covered in the name of the claimant under contract with the French consul at New York.
Eliza.....	Smith,—(J. Swan).	.....	5	76	The property of James Swan. (See the first article on this list.)
Hope.....	Stevens, Richard.....	.....	17	92	Indemnity for capture. Never brought before the council of prizes.
Indian Chief....	Swail, Simon.....	.....	20	93	Freight and indemnity for capture. Never brought before the council of prizes.
George.....	Synes, Elias D.....	.....	27	96	Indemnity for capture and detention. Never brought before the council of prizes.
Baring.....	Swan, James, <i>alias</i> James S. Cooper.	.....	44	110	The property of James Swan. (See the first article on this list.)
	Skipwith, Fulwar...	.....	58	137	Not American property.
Diana .....	Staples, Edward.....	.....	59	153	No evidence of the property, and appears to be for demurrage.
	Skipwith, Fulwar...	.....	61	154	13 colonial bills. No evidence of American property in six of them; the remaining seven arising from the Baring's cargo, the property of Jas. Swan. (See the first article upon this list.)
Potomac Planter	Swan, James.....	Supplies.....	69	280	Freight.
Minerva.....	Swan, James, <i>alias</i> Crawford & Donaldson.	Supplies.....	70	280	The property of James Swan. The claimant in partnership with foreigners.
Hearts of Oak..	Swan, James, <i>alias</i> Brown & Francis.	.....	71	281	Vessel chartered by Dallarde, Swan & Co., to the French government.
Abigail.....	Swan, James.....	Supplies.....	72	281	Property of James Swan; covered by Higgenson.
Eliza.....	Swan, James, <i>alias</i> J. C. Jones.	.....	73	282	Chartered to the French government by James Swan; taken and condemned by the British.
Young James...	Swan, James, <i>alias</i> H. Jackson.	.....	74	282	Freight of passengers from France to Guadaloupe; vessel taken and condemned by the British.
Missing*.....	Swan, James.....	.....	75	282	Money paid by James Swan, as agent of the French government, to J. R. Livingston, for leather delivered at Bordeaux.
Sally*.....	Smith & Ridgway...	.....	109	302	Indemnity for detention, &c.
Retrieve.....	Stocker, Ebenezer, and others.	.....	119	315	Property plundered.
	Spooner, Andrew...	3 bills of exchange.	122	320	No proof of American citizenship of Spooner.
	Stewart & Plunket..	.....	127	322	An ordonnance payable to a Frenchman for baking bread, and another to a Frenchman also for transportation of merchandise.
	Schweighausen & Dobree.	.....	132	325	No proof of property being American when sold to the French government.
	Smith & Buchanan.	2 ordonnances..	133	326	No proof of the citizenship of the original payees, nor of their having acted as agents of the claimants.
	Spooner, Andrew, <i>alias</i> B. Cabarrus.	.....	135	333	No proof of citizenship of the claimants.
Thomas.....	Salter, —.....	.....	150	391	Freight of French passengers; vessel chartered by the government.
Iris, Betsy, Enterprise, and Hamilton.	Sadler, Henry.....	.....	153	376	Demurrage.
	Swan, James, and Schweitzer.	.....	143	365	Swan in partnership with foreigners.
Two Sisters†....	Savage, Jos., <i>alias</i> Jona. Bowers.	.....	79	287	Freight and indemnity.

† Is possibly in General Armstrong's possession.

*Alphabetical index to the certificates of rejection—Continued.*

Names of ships.	Names of claimants, or of those in whose name each claim stands.	Subject of each claim.	No. of certificate.	Page.	Observations.
Emelie .....	Tupper & Platt .....	.....	10	78	Freight of passengers and value of a ship. A transport in the pay of the French government; the ship purchased in France; captured and condemned by a British court of admiralty as French property.
Mary .....	Titcombe .....	.....	18	92	Indemnity for capture and detention; never brought before the council of prizes.
Mercury .....	Todd, George .....	.....	31	101	Indemnity for deviation and detention.
Hamilton .....	Teer, William .....	.....	55	129	Demurrage.
	Thompson, Wm .....	.....	56	129	Domiciliated at Ostend. Goods found in a foreign bottom. No proof of the property belonging to the claimant.
	Taylor, James .....	Supplies .....	80	287	No original or any other document in support of the claim, except the memorial of the party.
	Theric, John F. ....	.....	96	296	Merchandise and money taken in requisition. No proof to support the claim.
Mary .....	Tilden, David .....	.....	138	352	Indemnity for seizure and detention.
Delaware .....	Truxton, — .....	.....	154	391	Loss on cargo. Paid and accepted in assignats.
	Vanuxem, James, ..	Supplies .....	116	307	Bills stated to have been burnt. No copies produced, or any proof to show the original payees.
Betsy .....	Vanuxem, James ...	.....	142	364	No proof to support the claim. The oath of the claimant stating the papers to have been left at Cape Francois in St. Domingo, and supposed to have been burnt.
Neptune .....	Woodbury, — .....	.....	37	104	Freight and demurrage. Paid.
Laurens .....	White, Thomas .....	.....	38	107	Indemnity for freight, capture, detention, and damages; never brought before the council of prizes.
Suffolk .....	West, P. ....	.....	51	117	Indemnity for depreciation of assignats.
Dominick Terry.	Waln, Jesse, and Robert.	.....	78	285	Vessel captured <i>after</i> the 30th of September, 1800.
Chesapeake .....	Wise, William .....	.....	89	292	Freight of grain landed at L'Orient by charter of the French government.
	Williamson, D., and others.	.....	105	300	Claims paid and funded by the French government before the formation of the convention of the 30th of April, 1803.
Polly and Betsy.	White, Joseph, and Wm. Kimball.	.....	126	322	Freight.
	Welman and C. A. Denton.	.....	130	324	For transportation.
	Yellot, Oliver, and Thompson.	.....	125	322	Ordonnances payable to Frenchmen for salaries as officers at St. Domingo.
	Zacharie, Coopman & Co.	.....	2	75	Indemnity for loss of property at Cape Francois, St. Domingo, and for return cargoes taken by the English.

## APPENDIX B.

*Extract from the instructions to Messrs. Robert R. Livingston and James Monroe, our ministers to France, dated March 2d, 1803, and accompanied with a draught of a proposed treaty for the transfer to the United States of the territory of Louisiana, and for making provision for claims due to our citizens from France, which were embraced by the 4th and 5th articles of the convention of 1800.*

"It is apprehended that the French government will feel no repugnance to our designating the classes of claims and debts which, embracing more equitable considerations than the rest, we may believe entitled to a priority of payment. It is probable, therefore, that the clause of the 6th article, [of the draught herewith,] referring it to our discretion, may be safely insisted on. We think the following classification such as ought to be adopted by ourselves:

"1st. Claims under the 4th article of the convention of September, 1800;

"2d. Forced contracts or sales imposed upon our citizens by French authorities; and,

"3d. Voluntary contracts, which have been suffered to remain unfulfilled by them."

The above classification does not embrace any of the captures that were embraced by the 2d article; but only those claims embraced by the 4th article for property *not definitively condemned*, and by the 5th article for *debts*; said articles being in the following words:

"ARTICLE 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored on the following proofs of ownership, viz: [here follows a form of passport.] \* \* \* This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall without delay be restored or paid for.

"ARTICLE 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. *But this clause shall not extend to indemnities claimed on account of captures or confiscations.*"

This emphatic exclusion of *captures and confiscations* is a complete, clear, and conclusive refutation of President Pierce's allegation that the claims for captures and condemnations which were surrendered to France under, and by the erasure of, the 2d article of the convention of 1800, were not intended to be, and were not, provided for by the convention of 1803. This is an indisputable fact.

The convention of 1803 placed in the hands of the United States twenty millions of francs, to be by them distributed among the claimants for claims described in said 4th and 5th articles of the convention of 1800, and for no other purpose whatever; and the twenty millions were so distributed, as is exhibited by the copy of the report of the board of commissioners who adjudicated them, being the next preceding document to this present, and marked A; which shows awards made in six prize causes, all of which were previously ordered to be restored by the council of prizes; but no other prize case was allowed for by the board or otherwise paid for.

Our ministers agreed with the French ministers that the sum of twenty millions of francs would be accepted by the United States in full satisfaction and discharge of all the claims of our citizens embraced by said 4th and 5th articles; it was considered an estimate far beyond the real claims so provided for, and our ministry sought for and obtained an acknowledgment of the French government that the excess (computed at four millions) should inure to our government—not to the claimants.

The Minister of the French Treasury wrote thus to our ministers, dated Paris, April 30, 1803:

"If, in the event, and against all probability, the sum to be paid does not reach twenty millions, my government will form no claim upon what may remain."

Mr. Livingston wrote to our Secretary of State, July 30, 1803:

"Mr. Skipwith still thinks that the American debt will fall much within the twenty millions for which we have engaged, and all the fair creditors be fully satisfied—the supposed debt being extremely exaggerated in America."

The board of commissioners to audit the claims sat in Paris, and at an early period of their proceedings they rejected various parts of claims for freight, demurrage, property put in requisition by the French government, &c., &c. Such rejections were loudly complained of as unjust and in violation of the convention; these complaints being forwarded to our Secretary of State, who addressed instructions thereon to our minister on the 31st January, 1804, viz:

"Should the French government refuse to concur in any proposition that will restore the latitude given to claims as defined by the first convention, [1800,] and which is narrowed and obscured by the text of the last, [1803,] it will be proper to settle with the government, if it can be done, such a construction of this text as will be most favorable to all just claims, par-

ticularly those for freights, indemnities, property put in requisition, and the separate property of individuals who are concerned in the disqualifying partnerships mentioned in the convention, which are said to be threatened with rejection by the board at Paris."

Mr. Livingston, in reply to the above, said, May 3, 1804:

"Your instructions to negotiate a new explanatory treaty proceeds upon the idea that the convention [of 1803] does not include all the *bona fide* debts provided for by the convention of Morfontaine, [1800.] Whatever inaccuracy there may be in the expression, it was certainly the intention to make it extensive, except so far as to preclude foreigners and foreign property from its provisions. The first article shows clearly that was the object of the treaty; nor do I think that the subsequent words control, though they certainly somewhat obscure, the sense."

The French Minister of the Treasury, M. Marbois, wrote to Mr. Livingston as follows, dated Paris, July 1, 1804:

"I observe, sir, you desire to form an approximate estimate of the debt, and to ascertain by how much it will exceed the twenty millions fixed upon for its liquidation. I request you to bear in mind that, during the negotiation, in which I had the honor of being engaged with you, the sum of twenty millions of francs had been determined on, in order to extinguish the whole American claim and the interest up to the day of the treaty, the execution of which the convention of 30th April, 1803, had for its object."

Mr. Livingston to our Secretary of State, Paris, August 29, 1804:

"Though I have received no formal answer to my note on the subject of the debt, yet I have pretty well ascertained that it [the French government] will reject any new negotiation, and that it will insist that we were to pay the whole of the debts due before the treaty of Morfontaine, [1800,] that fall within the description of the treaty, even if it exceeded the sum of twenty millions."

M. Talleyrand, Minister of Exterior Relations, to Mr. Livingston, dated Paris, September 6, 1804:

"In adhering to these dispositions, conformable to the treaty of 1800, and from which his imperial Majesty will not deviate, any explanatory convention would be superfluous; and the intention of his imperial Majesty is to keep from all future question an affair completely terminated. The convention of 1803 foresaw the whole case; the whole of the American claims are to be placed to the account of the federal government; a list of them has been made, [viz: the 'conjectural note,' which is appended to the convention of 1803.] The liquidation of the articles of which it is composed shall be decided before the rest; if it does not reach the sum of twenty millions, other claims will be comprehended therein; but none shall be which exceed this sum, because it is at this point that the two governments are agreed to stop."

Mr. Livingston to Mr. Madison, Secretary of State, September 14, 1804:

"I enclose the reply of the minister upon the subject of the debts. It is in the language I expected; and were it not that I was in hourly expectation of the arrival of General Armstrong, I should reply to it, and show that when we assumed to pay to the amount of the twenty millions [of francs,] it was not intended to discharge France from any excess, since the *words* of the treaty will justify this construction; though, in good faith, we really believed that we were making a gaining bargain, and for that reason procured the assurance that the excess should belong to us. This, from the statements we received from both the treasury and from Mr. Skepwith, we had every reason to believe, and it would be candid to own that in one of the draughts which was substantially agreed to, we justified the construction the minister has put upon the treaty. This article was, in rewording the convention, struck out without alteration by M. Marbois; and, as we saw the advantage it might give us, was not observed on by Mr. Monroe and myself till he had left us; and, indeed, it seemed to be almost too sharp to say we were to gain if the debts fell short, but not lose if they exceeded."

Mr. Armstrong, Mr. Livingston's successor, to M. Marbois, Paris, May 20, 1805:

"Your argument stands thus: 'France owes certain debts to citizens of the United States: these debts are now to be paid; therefore France is to be considered the payer.' In this statement, two or three material facts are altogether omitted, viz: That France has already paid these debts, to the amount of twenty millions of francs, by her transfer of Louisiana to the United States; that the United States have actually received this transfer sixteen months ago, and, in consideration thereof, have made arrangement for fulfilling all the obligations it imposes. Between the United States and citizens acknowledged to be her own, there can be no immediate authority. Her responsibility is complete, and their confidence has never been shaken."

## APPENDIX C.

The following are copied from the letter-book of Messrs. John Mercer, Isaac Cox Barnet, and William Maclure, composing the Board of Commissioners at Paris, to carry into effect the convention with France of April 30, 1803.

OFFICE OF THE UNITED STATES COMMISSION OF CLAIMS,  
*Paris, December 26, 1803.*

SIR: Having on the 23d instant been informed by the minister of the United States of the ratification of the treaty lately concluded with France, and of the confirmation by the President of our appointment as commissioners, we now transmit a report of the business in which we are engaged. We have the honor to be, with great respect, sir, your obedient servants.

[Extract.]

The undersigned commissioners, appointed under the convention concluded on the 30th April, 1803, between the United States and France, respectfully submit the following report of their proceedings to the Secretary of State.

On the 29th of June, two of the undersigned, being in Paris, received from the American minister commissions to carry, provisionally, into execution the object of the convention.

Upon perusing this instrument, and recollecting the principles of the constitution of the United States, they were of opinion that no final act could be performed by them in relation to the objects embraced by it, until its ratification by the competent authorities in America was known.

Though this opinion precluded all definitive decision upon the claims intended to be provided for, the commissioners then present did not deem it to be inconsistent with the duty which that opinion prescribed to adopt certain preparatory measures which might be useful in hastening the ultimate settlement of the claims, within the time limited by the convention, in the event of its being ratified by the United States. The second article of the convention [of 1803] declaring its object to be the payment of certain claims, whose result was comprised in a conjectural note annexed to it, and there being no note accompanying the copy which the commissioners received, they felt the necessity of possessing that document. A paper was presented to them by the agent of the United States, with information that he received it from one of the American ministers, for the conjectural note referred to. Though there could be no doubt of the correctness of this information, it was supposed proper to ascertain officially the true character which belonged to that paper; it was accordingly enclosed to Mr. Livingston and Mr. Monroe with the letter of the 7th of July, hereto annexed and marked No 1. The paper was returned by Mr. Livingston with his answer, marked No. 2. An exact copy of the conjectural note, thus ascertained to be the one intended by the convention, is annexed to this report, and marked No. 3. \* \* \* It will be observed that *no prize cases are found upon the conjectural note.* \* \* \*

Though the undersigned believe that the principles of the convention will cause certain deductions to be made from the conjectural note, they cannot at present pronounce with any degree of certainty that the claims which it embraces, including the interest due upon them, will be covered by twenty millions of livres; beyond this sum they will not consider it their duty to direct any liquidation to be made.

To JAMES MADISON, Esq.,  
*Secretary of State of the United States, Washington.*

[Extract.]

OFFICE OF THE UNITED STATES COMMISSION OF CLAIMS,  
*Paris, March 22.*

SIR: \* \* \* It is your opinion, expressed in your letter of the 13th instant, that the whole powers of the board extend only to two questions: 1st. Whether the debt is due to an American citizen or his representative. 2d. Whether it existed before the 30th of September, 1800.

\* \* \* In obedience to the duties which we can never doubt these clauses impose upon us, we have uniformly extended our examinations to the following points:

- 1st. Was the debt contracted by the French government with an American citizen?
- 2d. Did it exist before the 30th of September, 1800?
- 3d. Has such American citizen established a house of commerce in foreign countries in co-partnership with foreigners?
- 4th. Can he, by the nature of his commerce, be considered as domiciliated abroad?
- 5th. Has he, under the circumstances of his case, a right to the protection of the United States?
- 6th. Was the merchandise or other property American when it passed into the hands of the French government?

We also, under the 4th article, inquire whether the claim is for supplies, embargoes, and captures made at sea. When we come to examine into the prize cases, we shall be equally attentive to the principles applied by the convention to that description of claims.

To ROBERT R. LIVINGSTON, Esq.,  
*Minister Plenipotentiary, &c., &c.*

[Extract.]

## OFFICE OF THE UNITED STATES COMMISSION OF CLAIMS,

*Paris, April 24, 1804.*

SIR: \* \* \* Left in this situation, we are unable to assert whether the claims found upon the conjectural note, and which have already received our opinion, will exceed or fall short of the twenty millions, beyond which, as stated in our report of 26th December last, we do not feel authorized to go. \* \* \* After finishing the examination of the few claims still remaining on the conjectural note, we shall proceed to those not on it, and direct the liquidation of such as we may think fall within the principles of the convention, provided those previously examined do not absorb the twenty millions. \* \* \*

Under this construction of the convention, such claims as come in late, amongst which we fear will be found most of the prize cases, must remain undecided.

To JAMES MADISON, Esq.,  
*Secretary of State, &c.*

[Extract.]

## OFFICE OF THE UNITED STATES COMMISSION OF CLAIMS,

*Paris, April 30, 1804.*

SIR: \* \* \* The principles which we have deduced from the convention of 30th April, 1803, and applied to the claims, were noticed generally in our letter to you of 22d March ultimo; but it may not be improper to repeat them here. We consider the claims of American citizens upon the French government, under the convention of 1800, as directed to be settled according to the regulations and principles established in that under which we have been appointed: we have, therefore, considered it our duty to inquire—

- 1st. Whether the debt was due in its origin to an American citizen?
- 2d. Whether it existed before the 30th of September, 1800?
- 3d. Has such an American citizen established a house of commerce in foreign countries in partnership with foreigners?
- 4th. Can he, by the nature of his commerce, be considered as being domiciliated abroad?
- 5th. Has he, under the circumstances of his case, a right to the protection of the United States?

6th. Was the merchandise or other property American when it passed into the hands of the French government?

7th. Does the claim arise from supplies, embargoes, or captures made at sea; excluding from the word *supplies*, freight, indemnity, and demurrage, except when they are claimed as being incidental to embargoes?

8th. In prize cases we shall examine whether order of restitution has been made by the Council of Prizes; whether the insufficiency of the captors is shown.

9th. We consider it correct to examine the cases upon the conjectural note before any other—to decide upon them according to their respective dates, when the state of the papers will allow us to preserve that order.

10th. We consider it a fair construction of the convention that we have no authority to direct any liquidation after the twenty millions of livres shall be covered; and that our duties here will terminate on the 21st of October next, that being the day, according to our information, which will complete the year from the time when the ratification was exchanged at Washington.

It appears that there are 148 claims in the French office of liquidation alone, not included in the conjectural note, copies of sundry papers belonging to sixty of those being before us; their amount, exclusive of interest, appears to be upwards of six millions of livres. What proportion of them may be embraced by the principles of the convention, we are unable at present to determine.

To ROBERT R. LIVINGSTON, Esq.,  
*Minister Plenipotentiary, &c., &c.*

[Extract.]

## OFFICE OF THE UNITED STATES COMMISSION OF CLAIMS,

*Paris, August 13, 1804.*

SIR: We have the honor to transmit herewith the whole number of claims which we have declared to be embraced by the convention of 30th April, 1803, and for the liquidation of which we have sent certificates to the French offices, as directed by the 8th article. \* \* \*

It will be remarked that but few prize cases have been brought before us. It is understood that the greater number is still pending before the Council of Prizes, or are pursued by the claimants for the purpose of ascertaining the situation of the captors. (Appendix A.)

To JAMES MADISON, Esq.,  
*Secretary of State, &c.*

## APPENDIX D.

Between the years 1793 and 1800, France captured many American vessels, in which Spanish cruisers participated, or in which Spanish ports were used for outfit and sale of the prizes, in contravention of our treaty with the latter of 1795. For such captures Spain alone was held liable by the United States, and ultimately made satisfaction for them in the cession of the Floridas by the treaty of February 22, 1819. Within the same period, Spain had herself made many captures of our vessels, for which the United States also demanded compensation.

In the discussions had with her on these two classes of claims, she admitted her responsibility for the captures made by her own subjects, but resisted all liability for the French captures in which her people had participated or her ports used; and she cited our convention with France of 1800, in proof that, by our striking out the 2d article thereof, and accepting the French proviso or condition, France had satisfied us for all captures made under her authority, including those of Spanish participation.

It was on that occasion that Mr. Madison, our Secretary of State, instructed Mr. Pinckney, our minister at Madrid, thus emphatically:

"The claims, again, from which France was released, were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, no part of the bargain with her, and could not be included in the release."

Such were the inflexible positions of the two parties, who continued the negotiations up to the 11th of August, 1802, when a convention was concluded, without disposing of the point of difference, however, but confessedly, on the part of the United States, to secure satisfaction for the Spanish captures, and leave to a future negotiation the point of difference. That convention, after providing for Spanish captures, adopted the form of the 2d article of the convention with France of September 30, 1800, the subject and object being similar, viz:

"ARTICLE 6. It not having been possible for the said plenipotentiaries to agree upon a mode by which the above-mentioned board of commissioners should arbitrate the claims originating from the excess of foreign cruisers, agents, consuls, or tribunals, in their respective territories, which might be imputable to their two governments, they have expressly agreed that each government shall reserve (as it does by this convention) to itself, its subjects or citizens, respectively, all the rights which they now have, and under which they may hereafter bring forward their claims, at such times as may be most convenient to them."

The claims thus postponed were precisely like those postponed by the 2d article of the convention of 1800 with France; they were the same character of wrong, and inflicted at the same time, and by the same class of cruisers, and, in many instances, on the same American citizens. The original wrong, however, was on the part of France, and Spain was only the endorser for her acts. The claims from which France had been released under the convention of 1800 she had uniformly admitted; whereas Spain had as uniformly denied all responsibility for those embraced in said 6th article of her convention. The United States ratified the convention, including said 6th article, on the 9th of January, 1804; but the Spanish government refused to ratify on account of the 6th article, and negotiations were continued on that account down to July 9, 1818, when it was ratified *pro forma* by Spain, and merged in the negotiation leading to, and finally incorporated in, the treaty of 1819. By this treaty Spain, for the first time, admitted her liability for French captures participated in by Spaniards, and satisfied them in the transfer of the Floridas. But she exacted from the United States, by the 14th article thereof, the following proof:

"ARTICLE 14. The United States hereby certify that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and their true value, that Spain may avail herself of the same in such manner as she may deem just and proper."

The required statement was to be made of, and founded upon, such awards in favor of American citizens, for captures so described, out of five millions of dollars, to be paid by the United States as the consideration for the Floridas, as a board of commissioners might determine. Accordingly, such certificate was furnished to the Spanish government; by which it appears that awards were made on French captures originating prior to September 30, 1800, on 173 vessels, and their value was ascertained to be \$2,845,619 30, being an average per vessel of \$16,217 45.

These 173 vessels, and also 191 rejected vessels, have been deducted in the statement made on page 21.



## APPENDIX E.

## FRENCH SPOILIATIONS.

"On the 5th of February, [1802] a memorial was presented from sundry merchants of Baltimore, praying relief in the case of numerous and heavy losses sustained in consequence of the illegal capture and condemnation of their property, under the authority of the French government, prior to the promulgation of the late convention between the United States and France, [of September 30, 1800.] in the provisions of which compact the memorialists discover an unqualified surrender of their claims, instead of the redress which they expected to obtain.

"This memorial, with others of a similar nature, were referred to a select committee.

"On the 11th of March, Mr. Griswold laid the following motion on the table:

"Resolved, That it is proper to make provision, by law, towards indemnifying the merchants of the United States for losses sustained by them from French spoliations, the claims for which losses have been renounced by the final ratification of the convention with France as published by proclamation of the President of the United States."

"On the ensuing day, a motion made by Mr. Griswold to take up this motion for consideration was lost, without debate—Yeas, 35; nays, 39.

"On the 15th, the order of the day on the bill for repealing the internal taxes having been called for, Mr. Griswold moved its postponement till the next day, for the purpose of previously taking up the above resolution.

"The motion of Mr. Griswold was advocated by Mr. Griswold, of Connecticut; Mr. Lowndes, of South Carolina; Mr. John C. Smith, of Connecticut; Mr. Dana, of Connecticut; Mr. Bayard, of Delaware, and Mr. Rutledge, of South Carolina; and opposed by Mr. S. Smith, of Maryland; Mr. Mitchell, of New York; Mr. Gregg, of Pennsylvania; Mr. Eustis, of Massachusetts; and Mr. Bacon, of Massachusetts, in a debate which continued until the usual hour of adjournment.

"Those who advocated the motion observed that, though it was nearly two months since the select committee had been raised to whom petitions for indemnity had been referred, that committee had not yet met; that it was full time to attend to a subject so interesting as that involved in them; that, as the principle of indemnity was of a general abstract nature, it was not so proper for the decision of a select committee as for that of a Committee of the Whole; that it was important, before a decision was had on the repeal of the internal taxes, that the extent of the indemnities allowed by the government should be ascertained. It was contended that the claims of the merchants could not be rejected, as they were too just to be disregarded. The sole object of the resolution was, to bring the principle of indemnity before the House, unfettered, that its decision might not be embarrassed by details; and supposing that there might be an indisposition to pledge the nation to an unlimited extent, the words used were, 'towards indemnifying.' It was, therefore, insisted that gentlemen who were disposed to do anything, could feel no objection to a resolution so qualified as to extend only to cases where losses had been renounced by the treaty.

"It was said to be cruel, at once, without a hearing, to decide against the claims of our merchants; and that it was evident, that whoever voted for taking up, at that time the bill for the repeal of the internal taxes, would vote not only against indemnifying, but even against hearing; because, by voting for a repeal of the internal taxes, he would vote away all means of indemnification. The repeal of the internal taxes being the least pressing of all the business before the House, ought to be postponed to the last period of the session; nor ought it to be then adopted, without the fullest assurance of our ability to dispense with the product of these taxes. How was it possible, in the existing state of things, to determine this point, when the appropriations required for the year had not been made, and when the extent of these demands had not been ascertained?

"With regard to the amount of the claimed reparation, it was alleged that that was a consideration which ought to be placed altogether out of the question, as common honesty required that every just debt should be paid, wherever an ability to pay existed, whether it was one dollar or one hundred millions of dollars; and it was added, that these claims were the more just, as the government of the United States had received an ample remuneration for any demands which it might satisfy in the abandonment, on the part of the French government, of our previous guarantee of the French West India possessions. It was finally declared, that a refusal to take up the subject, at this time, would be considered as an ultimate refusal to attend to it all.

"Those who opposed the motion denied the assertion, made on the other side, that the subject had been neglected. The truth was, that the first petition presented had been immediately referred to a committee, to whom all the subsequent petitions had likewise been referred. That committee had made progress, but had considered it improper to decide until all similar petitions expected should be received. There was not a doubt but that, as the subject merited, so it would receive a measure of attention commensurate to its importance. But the present resolution offered was so broad and vague as entirely to defeat its avowed end; whereas, the reference which had been already made was the most correct, inasmuch as it instructed the committee to examine all the documents connected with the subject and to report their opinion upon them; on receiving which opinion, the House would be sufficiently informed to make an enlightened decision; while, on the other hand, the present proposition went to commit the House on the whole extent of the subject, without the least examination into its details.

"The claims made for spoliated property were extremely various and dissimilar; and though it might be just to grant indemnity for some, there were other claims not founded on any just pretensions. The best way of insuring the success of just claims was to avoid all precipitate steps; for, before any claims could be sanctioned, it was necessary to analyze and classify, on mature consideration and full examination, the various descriptions of demands.

"It was observed that it was not so clear, as some gentlemen imagined, that our merchants had been deprived of valuable rights by the mode in which the French convention had been ratified. Gentlemen were called upon to recollect the mass of depredation committed by Great Britain, and her engagements, under treaty, to make reparation; yet, to that day, reparation had been evaded under a variety of pretexts. Suppose the French convention had contained the same provisions with the British, would they have insured payment? No. The operations under one treaty might have gone on in the same manner as under the other, and with like effect.

"With regard to the repeal of the internal taxes, that formed a subject of entirely distinct consideration. But if, in compliance with the unequivocal wishes of the people, they should be repealed, no prejudice would attach to the just claims of our merchants, the examination of which would be a work of years, and which would, without doubt, be indemnified, even if it should be necessary, for that purpose, to restore the repealed taxes.

"General S. Smith closed the debate in a speech of much energy, the latter part of which was couched in the following terms:

"It is not my purpose, (said he,) at this time, to enter into a discussion of the claims of our merchants, because I think this is not the proper occasion. But I will tell gentlemen, that, if they were disposed to destroy those claims, they could not have pursued a plan more effectually calculated to do it. Had such been my intention, I would have offered a resolution so broad and vague as to alarm the whole community as to the amount of indemnity; I would have endeavored to throw the censure attached to their losses on the present administration; I would have opposed their claims to the wish of the nation to repeal the internal taxes. All these steps I would have taken to frustrate any indemnity; and they are just the steps taken by gentlemen who profess so strong a regard for the merchants. Let me tell those gentlemen, until they shall pursue a far different plan, we must doubt whether they are in earnest to pay the merchants for their losses.

"If the public business is to be thus perpetually procrastinated, I hope the gentlemen with whom I act will be firm enough, after rejecting this motion, to pursue the other business, even to a late hour."

"The question was then taken on Mr. Griswold's motion, and lost—Yeas, 33; Nays, 54."

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#### APPENDIX F.

The instructions to Mr. Rives, our minister to France, dated July 20, 1829, contained the following classification of the claims of our citizens against France, viz:

"First class. Claims prior to the 30th September, 1800, recognised by the 4th and 5th articles of the treaty of that date, but either pretermitted by the treaty of the 30th of April, 1803, or, through various causes, not included in the settlement made at Paris by the board of claims, and remaining in force by virtue of the treaty of 1800, and the 10th article of that of 1803, amounting, per schedule herewith, to \$1,488,833 99."

Second class; third class; fourth class; fifth class. All these classes relate to claims of subsequent date, therefore require no remark.

The first class, above cited, refers to the 4th and 5th articles of the convention of 1800, and the 10th article of the convention of 1803, which are in the following words:

"4th. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored on the following proofs of ownership, viz: [Here follows a form of passport.] \* \* \* This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall without delay be restored or paid for."

"ARTICLE 5th. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States; *but this clause shall not extend to indemnities claimed on account of captures or confiscations.*"

The 10th article relates to the manner in which the board of commissioners shall liquidate the claims embraced in the above cited articles, numbered 4 and 5.

And in subsequent instructions to Mr. Rives, dated 30th of April, 1830, the following appears :

"The President, however, concurs in the opinion which you have expressed, that, if reductions are insisted on, the claim for interest, and those originating in transactions antecedent to the treaties of 1800 and 1803, are the classes in which concessions should be made. You are therefore hereby invested with his authority to abandon these, or a portion of them, under such renunciations as may be required by the French government, if it should appear that this is made a *sine qua non* to the successful prosecution of the residue; but this is not to be proposed except in the last resort."

Extract of a letter from Mr. Rives to our Secretary of State, dated Paris, February 18, 1831 :

"From what I have been able to learn of ——'s report, it is favorable throughout to the principle of our claims. It excludes, however, the claims of the American citizens in the nature of debt, or of supplies, as being alien to the general scope of the controversy between the two governments, and also American claims of every description originating previous to the date of the Louisiana arrangement, in 1803, which has been invariably alleged by this government to be in full satisfaction of all claims then existing."

That negotiation closed by the signature to the convention of July 4, 1831; a round sum of twenty-five millions of francs being therein paid to the American government, to be distributed by it at its own discretion. A board of commissioners was accordingly appointed to decide on the validity and amount to be awarded on each claim. The board made awards in four cases of French capture, whose origin was *subsequent* to the convention of 1800. Several cases of French capture *prior* to said convention were also submitted to said board, but were *in every instance rejected*.

The convention of 1831 being the last settlement of claims of our citizens against France, without providing for the indemnity due for captures which were embraced by the 2d article of the convention of 1800, it may now be safely declared as conclusive, that no part of that class of claims has ever been paid to their proprietors, and that the United States having applied them to the public use, are therefore clearly liable for them.











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