
AMERICAN STATE PAPERS.

CLASS I.

FOREIGN RELATIONS.

VOLUME III.



AMERICAN STATE PAPERS.

DOCUMENTS,

LEGISLATIVE AND EXECUTIVE,

OF THE

CONGRESS OF THE UNITED STATES,

FROM THE FIRST SESSION OF THE FIRST TO THE THIRD SESSION OF THE
THIRTEENTH CONGRESS, INCLUSIVE:

COMMENCING MARCH 3, 1789, AND ENDING MARCH 3, 1815.

D. J. Dilney

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

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VOLUME III.

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**Documents
Room**

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AMERICAN STATE PAPERS.

FOREIGN RELATIONS.

10th CONGRESS.]

No. 204.

[1st SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS BY THE MESSAGE OF OCTOBER 27, 1807.

[The following is an extract from that message.]

“**N**O former violations [by Great Britain] of maritime rights another is now added of very extensive effect. The Government of that nation has issued an order interdicting all trade by neutrals between ports not in amity with them; and being now at war with every nation on the Atlantic and Mediterranean seas, our vessels are required to sacrifice their cargoes at the first ports they touch, or to return home without the benefit of returning to any other market. Under this new law of the Ocean, our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas has been threatened with the same fate.”

Note communicated by Lord Howick to Mr. Monroe, dated

DOWNING STREET, *January 10, 1807.*

The undersigned, His Majesty's principal Secretary of State of Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe that the French Government having issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with His Majesty's dominions, and also to prevent such nations from trading with any other country in any articles, the growth, produce, or manufacture of His Majesty's dominions. And the said Government having also taken upon itself to declare all His Majesty's dominions to be in a state of blockade, at a time when the fleets of France and her allies are themselves confined within their own ports by the superior valor and discipline of the British navy.

Such attempts, on the part of the enemy, giving to His Majesty an unquestionable right of retaliation, and warranting His Majesty in enforcing the same prohibition of all commerce with France, which that Power vainly hopes to effect against the commerce of His Majesty's subjects, a prohibition which the superiority of His Majesty's naval forces might enable him to support, by actually investing the ports and coasts of the enemy with numerous squadrons and cruisers, so as to make the entrance or approach thereto manifestly dangerous.

His Majesty, though unwilling to follow the example of his enemies by proceeding to an extremity so distressing to all nations not engaged in the war, and carrying on their accustomed trade, yet feels himself bound, by a due regard to the just defence of the rights and interests of his people, not to suffer such measures to be taken by the enemy, without taking some steps, on his part, to restrain this violence, and to retort upon them the evils of their own injustice. Mr. Monroe is, therefore, requested to apprise the American consuls and merchants residing in England, that His Majesty has, therefore, judged it expedient to order that no vessel shall be permitted to trade from one port to another, both which ports shall belong to, or be in possession of, France or her allies, or shall be so far under their control as that British vessels may not freely trade thereat; and that the commanders of His Majesty's ships of war and privateers have been instructed to warn every neutral vessel coming from any such port, and destined to another such port, to discontinue her voyage, and not to proceed to any such port; and every vessel after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this His Majesty's order, which shall be found proceeding to another such port, shall be captured and brought in, and, together with her cargo, shall be condemned as lawful prize. And that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said order after this notice.

HOWICK.

[TRANSLATION.]

SPANISH DECREE.

By the greatest outrage against humanity and against policy, Spain was forced by Great Britain to take part in the present war. This Power has exercised over the sea, and over the commerce of the world, an exclusive dominion. Her numerous factories, disseminated through all countries, are like sponges which imbibe the riches of those [countries] without leaving them more than the appearances of mercantile liberty. From this maritime and commercial despotism England derives immense resources for carrying on a war, whose object is to destroy the commerce which belongs to each State from its industry and situation. Experience has proven that the morality of the British cabinet has no hesitation as to the means, so long as they lead to the accomplishment of its designs; and whilst this Power can continue to enjoy the fruits of its immense traffic, humanity will groan under the weight of a desolating war. To put an end to this, and to attain a solid peace, the Emperor of the French and the King of Italy issued a decree on the 21st of November last, in which, adopting the principle of reprisals, the blockade of the British isles is determined on; and his ambassador, His Excellency Francis de Beauharnois, grand dignitary of the order of the Iron Crown, of the Legion of Honor, &c. &c. having communicated this decree to the King our master, and His Majesty being desirous to co-operate, by means sanctioned by the rights of reciprocity, has been pleased to authorize His Most Serene Highness the Prince, Generalissimo of the Marine, to issue a circular of the following tenor:

“As soon as England committed the horrible outrage of intercepting the vessels of the royal marine, insidiously violating the good faith with which peace assures individual property and the rights of nations, His Majesty considered himself in a state of war with that Power, although his royal soul suspended the promulgation of the manifesto until he saw the atrocity committed by its seamen sanctioned by the Government of London. From that time, and without the necessity of warning the inhabitants of these kingdoms of the circumspection with which they ought to conduct themselves towards those of a country which disregards the sacred laws of property and the rights of nations, His Majesty made known to his subjects the state of war in which he found himself with that nation. All trade, all commerce is prohibited in such a situation, and no sentiments ought to be entertained towards such an enemy which are not dictated by honor, avoiding all intercourse which might be considered as the vile effect of avarice operating on the subjects of a nation which degrades itself by them. His Majesty is well persuaded that such sentiments of honor are rooted in the hearts of his beloved subjects; but he does not choose, on that account, to allow the smallest indulgence to the violators of the law, nor permit that, through ignorance, they should be taken by surprize; authorizing me, by these presents, to declare that all English property will be confiscated whenever it is found on board a vessel, although a neutral, if the consignment belongs to Spanish individuals. So, likewise, will be confiscated all the merchandise which may be met with, although it may be in neutral vessels, whenever it is destined for the ports of England or her isles. And, finally, His Majesty, conforming himself to the ideas of his ally the Emperor of the French, declares in his States the same law which, from principles of reciprocity and suitable respect, His Imperial Majesty promulgated under date of the 21st November, 1806.

The execution of this determination of His Majesty belongs to the chiefs of provinces, of departments, and of vessels, (baxelis,) and communicating it to them in the name of His Majesty, I hope they will leave no room for the royal displeasure.

God preserve you many years.

THE PRINCE, *Generalissimo of the Marine.*

ARANJUEZ, *February 19, 1807.*

10th CONGRESS.]

No. 205.

[1st SESSION.]

GREAT BRITAIN.

REPORTED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 17, 1807.

The committee, to whom was referred so much of the message of the President of the United States, as relates to aggressions committed within our ports and waters by foreign armed vessels; to violations of our jurisdiction, and to the measures necessary for the protection of our ports and harbors, report, in part:

That, participating deeply in the general sensibility excited by the outrage committed upon the United States' frigate Chesapeake, by the British ship of war Leopard, on the 22d June last, and feeling it to be their duty to collect and present to the view of this House, without delay, all the facts relating to that atrocious act of aggression, they directed their first attention to that important subject, and have obtained from the State and Navy Departments the documents herewith presented, from which they are authorized to make the following statement, viz:

That the United States' frigate Chesapeake, being ordered on a cruise in the Mediterranean sea, under the command of Commodore James Barron, sailed from Hampton Roads on the 22d June last past, having on board a crew of more than three hundred and seventy men, and completely equipped with every thing necessary for such a ship of war sailing on such a cruise.

That in proceeding to sea, from Hampton Roads, she passed a British squadron at anchor in Lynnhaven bay, who at the time of her passing they were making signals to each other. That the British ship of war Leopard, of fifty guns, one of the squadron then at anchor within the limits of the United States, weighed immediately after these signals were thrown out, and stood to sea. That at half past three o'clock in the afternoon of the same day, at the distance of three leagues from Cape Henry, which was then bearing northwest by west, the Leopard came up with the Chesapeake, backed the main topsail and spoke her; when Commodore Barron, to promote her convenience, understanding her commander to say he had a communication to make which he would send on board, ordered the Chesapeake to be hove to. That an officer was accordingly sent from the Leopard to the Chesapeake, who, on his arrival, presented to Commodore Barron a note from the captain of the Leopard respecting some

deserters from some of His Britannic Majesty's ships, supposed to be serving as part of the crew of the Chesapeake, and enclosing a copy of an order from Vice-Admiral Berkeley, requiring and directing the commanders of His Britannic Majesty's ships and vessels under his command, in case of meeting with the American frigate Chesapeake at sea, and without the limits of the United States, to show said order to the captain of her, and to require to search his ship for the deserters from certain ships therein named, and to proceed and search for the same; and if a similar demand should be made by the American, he is permitted to search for deserters from their service, according to the customs and usage of civilized nations on terms of amity with each other. The first of these papers will be found in document A. No. 1; the other among the documents received from the Department of State, No. 7.

That Commodore Barron gave to these communications an answer purporting that he knew of no such men as were described; that the recruiting officers for the Chesapeake had been particularly instructed by the Government, through him, not to enter any deserters from His Britannic Majesty's ships; that he knew of none such being in her; that he was instructed never to permit the crew of any ship under his command to be mustered by any officers but her own; that he was disposed to preserve harmony, and hoped his answer would prove satisfactory. See No. 2, in document A.

That the Leopard, shortly after this answer was received by her commander, ranged along side of the Chesapeake and commenced a heavy fire on her.

That when the attack upon the Chesapeake commenced, some of her guns were not securely fitted in their carriages; some of her sponges and wads were too large; but few of her powder horns were filled; her matches were not primed; some of her rammers were not in their proper places; her marines were not supplied with cartridges enough, while those they had were not of the proper size, and she was otherwise unprepared for action.

That the Chesapeake made no resistance whatever, but remained under the incessant fire of the Leopard from twenty to thirty minutes, when, having suffered much damage in her hull, rigging and spars, and lost three men killed, and eighteen wounded, Commodore Barron ordered his colours to be struck, and they were struck, he says in his log-book, after firing one gun, but the court of inquiry lately held upon his conduct, say before a single gun of any kind was fired from her.

That Commodore Barron, immediately after striking his colours, sent Lieutenant Smith on board the Leopard to inform her commander that he considered the Chesapeake her prize.

That the commander of the Leopard sent an officer on board, who took possession of the Chesapeake, mustered her crew, and carrying off four of her men, viz. John Strahan, William Ware, Daniel Martin, and John Wilson, abandoned the ship; and that Commodore Barron, after the ship was abandoned, and after writing to the commander of the Leopard the letter No. 3, and receiving from him the answer No. 4, in document A, finding that she was very much injured and had three and a half feet of water in her hold, returned, with the advice of his officers, to Hampton Roads.

The committee might add to this statement that it has been incontestably proven, as the accompanying printed document, No. 8, will show, that William Ware, John Strahan, and Daniel Martin, are citizens of the United States, and the two former natives of the State of Maryland; but they conceive it unnecessary for them, or for this House, to go into any inquiry upon that part of the subject, as, in their opinion, whether the men taken from the Chesapeake were or were not citizens of the United States, and whether the Chesapeake was or was not within the acknowledged limits of the United States at the time they were taken, the character of the act of taking them remains the same.

From the foregoing facts, it appears to your committee that the outrage committed on the frigate Chesapeake has been stamped with circumstances of indignity and insult, of which there is scarcely to be found a parallel in the history of civilized nations, and requires only the sanction of the Government under color of whose authority it was perpetrated to make it just cause of, if not an irresistible call for, instant and severe retaliation. Whether it will receive that sanction, or be disavowed and declared an unauthorized act of a subordinate officer, remains to be determined by the answer which shall be given to the demand of explanation; that answer, now daily expected, will either sink the detestable act into piracy, or expand it to the magnitude of premeditated hostility against the sovereignty and independence of this nation; and, until its true character shall be fixed and known, your committee deem it expedient to decline expressing any opinion as to the measures proper to be adopted in relation to it. But, as other acts of aggression have been committed within our ports and waters by British ships of war, as well anterior as posterior to this, some of them manifesting the same disregard of our national rights, and seeming to flow from the same contempt for the authority of our laws; and especially as the British squadron, of which the Leopard was one, after being notified of the President's proclamation ordering them to depart from the waters of the United States, which they knew had been published in conformity to act of Congress, anchored within the capes of Chesapeake bay, and in that situation remained, capturing American vessels, even within our acknowledged territorial limits, and sending them to Halifax for adjudication; impressing seamen on board American vessels; firing on vessels and boats, of all descriptions, having occasion to pass near them in pursuit of their lawful trade; and occasionally denouncing threats calculated to alarm and irritate the good people of the United States, particularly the inhabitants of Norfolk and Hampton; all which facts are substantiated by the accompanying documents, No. 1 to 6, the committee are of opinion that it is expedient to provide more effectually for the protection of our ports and harbors; but, not being prepared to report specifically on that subject, they ask further indulgence of the House, and beg leave to submit, for their consideration, the following resolution:

Resolved, That the attack of the British ship of war Leopard on the United States' frigate Chesapeake was a flagrant violation of the jurisdiction of the United States; and that the continuance of the British squadron (of which the Leopard was one) in their waters, after being notified of the proclamation of the President of the United States ordering them to depart from the same, was a further violation thereof.

DEPARTMENT OF STATE, *November 12, 1807.*

SIR:

In compliance with the request stated in your letter of the 5th instant, I have the honor to communicate the several documents, numbered from 1 to 6, relative to aggressions committed by foreign armed vessels within the ports and waters of the United States; also document No. 7, relating to the outrage committed by the British ship of war Leopard on the American frigate Chesapeake.

To the above documents is added the evidence, received by the Department of State, relative to the national character of William Ware, John Strahan, and Daniel Martin, three of the seamen taken from the Chesapeake.

I have the honor to be, with great respect, sir, your most obedient servant,

JAMES MADISON.

Hon. THOMAS BLOUNT.

No. 1.

Deposition of Thomas Clarke, respecting an outrage committed by the Melampus.

BALTIMORE COUNTY, STATE OF MARYLAND, to wit:

This day personally appeared before me, one of the justices of the peace for said county, Thomas Clarke, the subscriber, who, being duly sworn on the Holy Evangelists of Almighty God, deposeth as follows:

That, being on a cruise, as a branch pilot of this State, for inward bound vessels, he, on the 23d instant, was taken on board the brig *Three Brothers*, Captain Pitts, from Bordeaux, bound to Baltimore, which vessel this deponent piloted to the entrance into the bay of Chesapeake. That, being close to Cape Henry, and about one mile and a half distant therefrom, and in five fathom water, a shot was fired at said brig by one of His Britannic Majesty's cruisers, called the *Melampus*, (a frigate of about thirty-six guns,) which said shot struck the water abreast the beams, at a short distance from said brig, upon which the said pilot hove to under the lee of said frigate, who immediately sent a boat on board the *Three Brothers*, under the command of an officer, who sent the captain of said brig, with his papers, on board the frigate. Shortly after, another boat was despatched from said frigate, who carried off ten men, who, this deponent understood, were picked up at sea by Captain Pitts. The same boat shortly after returned, with a prize-master and nine men, who took charge of said brig *Three Brothers*, and immediately after sent this deponent, two passengers, second mate, and crew of said brig, on board the frigate, leaving only the first mate on board the brig. Further, that, on arriving on board the frigate with the people aforesaid, the captain of the *Three Brothers* was ordered on board his vessel, which immediately after hoisted sail for Halifax, detaining on board the frigate the passengers and crew, as aforesaid. The passengers and this deponent were afterwards put on board a vessel from Boston, bound to Baltimore. Two of the brig's crew, viz: two black men, were sent in a vessel bound to Norfolk; and the remainder, viz: the second mate and two hands, who, this deponent verily believes, are American seamen, (having seen their protections,) were detained on board said frigate. And further this deponent saith not.

THOMAS CLARKE.

The foregoing was sworn to, before me, on the 30th day of April, 1807,

WILLIAM LOWREY.

No. 2. (1.)

The captain commandant of Fort Johnson to the commanding officer of H. B. M. sloop of war Driver, dated

SIR:

MAY 2, 1807.

The President of the United States of America having, by proclamation, bearing date May 23, 1807, forever interdicted His Britannic Majesty's sloop of war *Driver* from entering "any port or harbor of the United States," and the said vessel having entered this port, in contempt of the said proclamation, my duty compels me to demand that the sloop of war *Driver* do depart from this harbor within twenty-four hours from the date hereof. Need I add, sir, how repugnant it would be to my feelings should any blood be spilt, which must certainly be the case if this communication be not complied with. Lieutenant Wyndham, of the artillery, is charged with the delivery of this, and will receive your reply.

MICHAEL KALTEISEN, *Captain Commandant.*

No. (2.)

The commanding officer of the British sloop of war Driver to the captain commandant of Fort Johnson, dated

SIR:

MAY 3, 1807.

I have received your letter, and having some doubts as to the authority by which it was written, I thought proper to satisfy myself on that head before I should reply.

By the threat it contains, you appear, like your Government, to have something to learn. A British subject knows too well how to respect and obey the laws of his own country, to offer intentionally an outrage to those of others, when once they are known to be such; but I have to observe, the proclamation you mention to have been issued by the President of the United States of America, in May, 1807, I know nothing of. Of that which was issued in May, 1806, I have only to say, that, so far from being either creditable or becoming to the President of a country wishing to be ranked among the civilized nations of the world, it would, in the opinion of every liberal and enlarged mind, have disgraced the sanguinary pen of Robespierre, or the most miserable and petty state of Barbary. It appears that the supposed offence is to be remedied by a repetition of the circumstances complained of, and that on those who, so far from having any thing to do with it, were not even on or near the American coast at the time; and as Captain Whitby's trial may probably at this moment be pending, with the concurrence of the United States, and the proclamation resting upon his being brought to justice, it ought not to have been thought of. However, as my proceeding to sea comes exactly within the limits of my intentions, according to the orders I am under, I shall do so whenever the pilot shall think it proper; which orders have for their view the advantage of the American flag, as well as the protection of the British. But I must observe, that, from the difficulty I have experienced in obtaining water for the purposes I wish, I shall be obliged to have recourse to such methods as are completely in my power, and which I should not otherwise have thought of. In the mean time, it is necessary to observe, that His Majesty's ship under my command is at all times perfectly ready to resist and punish any insult that may be offered to the flag he has the honor to bear, to the last drop of blood that shall remain of the dutiful and loyal subjects of an adored sovereign and exalted country. I am, &c.

WILLIAM LOVE.

No. (3.)

The captain commandant of Fort Johnson to the commanding officer of the British sloop of war Driver, dated

SIR:

MAY 3, 1807.

I have received your letter of this day. The nature of the contents of it demands of me to transmit it immediately to the Government, which I shall do by a special messenger. I am, &c.

MICHAEL KALTEISEN, *Captain Commandant.*

The captain commandant of Fort Johnson to the President of the United States, dated

SIR:

MAY 5, 1807.

I deem it my duty to despatch a special messenger to-day to lay before your excellency a correspondence that has taken place between myself and the commanding officer of His Britannic Majesty's sloop *Driver*, now lying in this harbor.

The said sloop, interdicted by your excellency from ever entering any port or harbor of the United States, anchored abreast this fort on Thursday, 30th of April. On Friday, May 1, my officers Lieutenants Roberts and Wyndham, waited upon the Governor of this State, to consult with him, and receive his orders, relative to measures necessary to be taken to expel said vessel from this port. They could not see him; in consequence, I addressed a note, on Saturday, May 2, to the commanding officer of said vessel, of which a copy is herewith sent, and marked No. (1.) On Sunday, May 3, I received an answer from the commanding officer of the said sloop *Driver*, of which No. (2) is the original. Its extraordinary language induced me to forward it immediately by an officer to your excellency. My reply thereto is marked No. (3.)

Lieutenant Wyndham, who is the bearer of these despatches, will furnish any further information that may be required. I beg leave to recommend him to the notice of your excellency.

Hoping that my conduct may meet your approbation,

I have the honor to remain, &c.

MICHAEL KALTEISEN, *Captain Commanding.*

No. 3.

UNITED STATES OF AMERICA, *State of Maryland, to wit:*

I, Samuel Sterett, Notary Public, by letters patent under the great seal of the State of Maryland, duly commissioned and qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known, that, on the day of the date hereof, before me personally appeared George Davis, master of the brig *Mercury*, of Philadelphia, then lying in the port of Baltimore, and recently arrived from Bordeaux, who, being by me duly sworn, did depose, declare, and, for truth, say, that, on Tuesday, the 19th instant, being on his passage, and having the wind to the northward, with a strong current setting against them, the pilot on board the said brig brought her to anchor in seven and a half fathoms water, about two miles from the shore, and about twenty-five miles to the southward of Cape Henry. And this appearer saith, that, while so lying at anchor, he was boarded by an officer from the British frigate *Melampus*, who, after examining the brig's papers, requested this appearer to return with him on board the *Melampus*, which this appearer declined, thinking himself within the limits and maritime jurisdiction of the United States; the said officer also himself admitting that said brig was anchored within three miles of the shore. And this appearer saith that the said officer then left the brig, but in a little time came back, and informed this appearer that he had positive orders to take him and his papers, letter-bag, &c. on board the said frigate; that this appearer accordingly went with the said papers, and, on getting on board the frigate, his papers and letter-bag were carried into the cabin, and this appearer left on deck, and not permitted to accompany them; that, after his papers and letter-bag had been detained from him about three-quarters of an hour, they were restored to him, and he himself put on board the brig; that, immediately on getting aboard his own vessel, he descended into the cabin, and, on opening the said letter-bag, discovered that a number of the letters had been opened, and the invoices and bills of lading they originally contained thrown promiscuously into the bag, and in the greatest confusion and disorder, in which situation he lodged the said letters in the post-office of this city immediately on his arrival yesterday.

In testimony whereof, the said deponent hath hereunto subscribed his name, and I, the said notary, have hereunto set my hand, and affixed my notarial seal, the twenty-third day of May, in the year of our Lord one thousand eight hundred and seven.

GEORGE DAVIS.

SAMUEL STERETT, *Not. Pub.*

No. 4.

Captain Harrison's report to the Collector of the Customs at Norfolk, respecting an outrage committed by the British squadron in the Chesapeake.

JULY 6, 1807.

The schooner *Cynthia Ann*, from Folly Landing, Captain Harrison, was fired at in Hampton Roads by a boat belonging to the British squadron, but, not thinking proper to stop, continued his way up to Norfolk, although they continued firing from the boat, to the number of fourteen or sixteen guns; but, of a sudden, found he was fired at from the tender* just ahead of him; he immediately rounded to, and was boarded, and asked why, a damned rascal, he did not heave to for the boat? to which he answered, that he did not know why he was to be stopped in his own harbor. The boat then came up, and the crew on board her also abused him, and said they wished they had sunk him, and that they aimed to hit him, which he thinks they did, as their shot seemed very well aimed. They ordered him to tow them back, which he did, and was dismissed.

SIR:

NORFOLK, July 6, 1807.

Above is a copy of a report made to me by Captain Harrison, which I consider it my duty to forward. All vessels are stopped coming to this place, and fired at within our harbors. This report I was requested to forward to you for your consideration.

I am, respectfully, your obedient servant,

THOMAS NEWTON.

The Hon. JAMES MADISON, &c.

No. 5.

UNITED STATES OF AMERICA, *State of New York, ss:*

By this public instrument be it known to all whom the same doth or may concern, that I, Maltby Gelston, a public notary in and for the State of New York, residing in the city of New York, by letters patent under the great

* The tenders were purchased here as advice boats, and are now armed.

seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the day hereof, before me personally appeared the within named John Squire, George R. Rice, and Vinson Smith, who, being by me duly sworn on the Holy Evangelists of Almighty God, did severally and solemnly depose and declare as follows:

That all and singular the matters and things contained and set forth in the within annexed statements in writing (to which their names are subscribed) are in every respect correct, just, and true. And further they say not.

JOHN SQUIRE.
G. R. RICE.
VINSON SMITH.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the 9th day of July, in the year 1807.

M. GELSTON, *Notary Public.*

CITY OF NEW YORK, ss:

John Squire, first lieutenant and commander of the United States' revenue cutter "Active," George R. Rice, second lieutenant, and Vinson Smith, mariner, acting as mate of the said vessel, being duly sworn, did depose and declare as follows, that is to say:

That they sailed, in their above respective capacities, in and with the said vessel, from Washington City, having on board as passenger the Vice President of the United States, and bound for this port of New York. That on the 29th day of June last past, at half past four P. M. the said vessel being then under easy sail, with the wind from the southwest, bound as aforesaid, Cape Henry bearing south about four miles distant, they saw four armed ships lying at anchor, at the distance of about four miles and a half to the southwest, which they were informed and verily believed were British ships of war, under the command of Commodore Douglas, and belonging to His Britannic Majesty; that the cutter being nearly abreast of the said ships, a gun was fired from one of them, and that immediately thereafter, they discovered a boat from the said ship in pursuit of the cutter; that the boat continued in chase of the cutter, and at about three miles distant therefrom, a gun was fired from the boat towards the cutter, which these deponents believe to be a swivel; that the boat continued to row and sail; and appeared to make every possible exertion to come up with the cutter, and actually gained on her until about six o'clock P. M. when they were within about one mile and a half of each other, and a breeze springing up, the boat fired a swivel, and soon after discontinued the pursuit; that during the said chase, one gun besides those before mentioned was fired from the boat, and two guns from one of the said ships; that these deponents verily believe that the said armed boat was in pursuit of the said cutter, as there was no other vessel near them, and that the pennant of the said cutter was flying from the time the said armed ships were discovered until the discontinuance of the pursuit by the said armed boat, and that the pennant is such as is worn only by vessels employed in aid of the revenue of the United States.

And these deponents further say, that, at the instance and request of the Vice President of these United States aforesaid, they made memoranda of the foregoing circumstances shortly after they had occurred.

JOHN SQUIRE.
G. R. RICE.
VINSON SMITH.

No. 6.

PASSAMAQUODDY, *June 24, 1807.*

DEAR SIR:

It being my duty, and for the information of Government, I enclose an advertisement recently published at St. John's, New Brunswick. It has the appearance and complexion of a repetition of Mr. G. Leonard's threats, and is calculated to interrupt the peaceable intercourse in the plaster trade carried on in this Bay.

This commander, J. Flintoph, arrived on the evening of the 5th instant, fired his guns promiscuously, and in every direction, even among houses. The shot is in my possession that rolled between innocent children, to the great alarm of the peaceable inhabitants of both Governments in this vicinity.

The schooner Boston, James Perry, commander, just arrived from Boston, was brought to, having received a shot in her foremast; but not being immediately boarded, the master bore away. I myself saw four shot strike the water, fired at said schooner Boston after she was within the limits of our port.

Captain Nathan Merryman, of the schooner Rising States, an American vessel, lumber loaded, was boarded as getting under way, the tide being proper to proceed through the narrows; the master much maltreated, being taken and carried on board the armed vessel and detained a considerable time, so as to lose his tide and time, greatly to his detriment.

The citizens of the United States, in this place, are much shocked and exasperated at such treatment, and have enjoined it on me to forward this statement; are desirous their application for some armed vessels of the United States to be stationed here may be reconsidered, as the only means to prevent such imperious proceedings in future.

With all esteem and respect, I have the honor to be, sir, your most obedient servant,

LEWIS FRED. DELESDE'RNIER.

The Honorable JAMES MADISON, *Secretary of State to the United States.*

[Forwarded per Nathan Ranwood, master of Brig Susana, of Newburyport, via Alexandria.]

Transcript from the Royal Gazette published at St. John's, New Brunswick, dated July 1, 1807. Publication continued from the 8th of June last.

HIS MAJESTY'S ARMED SCHOONER POGGE, ST. JOHN'S, *June 8, 1807.*

PUBLIC INFORMATION.

To prevent as much as possible any interruption being given to the carrying trade between these provinces and the United States of America; notice is hereby given to all concerned, that any vessel employed in conveying plaster of paris and grindstones, from the quarries of Nova Scotia and New Brunswick to the places of consumption southward and westward of Portland, shall pass free and unmolested; and I pledge my word of honor that I

will not interrupt them in their lawful pursuits, unless it shall appear that they have on board deserters from His Majesty's navy or army; the same special regard will be paid to all persons coming within the description of fishermen. And to discourage and punish all those concerned in illicit traffic, I am determined to treat with the utmost severity such as are found delivering their cargoes into American vessels in the Bay of Passamaquoddy or its neighborhood, or who may clandestinely introduce any articles into either province contrary to law.

J. FLINTOPH, *Lieutenant Commander.*

DUDLEY ISLAND, *Eastport, July 9, 1807.*

DEAR SIR:

From your desire, whilst at my house last evening, to give a statement of the proceedings relative to the pirate which laid off Frier's Head on day before yesterday, as far as I was acquainted, I will, as far as my memory, relate. On the morning of that day (it being the 7th inst.) Mr. Graves came from Mr. Rice's and informed me that the same vessel (as he supposed) that had committed depredations at this place some weeks past, had sent an armed boat the past night and taken an American schooner, commanded by Captain Heros, from Mr. Rice's island, which probably might, as she then lay, have toiled in so as to have touched the wharf; and likewise had taken Captain York, an American, out of his cabin, on board his own vessel; that Captain York and Captain Hewes, with his crew and a number of American citizens, were confined on board this said pirate, and that Mr. Rice had gone to inform you of the proceedings, being much alarmed from such conduct, not having any thing to justify it. I immediately went to Mr. Rice's island to get more information; there I observed that Captain York's vessel lay so near the shore, that at low water, and the wind blowing on, I supposed her stern must have touched the shore, and from whence I was informed he was taken. On Mr. Rice's return, being informed that you were to be there soon, I waited until about half flood; before this, Messrs. Dexter, Allen Joy, and others who had relations on board, came there with hopes to get them liberated. Fearful that some accident might prevent you from getting over soon enough to see what could be done, and a probability of a wind for them to go out, and from conjectures that she was a press vessel, and knowing a number taken who had no protections, (being landmen,) I concluded to go on board in a birch canoe alone, with such documents as to prove I was a public officer of the Commonwealth, expecting to get such as I knew to be citizens of our country liberated. For this purpose I was put home by those who were most interested; the boat, after landing me, crossed over towards the Narrows, with the expectations, as I understood, to land and go down to see the officers on Campo Bello, who were acquainted with those who were in confinement; that, from a representation, there was another possibility for release. Previous to this, a boat passed with five on board, as I discovered with my glass, which appeared to have come from Moose island, and were passing towards Campo Bello; this boat was fired at, and went on board, and soon after left the vessel with five. While I was preparing to go on board, I heard the discharge of a cannon; I immediately went out and discovered the revenue colors in the boat in which you was in, about one-third from Moose island, aiming directly for this island, and, as I supposed, three-quarters or one mile within the limits of the United States; the smoke of this discharge appeared to be aimed for you. While observing this, (being on the southeast part of this island) and, I suppose, a little more than one mile from this said pirate, another cannon was discharged; I suppose at you. I heard a ball very distinctly pass, in about the elevation of twenty degrees from me; this ball, I suppose, I heard strike, but did not see it. Supposing, from your being on your lawful employment, within our own waters, you would be sunk before you would be forced on board, I immediately directed my family to be on their guard, as I expected you would pass my house. Just on my going out, I observed another discharge, I supposed aimed for you; I did not hear any ball from this, but was informed by others, who I believe, that balls were fired every time, and am informed that one struck this island. In the course of this time the boat which landed me was fired at with a swivel; four balls were observed by them to strike the water and some near the boat. I judged this boat to be as much as one quarter of a mile within the limits of the United States. Before this, I observed a person who, since, I have heard was Doctor Edwards, coming from Moose island and bound up Soward's bay; three musket shot I saw fired towards him, and he was, after hard labor, forced on board. In all this time I did not see the least appearance of a flag displayed, which makes me give them the appellation of pirates. What I have here stated, I am willing to go before the proper authority of our country and testify to.

I am, dear sir, very respectfully, yours,

WILLIAM ALLAN.

LEWIS F. DELESDEMER, ESQ.

DISTRICT OF PASSAMAQUODDY, *July 14, 1807.*

Continuation, stating the conduct of J. Flintoph, Commander of His Britannic Majesty's armed schooner the *Pogge*.

On the 6th instant, in the evening late, the *Pogge* again made her appearance in this bay, and immediately, under her guns, boarded and removed two American vessels, and took out of another the master and two hands; also by after information, vexed two others; one was fired upon, several shot cut her rigging and sails, examined and dismissed; the other was taken, crew removed on board the armed vessel, manned and brought back under her guns, as may further appear by the list herewith, and depositions from Nos. 1 to 8.

Narration. On the 7th instant early, being informed of the foregoing circumstances, I embarked in the revenue boat, accompanied by several of the principal inhabitants of Moose island, and proceeded to the southerly part of the port. We saw three cannon fired a-head of the revenue boat. Judge Lincoln's boat having put off a little before us, having two women and a child, with other passengers, the three shot just mentioned were fired at her. The revenue boat proceeded on round eastward of Dudley island to Rice's (or Fred isle.) I was surprised we had not been fired upon, when we learned every boat that passed in sight of the vessel had been brought to and forced alongside. I felt a conviction that an interview with the commander was indispensable; but judged it imprudence to board in foreign jurisdiction, in my own boat, and unintroduced. I proceeded to Snuglive on the island of Campo Bello; here I saw several which had been on board and were dismissed, who stated that a twelve pound carronade had been loaded and repeatedly ordered to be fired into the revenue boat. A British gentleman, who had also been on board, observed this commander acted like one insane or mad.

Having met with Colonel Thomas Wye, (a judge of the bench for the county of Charlotte,) and having acquainted him with my object of requesting his introduction, he unhesitatingly took me in his boat and repaired alongside this armed vessel, where, after a guard being placed over the boat to prevent all intercourse between the vessel and boat, I was admitted on deck and below. Previously, and with much irritation, the commander peremptorily rejected any less demand or explanation relating to the present situation of the vessels in his custody, which I desired to present, make, and require; but the general observation made was breach of treaties, encroachment of territory, and illicit trade.

I took the liberty to expostulate as to his firing shot without his jurisdiction, but in vain; he should fire as often, when and where he pleased; got so petulant as to be rude, and use illiberal language; ordered Colonel Wyen immediately over the side into his boat, repeatedly. I was admitted to retire with a little more gentleness; I was glad to withdraw from such imperiousness. Shortly after I got on shore he dismissed one vessel and the master of the sloop, and his two people, as per list.

The same afternoon he fell down the tide, and went eastward with the other two.

A true report:

LEWIS FRED. DELESDERNIER.

COLLECTOR'S OFFICE, PORT OF PASSAMAQUODDY, *September 1, 1807.*

SIR:

Since my last of July the 15th, "stating the conduct of John Flintoph, Lieut. Commander of His Britannic Majesty's armed schooner the Podge, (or Progui,) accompanied with sundry depositions," &c., in continuation, I take the liberty to state, for the further information of Government, some subsequent occurrences relating to a proceeding from these transactions.

The schooner Harmony of Islesboro, Paoli Hewes master and owner, which was then captured and carried into St. John's, New Brunswick, for adjudication, has undergone a rigorous trial, through the court of Vice Admiralty, is now returned by a decree of restoration, as may be more fully understood by examining the file of documents accompanying this communication, and were deposited at this office with earnest request they should be forthwith forwarded, together with Captain P. Hewes's memorial, protest, letter from his counsel, and an estimate of damages for costs and detention sustained by this defendant and claimant in the progress of the business to which he solicits, humbly, due attention and relief.

The other vessel also, carried to St. John's with the above, to wit, the schooner Nabby, of Eastport, John Pace, owner and master, burden about twenty-one tons, licensed to carry on the cod fishery, and employed in importing plaster of paris, by permit to touch and trade, has been condemned at their court, sold at public vendue for sixty dollars. The owner was so indigent as not to have it in his ability to buy her in, and the probability is she will be burnt; the proceeding in such cases.

I take the liberty to suggest, would it not be judicious, as soon as feasible, to have the boundary line from the mouth of the St. Croix into the bay of Fundy definitively ascertained, and permanently fixed. There is a gap through which all the wild creatures come in and commit depredations on our peaceable and unsuspecting citizens, and alarm us in our most retired moments of rest; not only threatening destruction, but actually throwing shot among unoffending individuals of every sex and age, passing and repassing in their domestic occupations, within the limits of their own peaceful government. This I experienced among others, and narrowly escaped being sunk in the revenue boat; a gun was loaded and repeatedly ordered to be fired into the boat, but the dispensation of Divine Providence, I presume, interposed.

I regret much that I have to make such observations, as well as to find that the imperiousness of the British naval commanders is so correspondent in all our extensive seacoast.

With sentiments of highest esteem, I have the honor to be, sir, your most humble servant,

LEWIS FRED. DELESDERNIER, *Collector of Passamaquoddy.*

N. B. See deposition No. 6, formerly forwarded.

The Hon. JAMES MADISON, *Secretary of State.*

No. 7.

HAMPTON, *July 11, 1807.*

SIR:

Yesterday I applied to the proper authority in this place, for permission to send to Commodore Douglas a letter, (which was, at the same time, submitted to their inspection,) the object of which was to obtain a copy of Vice Admiral Berkeley's order respecting deserters, and under which the Leopard acted. The result enables me to forward you an exact copy.

I have the honor to be, very respectfully, sir, your most obedient servant,

JAMES BARRON.

The Hon. JAMES MADISON.

By the Honorable GEORGE CRANFIELD BERKELEY, Vice Admiral of the White, and Commander-in-chief of His Britannic Majesty's ships and vessels employed in the river St. Lawrence, along the coast of Nova Scotia, the islands of St. John and Cape Breton, the Bay of Fundy, and at and about the island of Bermuda, or Sommers' islands:

Whereas, many seamen, subjects of His Britannic Majesty, and serving in His Majesty's ships and vessels, as per margin,* while at anchor in the Chesapeake, deserted and entered on board the United States' frigate the Chesapeake, and openly paraded the streets of Norfolk, in sight of their officers, under the American flag, protected by the magistrates of the town, and the recruiting officer belonging to the above-mentioned American frigate; which magistrates and naval officer refused giving them up, although demanded by His Britannic Majesty's consul, as well as the captains of the ships from which the said men had deserted; the captains and commanders of His Majesty's ships and vessels under my command are, therefore, hereby required and directed, in case of meeting with the American frigate Chesapeake at sea, and without the limits of the United States, to show to the captain of her this order, and to require to search his ship for the deserters from the before-mentioned ships, and to proceed and search for the same. And, if a similar demand should be made by the American, he is permitted to search for deserters from their service, according to the customs and usages of civilized nations, on terms of peace and amity with each other.

Given under my hand, at Halifax, Nova Scotia, the 1st day of June, 1807.

G. C. BERKELEY.

*To the respective captains and commanders
of His Majesty's ships and vessels on the North American station.*

* Belleisle, Bellona, Triumph, Chichester, Halifax, Zenubia, (cutter.)

No. 8.

STATE OF MARYLAND, *Alleghany County, ss:*

Upton Bruce, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, that, among the servants belonging to his father (Norman Bruce) is a female slave named Phillis, a dark mulatto; that, at an early age, she became the mother of two children, as was universally admitted, by a white man named Andrew Ware. This fact was never questioned, and Ware himself never, to my knowledge, denied it. The children passed for, and were admitted to be his, and assumed his name; one was a boy, and being myself older than either of them, and brought up as it were in the same family, nothing like doubt rests upon my mind as to his birth and parentage. I am as well assured of it, as I can be of any fact of the kind, and no one, that I heard, ever presumed to suppose otherwise. This boy was raised upon my father's farm on Pipe creek, at the mills in Frederick county, and being the child of a slave, was reared with the children of other slaves, and stood upon the same footing. His mother is still living; she it was that nursed him in his infancy, and she he considered, acknowledged, and treated as his mother. When I engaged in the management of my father's property, which I did on reaching the years of manhood, this boy was then about twelve or fourteen years old, and he remained along with the other servants until about the age of twenty, when, in consideration of his color, the regard I had for his father, (then dead,) and the desire expressed by that father to have these children liberated, this boy was suffered to go at large; he promising to make some compensation, which never has been done. After leaving me, he was working about the country some few years, employed sometimes as wagoner, driving a team to and from Baltimore, until at length I learned he entered on board some vessel and had gone to sea; and this life, I had reason to believe, he persevered in, until, for some time past, hearing nothing of him, I supposed it probable he might be dead. His appearance may have changed since I last knew him; he then had his growth in height, and was, as near as I could now guess, about five feet six or seven inches high, of a slender make, a thin foot, and he bent or stood rather back upon his hams; his face somewhat round, a nose not large, lips not thick, and a chin rather small; his color was swarthy or Indian-like, remarkably bright though for a mulatto, and would pass for something nearer white; his hair was of a darkish color, inclined to curl, which he sometimes kept tied; and which, upon inspection, would show to be different from the hair of a white man, and yet far removed from the wool of an African. He went by the name of Romulus, and is, I should imagine, now about the age of twenty-eight or thirty.

UPTON BRUCE.

Sworn to and subscribed before me, a justice of the peace, for Alleghany county, this eighteenth of July, eighteen hundred and seven.

THOMAS THISTLE.

STATE OF MARYLAND, *Alleghany county, to wit:*

I hereby certify, that Thomas Thistle, Esquire, before whom the foregoing deposition appears to have been made, and who has thereto subscribed his name, was, at the time of taking and signing the same, one of the State of Maryland justices of the peace in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts, as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this eighteenth day of July, in the year of our Lord eighteen hundred and seven, and the thirty-second year of the independence of the United States of America.

JOHN LYNN, *Clerk of Alleghany county.*

STATE OF MARYLAND, *Alleghany county, ss:*

William McNair, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, it is about twelve years ago, when he was employed as an overseer by Upton Bruce, son of Norman Bruce, who then lived with his father on the farm at Pipe creek, of which he then had the management, his father giving it into his hands, and that among the lads under his direction was one of a very bright color, like a very dark white man, and plainly showed the mixture, and as descending from black and white parents; that among the female slaves was one called Phillis, who acknowledged this boy as her child, and no doubt could be of the fact, and was so universally known by the whole family and neighborhood. His mother was a dark mulatto, and his father, as was well understood, was Andrew Ware, who I knew well. This boy was as much a slave to Mr. Bruce as any other he had, and no doubt was suggested to the contrary that ever I heard, nor was his origin or birth questioned; that he is, by guess, five feet seven inches high, rather slender made, his hair rather curly, and his age, to the best of the deponent's knowledge, is now about thirty years; that he understood he made some agreement with his master, by which he was suffered to go at large; and the last time this deponent recollects to have seen him, was driving a team on the Baltimore road, between six and seven years ago; that he then passed by the name of Romulus, and this deponent understood he afterwards took to the sea.

WILLIAM McNAIR.

The within sworn to this 17th day of July, 1807, before me, one of the justices of the peace for Alleghany county aforesaid.

ANDREW BRUCE.

STATE OF MARYLAND, *Alleghany county, to wit:*

I hereby certify, that Andrew Bruce, Esq., before whom the depositions hereto annexed appear to have been taken, and who has thereto subscribed his name, was, at the time of taking and signing the same, one of the State of Maryland justices of the peace, in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts, as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this eighteenth day of July, in the year of our Lord eighteen hundred and seven, and the thirty-second year of the independence of the United States of America.

JOHN LYNN, *Clerk of Alleghany county.*

STATE OF MARYLAND, *Alleghany county, ss:*

Sarah Lewis, being duly sworn on the Holy Evangelists of Almighty God, deposeth and saith, that she lived many years in Frederick county, of this State; that she lived in the neighborhood of Norman Bruce's family, was well acquainted there, and that among his servants she well recollects having noticed a very bright mulatto child, approaching nearer to white than any mulatto she ever saw; that at the time she first noticed this child he was about four or five years old; that his birth or origin she never heard doubted his being the child of Phillis, a dark

mulatto woman, (slave to Norman Bruce, who lived on Pipe creek,) by Andrew Ware, a white man; that she knew the said child from that time until it grew up, and reached near the age of twenty; that during that time he remained in the family of the said Bruce as his slave, upon the same footing and treated as his other slaves; that when he grew up he was not a large man, being spare; a round or flattish face; that he must now be about thirty years of age or upwards; that then he passed and was called by the name of Romulus; that his mother had a daughter by the same father, as was acknowledged, and as appeared from her color and resemblance to her brother. He left the service of his master by his permission, or some agreement, I suppose, and, as I understood, afterwards went to sea.

SARAH LEWIS, her \times mark.

Sworn to, this 17th day of July, 1807, before me, one of the justices of the peace for Alleghany county aforesaid.

STATE OF MARYLAND, *Alleghany county, to wit:*

William Bruce, being sworn on the Holy Evangelists of Almighty God, deposeth and saith, that about the age of twelve years he went to Frederick county, and lived with his uncle, Norman Bruce, on Pipe creek, for several years, going occasionally to school; that, among the other servants, he well remembers a remarkably bright mulatto boy, or he might pass for a very dark, swarthy white one. This boy I always understood was the son of a slave, named Phillis, by a white man called Andrew Ware. I never heard to the contrary, nor can I doubt it, the boy acknowledging this Phillis as his mother, and she receiving him as her child, and it was so admitted and understood by the whole family and neighborhood. I knew this boy for several years afterwards, and until he grew up. He was in height about five feet five or six inches, his hair dark and somewhat curly, and his make thin. He went by the name of Romulus, and I know of no particular mark to distinguish him except a scar on one of his thumbs, I think occasioned by a bite in some fight he had; and is now, I suppose, about twenty-eight or thirty years of age. And further this deponent saith not.

WILLIAM BRUCE.

Sworn and subscribed to, this 18th day of July, 1807, before

GEORGE RIZER.

STATE OF MARYLAND, *Alleghany county, to wit:*

I hereby certify, that George Rizer, Esquire, before whom the within deposition appears to have been made, and who has subscribed his name thereto, was, at the time of so doing, one of the State of Maryland justices of the peace in and for Alleghany county aforesaid, duly commissioned and sworn, and to all his acts, as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof, I have hereto subscribed my name, and affixed the seal of Alleghany county court, this 18th day of July, in the year of our Lord eighteen hundred and seven, and thirty-second year of the independence of the United States of America.

JOHN LYNN, *Clerk Alleghany county.*

The deposition of Greenbury Griffin, of Talbot county, and the State of Maryland, aged about thirty-seven years, taken before William Lindsey, gentleman, one of the justices of the peace for Queen Anne's county, duly commissioned and qualified as such, this 4th day of August, in the year of our Lord one thousand eight hundred and seven, saith, that John Strahan, or Strawhan, the son of Samuel Strawhan, of Queen Anne's county, and State of Maryland, was bound to him to the sea-service, about the year eighteen hundred and two, (as the indenture will show, which will be procured as part of this deponent's information;) that the said John left the said Greenbury about the year eighteen hundred and four, at Norfolk; at this time he was sailing with a certain Captain John Kemp, from Trinidad to Norfolk aforesaid; that this deponent has not seen the said John Strahan since; that the said John Strahan has a light sandy complexion, and looks older than he really is, and is a pretty well made man.

Sworn to before me the day and year aforesaid.

WM. LINDSEY.

STATE OF MARYLAND, *Queen Anne's county, to wit:*

I do hereby certify all whom it doth or may concern, that William Lindsey, gentleman, before whom the within deposition appears to have been taken, and who hath subscribed his name, was, at the time of so doing, and still is, one of the justices of the peace of the State of Maryland in and for the county aforesaid, duly commissioned and sworn, and to all acts done by him as such, due faith and credit is and ought to be given as well in courts of justice as thereout.

In testimony whereof I have hereunto subscribed my name, and affixed the public seal of my said office, this sixth day of August, Anno Domini eighteen hundred and seven.

SAMUEL T. WRIGHT, *Clerk of Queen Anne's county court.*

This indenture, made the 20th day of March, in the year of our Lord 1802, witnesseth that John Strawhan, of Queen Anne's county, aged seventeen years and ten months, hath, of his own free and voluntary will, placed and bound himself apprentice unto Greenbury Griffin of Talbot county, waterman, to learn the said trade, mystery, or occupation of a waterman, which he, the said Greenbury Griffin, now useth, and with him as an apprentice to dwell, continue, and serve from the day of the date hereof, unto the full end and term of three years and two months, from thence next ensuing, and fully to be completed and ended, during all which term of three years and two months, the said apprentice his said master well and faithfully shall serve, his secrets keep, his lawful commands gladly do and obey, hurt to his said master he shall not do, nor wilfully suffer to be done by others, but of the same, to the utmost of his power, shall forthwith give notice to his said master; the goods of his said master he shall not embezzle nor waste, nor them lend without his consent, to any; at cards, dice, or any other unlawful games he shall not play; taverns or ale-houses he shall not frequent; fornication he shall not commit; matrimony he shall not contract; from the service of his said master he shall not at any time depart or absent himself without his said master's leave, but in all things, as a good and faithful apprentice, shall and will demean and behave himself towards his said master and all his, during the said term: and the said master, in consideration of the sum of thirty pounds of lawful money of Maryland, to him in hand paid by his said apprentice, in the said trade, mystery, or occupation of a waterman, which he now useth, with all things thereunto belonging, shall and will teach, instruct, or cause to be well and sufficiently taught and

instructed, after the best way and manner he can, and shall and will also find and allow unto his said apprentice meat, drink, washing, lodging, and wearing apparel, and all other necessaries fit and convenient for such an apprentice; and also the said master is to give unto the said apprentice six months' schooling, within the said term. In witness whereof, either of the parties have hereunto set their hands the day and year within written.

JOHN STRAWHAN.
GREENBURY GRIFFIN.

Witnesses: John Merchant, Thomas Lambdin, John McDaniel.

Received 21st March, 1802. In Orphans' court, April 13th, 1802.

The within indenture was examined and approved. Certified per

J. PRICE, *Register of Wills.*

TALBOT COUNTY, ss:

In testimony that the within is truly copied from liber J. P. No. A. folios 247 and 248, one of the record books belonging to my office, I have hereunto set my hand, and the seal of my office affixed, this twenty-first day of August, Anno Domini eighteen hundred and seven.

Test:

JA. PRICE, *Register of Wills for Talbot county.*

The deposition of James Roe Pratt, of Queen Anne's county, and State of Maryland, aged about forty-five years, taken before William Lindsey, gentleman, one of the justices of the peace for the said county, duly commissioned, and qualified as such, this fourth day of August, in the year eighteen hundred and seven, saith that he is well acquainted with Samuel Strahan and his son John Strahan, who he understood was bound to Greenbury Griffin; that the said John is a well made man, and has a sandy complexion: and further saith not.

Sworn to before me this day and year aforesaid.

WM. LINDSEY.

The deposition of John Price, of Kent Island, in Queen Anne's county, and State of Maryland, aged about forty-one years, taken before William Lindsey, gentleman, one of the justices of the peace for said county, the fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he was well acquainted with Samuel Strahan, late of Queen Anne's county, and his son John Strahan; that the said John Strahan was a well made young man, and had a sandy complexion; that this deponent knows nothing of his going to sea, or any thing of him for many years, until the late information of his being pressed into the British service.

Sworn before me, the day and year aforesaid.

WM. LINDSEY.

The deposition of Thomas Lynch, of Queen Anne's county, and State of Maryland, aged about forty-seven years, taken before William Lindsey, gentleman, one of the justices of the peace for said county, the fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he is well acquainted with the aforesaid Samuel Strahan, and his son John, who was bound apprentice to the aforesaid Greenbury Griffin, as the father had frequently informed him; that the said Samuel Strahan lived at the tan-yard of Mr. Tilghman, between Centreville and Queenstown, and that John Strahan, the son of the said Samuel, was born there; that he was a well made young man when he left his father, and had a sandy complexion, and that he had pretty good information in the tanning business.

Sworn before me, this day and year aforesaid.

WM. LINDSEY.

The deposition of Samuel Strahan, or Strawhan, as generally called here, of Caroline county, and State of Maryland, aged about fifty-six years, taken before William Lindsey, gentleman, one of the justices of the peace for Queen Anne's county, duly commissioned and qualified as such, this fourth day of August, in the year of our Lord one thousand eight hundred and seven, saith, that he has, or had, a son called John Strahan, or Strawhan, as they are called here, born about the fourteenth day of April, seventeen hundred and eighty-four, as well as he recollects; that this son was bound apprentice to a certain Greenbury Griffin, who was then a seaman, and employed in the West India business, as he understood; that he has never seen his said son since, nor heard from him for several years, until the notification from the Government of the United States; that this son was pretty well made, and had a light sandy complexion, and that he was born at the tan-yard belonging to a certain William Tilghman, on the public road from Centreville to Queenstown.

Sworn before me, the day and year aforesaid.

WM. LINDSEY.

[Each of the foregoing depositions is accompanied by a similar certificate of office as the first.]

The following is extracted from the signatures to the original articles of agreement and roll of equipage of the schooner Eagle, Greenbury Griffin, master, bound from Norfolk to St. Bartholomew.

"August 9th.—John Strawhan, Queen Anne's county, Maryland."

I, Benjamin Davis, of Westport, in the county of Bristol and Commonwealth of Massachusetts, yeoman, being legally qualified to give evidence, do depose and say, that, about fourteen or fifteen years ago, William Howland, late of said Westport, mariner, deceased, brought to Westport with him a colored boy, then about six years of age; that the name of the said boy was Daniel Martin; that he was bound to the said William, as an apprentice or servant, under the authority of the laws of this Commonwealth, by the selectmen and overseers of the poor of said town of Westport, and the indentures were executed at the house of this deponent; that the said Daniel was afterwards, on his arrival at the age of fourteen years, an apprentice or servant of Nancy Howland, widow and relict of said William Howland, and it is now about seven years since I have seen the said Daniel. He was then of a common stature, straight built, and without any prominent marks by which to describe his person. It was always understood by me that the said Daniel was from some Spanish settlement in America.

BENJAMIN DAVIS.

United States of America, Commonwealth of Massachusetts, Bristol, ss:

On this 13th day of July, 1807, before me, Eli Haskell, Notary Public, duly elected and qualified, and dwelling in the town of New Bedford, personally appeared Benjamin Davis, Esq., and made solemn oath to the truth of the foregoing statement of affidavit by him subscribed.

In testimony whereof, I have hereunto set my hand and notarial seal, in such cases used, the day and year first written.

ELI HASKELL, *Not. Pub.*

I, Nancy Howland, of New Bedford, in the county of Bristol and Commonwealth of Massachusetts, widow and relict of William Howland, late of Westport, in said county, mariner, do depose and say, that, in the month of August, in the year of our Lord 1792, according to the best of my recollection, my said husband brought with him on a voyage from Buenos Ayres Daniel Martin, a colored boy, then in the seventh year of his age, who was bound to him, as an apprentice or servant, by his mother; that, after the death of my said husband, and at the arrival of said Daniel at the age of fourteen years, he bound himself, by a law of this Commonwealth, to me, the deponent, and, after living with me about one year, left me, and, since that time, I have never seen or heard from the said Daniel until the application to take this testimony. At the time the said Daniel left me, he was of a common stature, and I do not now recollect any peculiar marks by which he could be readily described; he was very straight at that time. The indentures by which he was bound, by accident and length of time, are mislaid or lost.

NANCY HOWLAND.

United States of America, Commonwealth of Massachusetts, Bristol, ss:

On this 13th day of July, 1807, before me, Eli Haskell, Notary Public, duly elected and qualified, and dwelling in the town of New Bedford, personally appeared Nancy Howland, and made solemn oath to the truth of the foregoing statement of affidavit, by her subscribed.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal, the day and year above written.

ELI HASKELL, *Not. Pub.*

The following is extracted from the portage bill of the ship *Caledonia*, Francis Mahaly, master, who sailed, about the 25th of January, 1802, for Canton, and returned about 13th March, 1803:

"Daniel Martin, seaman, shipped January 24, 1802; discharged March 14th, 1803; time on board, thirteen months, seventeen days, \$12 a month: total wages, \$162 75."

No. 9.

NAVY DEPARTMENT, *November 12, 1807.*

SIR:

In compliance with your letter of the 9th instant, I have the honor of herewith transmitting to you papers A, B, and C, which contain all the information that has been communicated to the Navy Department, in relation "to the outrage committed on the frigate *Chesapeake*."

I have the honor to be, respectfully, sir, your most obedient servant,

R. SMITH.

To the Hon. THOMAS BLOUNT,
Chairman of the Committee of Congress upon aggressions, &c.

NAVY DEPARTMENT, *November 23, 1807.*

SIR:

Having this morning received the original record of the proceedings of the Court of Inquiry, I find, upon comparing them with the copy of the opinion transmitted to you in my letter of 12th instant, that in the copy sent to you, there are some errors, and an omission, which I hasten to correct.

In the first article of the opinion, second line, after *Chesapeake*, the words "of 38 guns" should be inserted.

In the twenty-seventh article, instead of reading "her marines were neither supplied with enough cartridges, nor were those which they had of the proper size—none of these circumstances could have," &c. it should read thus: "her marines were not supplied with enough cartridges, and none of those which they had were of the proper size—these circumstances, however, could not have," &c. There are other errors, but of no consequence, being entirely verbal.

The following concluding article is not in the copy sent to you:

"39. The court is, lastly, of opinion that the causes of the surrender of the *Chesapeake* were, her being attacked by a ship of superior force, at a time when such an attack not having been expected by her commander, no sufficient preparation for resistance had been made. That there were abundant causes, however, to have induced the expectation of such an attack, and that there was ample time to have made such preparation, the court have already stated. That the ship was prematurely surrendered, even under such circumstances, the court have also stated. And the reasons of such want of preparation, and improper surrender, will be found fully exhibited in former parts of this report."

These errors, and this omission, are explained in a letter from Littleton W. Tazewell, Esq., Judge Advocate to the court, to me, dated 17th November, 1807, and this morning received by me, of which the following is an extract:

"I have the honor now to forward to you the original record of the proceedings of the Court of Inquiry, convened here under your warrant, and of the evidence adduced before that court. Supposing that it might be satisfactory to you to be informed, at the earliest period, of the result of the proceedings of the court, I did myself the honor to forward you, some time since, on the day the report and opinion was agreed to, and delivered by the court, a copy of that report. On comparing them, you will find some slight differences between the report itself, and the copy sent you. This is caused by some alterations in, and additions to the opinion and report which the court deemed it proper to make, subsequent to the writing of my letter. The copy sent was taken from the original rough draught, before it was amended and modified, as was afterwards done."

I have the honor to be, respectfully, sir, your obedient servant,

R. SMITH.

Honorable THOMAS BLOUNT,
Chairman of the Committee of Congress upon aggressions, &c.

A.

BRITISH CONSUL'S OFFICE, NORFOLK, (Va.) *March 6, 1807.*

SIR:

The men named in the margin,* deserted some time since from His Majesty's ship *Melampus*, in Hampton Roads, by running away with her gig, and the three first are stated to have entered at the rendezvous, now open

* Wm. Ware, Daniel Martin, John Strachan, John Little.

here, for the enlistment of seamen in the service of the United States. As the *Melampus* is at present in Hampton Roads, I submit to you, sir, the propriety of your directing these men (should they have entered for your service) to be returned to their duty on board His Majesty's ship before mentioned.

I have the honor to remain, with perfect truth and respect, sir, your most obedient servant,

JOHN HAMILTON.

Captain DECATUR.

BRITISH CONSUL'S OFFICE, NORFOLK, (Va.) *March 7, 1807.*

SIR:

Mr. John Murphy, master of the British merchant ship *Herald*, in this harbor, has represented to me that John Wilson, a seaman under articles to that ship, and John Murphy, (his son,) an apprentice, both subjects of His Majesty, have deserted and enlisted at the rendezvous for the naval service of the United States, in this borough, requesting me to use my official interposition with you to obtain for him the recovery of the persons before mentioned. It has, therefore, become my duty to solicit that the seaman and apprentice in question (if they should have entered for the navy of the United States) may be returned to the master of the *Herald*, and to the performance of their respective engagements on board of that ship.

I have the honor to remain, with perfect truth and respect, sir, your most obedient humble servant,

JOHN HAMILTON.

Captain DECATUR.

NORFOLK, *March 8, 1807.*

SIR:

Your communications with Captain Decatur have been transmitted to me by that officer.

I must observe, in answer, that John Murphy, appearing to be an apprentice to his commander, has been delivered to the civil authority.

I do not feel myself justified in delivering any men who are not apprentices, and who have voluntarily entered the service of the United States, unless claimed by the magistracy.

I have the honor to be, with high respect, sir, your obedient humble servant,

A. SINCLAIR.

JOHN HAMILTON, Esq. &c. &c. *Norfolk.*

BRITISH CONSUL'S OFFICE, NORFOLK, (Va.) *March 9, 1807.*

SIR:

I have had the honor to receive your letter, dated yesterday, acquainting me, in reply to my communications, addressed (through misinformation) to Captain Decatur, which he had done me the kindness to transmit to you, that John Murphy, being an apprentice to his commander, had been delivered up to the civil authority, but that you do not feel yourself justified in delivering up any men who are not thus bound, and who have voluntarily entered the service of the United States, unless claimed by the magistracy.

I can only regret that you do not consider yourself authorized to comply with my request.

I have the honor to remain, with perfect truth and respect, sir, your most obedient humble servant,

JOHN HAMILTON.

Lieutenant SINCLAIR.

NAVY YARD, WASHINGTON, *April 7, 1807.*

SIR:

I have the honor to enclose you the result of my inquiries relating to the men mentioned in your letter of yesterday.

And have the honor to be, sir, with great respect, your obedient servant,

JAS. BARRON.

The Hon. R. SMITH, *Secretary of the Navy.*

William Ware, pressed from on board the brig *Neptune*, Captain Crafts, by the British frigate *Melampus*, in the Bay of Biscay, and has served on board the said frigate fifteen months.

William Ware is a native American; born on Pipe creek, Frederick county, State of Maryland, at Bruce's Mills, and served his time at said Mills; he also lived at Ellicott's mills, near Baltimore, and drove a wagon several years between Hagerstown and Baltimore; he also served eighteen months on board the United States' frigate *Chesapeake*, under the command of Commodore Morris and Captain James Barron; he is an Indian looking man.

Daniel Martin was pressed at the same time and place; he is a native of Westport, in Massachusetts, about thirty miles to the eastward of Newport, Rhode Island; served his time out of New York with Captain Marrowby in the *Caledonian*; refers to Mr. Benjamin Davis, merchant, and Mr. Benjamin Corce, of Westport; he is a colored man.

John Strachan, born on the Eastern Shore of Maryland, Queen Anne's county, between Centreville and Queen's town; refers to Mr. John Price and — Pratt, Esq., on Kent island, who knows his relations; Strachan sailed in the brig *Martha Bland*, Captain Wivill, from Norfolk to Dublin, and from thence to Liverpool; he there left the brig, and shipped on board an English Guineaman; he was pressed on board the *Melampus*, off Cape Finisterre; to better his situation he consented to enter, being determined to make his escape when opportunity offered; he served on board the frigate two years; he is a white man, about five feet seven inches high.

William Ware and John Strachan have protections; Daniel Martin says he lost his after leaving the frigate.

John Little, alias Francis, and Ambrose Watts, escaped from the *Melampus* at the same time; known to the above persons to be Americans, but have not been entered by my recruiting officer.

William Ware, Daniel Martin, and John Strachan, state that, some time in February last, there was an entertainment on board the *Melampus*, lying then in Hampton Roads; that while the officers of — were engaged, and all the ship's boats, except the captain's gig, being hoisted in, themselves, and the two other men mentioned, availed themselves of a moment to seize the gig and row off; that, as soon as they had got into the boat, they were hailed to know what they were going to do; they replied they were going ashore; a brisk fire of musketry instantly

commenced from the ship; that, in defiance of balls, and the hazard of their lives, they continued to pull, and finally effected their escape to land, namely, Lowell's Point; that they then carefully hauled up the boat on the beach, rolled up the coat, and placed that and the oars in the boat, gave three cheers, and moved up the country.

UNITED STATES' FRIGATE CHESAPEAKE, CHESAPEAKE BAY, June 23, 1807.

SIR:

Yesterday at 6., A. M., the wind became favorable, and knowing your anxiety that the ship should sail with all possible despatch, we weighed from our station in Hampton Roads and stood to sea. In Lynnhaven bay we passed two British men of war, one of them the Bellona, the other the Melampus; their colors flying, and their appearance friendly. Some time afterwards, we observed one of the two line-of-battle ships that lay off Cape Henry to get under way, and stand to sea; at this time the wind became light, and it was not until near four in the afternoon that the ship under way came within hail. Cape Henry then bearing northwest by west, distance three leagues, the communication, which appeared to be her commander's object for speaking the Chesapeake, he said he would send on board; on which I ordered the Chesapeake to be hove to for his convenience. On the arrival of the officer he presented me with the enclosed paper (No. 1.) from the captain of the Leopard, and a copy of an order from Admiral Berkeley, which another officer afterwards took back, to which I gave the enclosed answer, (No. 2.) and was waiting for his reply. About this time I observed some appearance of a hostile nature, and said to Captain Gordon that it was possible they were serious, and requested him to have his men sent to their quarters with as little noise as possible, not using those ceremonies which we should have done with an avowed enemy, as I fully supposed their arrangements were more menace than any thing serious. Captain Gordon immediately gave the orders to the officers and men to go to quarters, and have all things in readiness; but before a match could be lighted, or the quarter-bill of any division examined, or the lumber on the gun-deck, such as sails, cables, &c., could be cleared, the commander of the Leopard hailed; I could not hear what he said, and was talking to him, as I supposed, when she commenced a heavy fire, which did great execution.

It is distressing to me to acknowledge, that I found from the advantage they had gained over our unprepared and unsuspecting state, did not warrant a longer opposition; nor should I have exposed this ship and crew to so galling a fire had it not been with a hope of getting the gun-deck clear, so as to have made a more formidable defence; consequently our resistance was but feeble. In about twenty minutes after I ordered the colors to be struck, and sent Lieutenant Smith on board the Leopard to inform her commander that I considered the Chesapeake her prize. To this message I received no answer; the Leopard's boat soon after came on board, and the officer who came in her demanded the muster book. I replied the ship and books were theirs, and if he expected to see the men he must find them. They called on the purser who delivered his book, and the men were examined; and the three men demanded at Washington, and one man more, were taken away. On their departure from the ship I wrote the commander of the Leopard the enclosed, (No. 3.) to which I received the answer, (No. 4.) On finding that the men were his only object, and that he refused to consider the ship his prize, and the officers and crew his prisoners, I called a council of our officers, and requested their opinion relative to the conduct it was now our duty to pursue. The result was that the ship should return to Hampton Roads, and there wait your further orders. Enclosed you have a list of the unfortunate killed and wounded, as also a statement of the damage sustained in the hull, spars, and rigging of the ship.

I have sent this letter to you by Captain Gordon, in order that you may have an opportunity of getting such information as you may wish.

With great respect, I have the honor to be, sir, your obedient servant,

JAMES BARRON.

HON. ROBERT SMITH, *Secretary of the Navy, Washington.*

No. 1.

HIS MAJESTY'S SHIP LEOPARD, AT SEA, June 22, 1807.

The captain of His Britannic Majesty's ship Leopard has the honor to enclose the captain of the United States' ship Chesapeake an order from the honorable Vice Admiral Berkeley, commander-in-chief of His Majesty's ships on the North American station, respecting some deserters from the ships (therein mentioned) under his command, and supposed to be now serving as part of the crew of the Chesapeake.

The captain of the Leopard will not presume to say any thing in addition to what the commander-in-chief has stated, more than to express a hope that every circumstance respecting them may be adjusted in a manner that the harmony subsisting between the two countries may remain undisturbed.

To the Commander of the United States' Ship Chesapeake.

No. 2.

AT SEA, June 22, 1807.

I know of no such men as you describe. The officers that were on the recruiting service for this ship were particularly instructed by the Government, through me, not to enter any deserters from His Britannic Majesty's ships, nor do I know of any being here. I am also instructed never to permit the crew of any ship that I command to be mustered by any other but their own officers. It is my disposition to preserve harmony, and I hope this answer to your despatch may prove satisfactory.

JAMES BARRON.

To the Commander of His Britannic Majesty's Ship Leopard.

No. 3.

CHESAPEAKE, AT SEA, June 22, 1807.

I consider the frigate Chesapeake your prize, and am ready to deliver her to any officer authorized to receive her. By the return of the boat I shall expect your answer,

And have the honor to be yours, &c.

JAMES BARRON.

To the Commander of His Britannic Majesty's Ship Leopard.

No. 4.

LEOPARD, AT SEA, June 22, 1807.

SIR:

Having to the utmost of my power fulfilled the instructions of my commander-in-chief, I have nothing more to desire, and must in consequence proceed to join the remainder of the squadron, repeating that I am ready to give you every assistance in my power, and do most sincerely deplore that any lives should have been lost in the execution of a service which might have been adjusted more amicably not only with respect to ourselves, but the nations to which we respectively belong.

I have the honor to be, sir, your obedient humble servant,

S. P. HUMPHREYS.

To the Commander of the United States' Ship Chesapeake.

The purport of the general order said to be issued by Admiral Berkeley was, that each and every vessel of his squadron should take by force, if they could not be obtained by other means, any British deserters that could be found on board the Chesapeake, and that on the part of the commanders of the ships of his squadron a search should be admitted for American deserters.

This, as well as my memory serves me, was the tenor of the paper handed me by the visiting officer of His Britannic Majesty's ship the Leopard, and stated to have been orders recently issued by Admiral Berkeley.

There were several names mentioned in the body of the demand, neither of which was known to us.

Return of dead and wounded on board the frigate Chesapeake, Commodore James Barron, June 23, 1807.

Killed.—John Lawrence, James Arnold, John Shakely.

Badly wounded.—John Haden, Cotton Brown, John Parker, George Percival, Peter Simmons, Robert McDonald, Francis Covnsven, James Epps.

Slightly wounded.—Commodore James Barron, Midshipman James Broom, Peter Elison, William Hendricks, Thomas Short, William Moody, David Creighton, John Marter, Emanuel Fernandy, John Wilson.

J. G. T. HUNT, Surgeon to the Chesapeake.

Captain CHARLES GORDON.

Agreeably to your requisition of this date to us directed, we have taken a strict and careful survey on the hull of the late United States' frigate Chesapeake, and find it as follows:

Twenty-two round shot in her hull, that is to say, twenty-one on the starboard and one on the larboard side. Given under our hands on board the late United States' frigate Chesapeake, June 23, 1807.

BENJAMIN SMITH, Lieutenant.

SIDNEY SMITH, Lieutenant.

SAMUEL BROOKER, Master.

Captain CHARLES GORDON.

Agreeably to your requisition, of this date, to us directed, we have taken a strict and careful survey on the masts and standing rigging of the late United States' frigate Chesapeake, and find them in the following state: The fore and mainmasts are incapable of being made sea-worthy; the mizzenmast badly wounded, but not incapable of being repaired on shore. Three starboard and two larboard main shrouds; two starboard fore shrouds; two starboard mizzen shrouds; main topmast stay; cap bobstay, and starboard main-lift, cut away; likewise the middle stay-sail stay.

Given under our hands on board the late United States' frigate Chesapeake, 23d June, 1807.

BENJAMIN SMITH, 1st Lieutenant.

SIDNEY SMITH, 5th Lieutenant.

SAMUEL BROOKER, Master.

Captain JAMES GORDON.

JUNE 23, 1807.

Agreeably to your requisition of this date, to us directed, we have taken a strict and careful survey on the sails, spare spars, and boats of the late United States' frigate Chesapeake, and find them in the following state: In the foresail four round shot holes, twelve grape shot holes, and the starboard leech cut away. In the main-sail three round shot holes full of grape ditto, and the foot rope cut away. Main topsail, one round shot hole; fore topmast staysail much injured by grape shot. In the spare fore ropemast two twelve pound shot holes, which have rendered it entirely unfit for service. Main skysail-mast cut in two.

The second cutter much injured by a shot hole, which went through and through her; cut both of her masts and three of her arms in two.

First cutter slightly injured.

Given under our hands on board the late frigate Chesapeake.

BENJAMIN SMITH, Lieutenant.

SIDNEY SMITH, Lieutenant.

SAMUEL BROOKER, Master.

Captain CHARLES GORDON.

FRIGATE CHESAPEAKE, HAMPTON ROADS, June 29, 1807.

SIR:

Enclosed I have the honor to forward you an exact copy of this ship's log-book, and have the honor to be, sir, with great respect, your obedient servant,

JAS. BARRON.

Hon. R. SMITH, Secretary of the Navy.

The following is the copy above alluded to:

MONDAY, June 22.—Commences with light breezes from the southward and westward, and clear weather. At 7, A. M., hoisted out the jolly boat, and hoisted in the second cutter; run the jolly boat up astern. At quarter past 7 weighed anchor; made sail with a pleasant breeze from west southwest, and stood out for sea. At 9 passed two of His Britannic Majesty's ships at anchor; stowed the larboard anchor, and secured the boats. At meridian the light on Cape Henry bore southwest by south; people employed in clearing ship for sea. This day ends at meridian, and contains seventeen hours.

TUESDAY, June 23.—Commences with light breezes from the south and west, and clear weather. A ship in sight apparently standing for us. At 1, P. M., the wind hauled to the northward and eastward in studding sails, and hauled upon a wind, and at half past 3 the ship came up with us; backed the main topsail and spoke her; was boarded by her. She proved to be the British ship *Leopard* of fifty guns; they came on board to demand some men who had deserted from the English navy. The commodore refusing to give them up the boat returned; they ranged alongside of us, and commenced a heavy fire. We being unprepared, and the ship much lumbered, it was impossible to clear ship for action in proper time, though every possible exertion was made, and not suspecting an enemy so near, did not begin to clear the deck until the enemy had commenced firing. In about thirty minutes, after receiving much damage in our hull, rigging, and spars, and having three men killed, to wit: Joseph Arnold, Peter Shakely, and John Lawrence, and sixteen wounded, to wit: Commodore Barron, Mr. Broom, John Hadden, Cotton Brown, Peter Ellison, John Parker, George Percival, Peter Summers, Wm. Hendrick, W. Macdonald, Francis Conhoven, Thomas Short, Wm. Moody, David Creighton, John Martyr, James Epps, Emanuel Hendrichs, John Wilson, Wm. Warren, and John Bates; and having one gun ready fired, and hauled down our colors. The *Leopard* ceased firing, sent her boat on board, and mustered the ship's company. At sundown they left the ship, taking with them four men, viz. John Strahan, Daniel Martin, Wm. Ware, and John Wilson, who had deserted from their service; at the same time Lieutenant Allen went on board, and returned at 8 o'clock. The *Leopard* left us, and stood.

We then made sail, and stood in shore, having three and a half feet water in our hold. Crew employed in pumping and working ship in for Hampton Roads; got the anchors clear for coming to. At 6, A. M., took the third reef in the main topsail, and set top gallant sails; held a survey on the masts and rigging. At 8 Cape Henry bore southwest, distance four or five miles; employed ship in for Hampton Roads. At half past meridian came to with the starboard anchor in seven fathom water in Hampton Roads.

B.

NORFOLK, June 29, 1807.

SIR:

The enclosed papers, Nos. 1 and 2, you will perceive, are from the committee of the people of Norfolk, calling on me for aid, with the gunboats under my command, to prevent an invasion which has been threatened by the commanding officer of the British squadron, lying in the vicinity of this place. You will see, sir, by No. 3, my reply. The British commander has also threatened that he will again take possession of the Chesapeake. I have it also from the most unquestionable authority, that they have asserted, positively, that, in case the President should issue a similar order to that issued respecting the *Leander*, they will consider it as an act of hostility, and will commence hostile operations immediately. Under an impression that they will do as they say, I hope and feel satisfied my preparing to act on the defensive will meet the approbation of the President and yourself. If, however, it should be thought I have been precipitate, I beg it may be attributed to my extreme desire not to omit any service I might render my country. The four old gunboats are all that can be immediately equipped for service; those we commenced fitting this morning. They are now entirely ready for the reception of the men, who, I trust, will come forward in sufficient numbers to authorize our proceeding to Hampton to-morrow. Sir, as I have no doubt, from the threats the British have made, we shall have to fight, I shall not leave this until the boats are manned to my satisfaction; to do which it will take one hundred and sixty men. The British, if they attempt any thing against us, it will be in the night, with row-boats, or other boats that they may press. The row-boats belonging to their squadron are capable of carrying five hundred men with ease. This number, if we are full manned, I feel confident of being able to oppose. I beg you, sir, however, to bear in mind that our crews will be composed of volunteers who, notwithstanding their great zeal, will not possess all the skill we could wish. I should, however, be mortified if it were understood I wished to convey an idea that as much should not be expected from us as ought to be expected from any four gunboats; more I hope will not be expected.

The new boats at this place can be in readiness in a short time, should you choose to order it. Although, sir, I shall always be ready to serve my country in any way I can be useful, I hope, sir, if the frigates are to be fitted out, I shall not be continued in gunboats. The gentlemen who have volunteered their services have agreed to stay with us only until such time as we shall hear from Washington what steps will be taken, which will be on Thursday.

I have the honor to be, with sentiments of high respect, sir, your obedient servant,

STEPHEN DECATUR, JUN.

The Hon. ROBERT SMITH, *Secretary of the Navy.*

No. 1.

NORFOLK, June 28, 1807.

SIR:

We take pleasure in presenting to you the resolution of the committee appointed by the inhabitants of this borough, now enclosed. Requesting your answer to the resolution, we are,

With the highest respect, sir, your obedient servants,

THOMAS BLANCHARD,
SETH FOSTER,
J. W. MURDAUGH.

Captain DECATUR.

No. 2.

NORFOLK, June 28, 1807.

Whereas, the committee have received information, from various sources, that the commander of the British ships of war have menaced the inhabitants of Hampton with an invasion for the purpose of procuring water. It is resolved that application be made to Captain Stephen Decatur, commander of the United States' naval force at

this place, to equip the gunboats, by availing himself of the services of the captains and seamen who have professed them, to proceed to Hampton, or as near it as he may judge proper, to co-operate with the people in their defence in any manner he may judge most expedient, or to act as circumstances may dictate in preventing the execution of their threat.

Resolved, That Thomas Blanchard, Seth Foster, and J. W. Murdaugh, be a committee to wait on Captain Decatur with this application.

Extract from the minutes.

THEO. ARMISTEAD, *Secretary of the Committee.*

No. 3.

NORFOLK, *June 28, 1807.*

GENTLEMEN:

I have received your letter of this day, enclosing the resolution of the committee calling on me, as the commander of the naval force at this place, to equip and resist, with the gunboats under my command, a threatened invasion of the territory of the United States by the British, now lying in the waters of the Chesapeake.

Having the fullest confidence that the committee would not have made a request of this nature unless they were fully impressed with a belief that the hostility spoken of was certainly intended, I feel it my duty to repel, as far as I have power, any such attempt that may be made: for which purpose, if a sufficient number of volunteers can be procured, I will repair to Hampton with all possible expedition.

I have the honor to be, with sentiments of high respect, gentlemen, your obedient servant,

STEPHEN DECATUR.

TO THOMAS BLANCHARD, SETH FOSTER, J. W. MURDAUGH, Esqrs.

Extract of a letter from Commodore Stephen Decatur to the Secretary of the Navy, dated

UNITED STATES' FRIGATE CHESAPEAKE, *July 4, 1807.*

When I was honored with your orders I was on board the gunboats; four of them are only wanting men to place them in a complete state of readiness for immediate service. The Chesapeake, when I took command of her, had been brought up into the bite of Craney island, in consequence of the threats of the British. Their movements, sir, are extremely suspicious; since the affair of the Leopard and Chesapeake, they have been at anchor inside the capes, and have brought to, by firing at, every vessel that has passed in or out of the capes. They have sent many insolent and menacing messages to Norfolk: such as, if the people did not supply them with articles they might want, they would come up and retake the Chesapeake, and cut out the French frigate Sibylle. This, sir, from their movements, it is my opinion they intend to attempt. Yesterday afternoon the four British ships came in and anchored in Hampton Roads. This morning they sent their tenders, and sounded quite through the narrows. The present situation of the Chesapeake and Sibylle is such, in consequence of the narrowness of the channel, that if an attempt was made on either of them by the ships, they could not render to each other that support which would be necessary. In consequence of this, I have determined to move up nearer the town, where we shall be able to take such position as will enable us, with the assistance of the fort, to make such a defence as may render abortive any attempt that may be made upon us.

I have just learned that the depth of the water from Hampton Roads to Norfolk will admit of three of the British squadron coming up.

Copy of a letter from Commodore Stephen Decatur, Jun. to the Secretary of the Navy, dated

UNITED STATES' FRIGATE CHESAPEAKE, *July 4, 1807.*

SIR:

I have just been informed by Doctor Bullus, who has returned from Norfolk, that Commodore Douglas, commander of the British squadron, has written to the inhabitants of Norfolk, that, in consequence of some resolves passed by a committee selected from the inhabitants of Norfolk and its vicinity, he has anchored his ships in such a position as to prevent any vessels going to or coming from Norfolk; which he is determined to do, if those resolves are not rescinded.

I have the honor to be, &c.

STEPHEN DECATUR, JUN.

Extract of a letter from Commodore Decatur to the Secretary of the Navy, dated

UNITED STATES' FRIGATE CHESAPEAKE, NORFOLK, *July 8, 1807.*

The menacing letter written by Commodore Douglas to the mayor of Norfolk, he has since stated, verbally, contained no menace; and he has further said, that he has no hostile intention against Norfolk. However, sir, you will see, by the enclosed affidavit, that his actions do not comport with his words. He has lightened his ship since the pacific message he sent to the mayor, and the day before yesterday he fired many shot at an Eastern Shore man. If he makes an attempt to come up with the force they speak of, I think I am not over sanguine when I say I believe they will not all go down again.

Extract of a letter from Commodore Decatur to the Secretary of the Navy, dated

UNITED STATES' FRIGATE CHESAPEAKE, *July 12, 1807.*

The British squadron lying in Hampton Roads bring to every vessel passing to this place, but have not detained any. The Bellona and Leopard continue in their former station in the Roads. The Triumph and Melampus have weighed, and are now at anchor in Lynnhaven bay.

C.

At a Court of Inquiry assembled on board the United States' ship Chesapeake, in the harbor of Norfolk, and State of Virginia, by order of the honorable Robert Smith, Secretary of the Navy of the United States, and con-

tinued by adjournment from day to day, from Monday, the 5th of October, 1807, until Wednesday, the 4th day of November, 1807.

Present, Captain Alexander Murray, *President*.

Captains Isaac Hull and Isaac Chauncey, *Members thereof*.

The following opinion and report was unanimously given, and directed by the court to be transmitted to the Honorable the Secretary of the Navy of the United States.

Pursuant to an order from the Hon. Robert Smith, Secretary of the Navy of the United States, to Captain Alexander Murray directed, dated the twelfth day of September, in the year of our Lord one thousand eight hundred and seven, the court proceeded to inquire into the causes of the surrender of the Chesapeake, a frigate of the United States, then under the command of James Barron, Esq. a captain in the navy of the United States, to a British vessel of war, which surrender was made (as is in the said order stated) without that defence being made which might have been expected from the known valor of Americans; and having heard all the evidence adduced, as well by the Judge Advocate, as by the said Captain James Barron, and having maturely and thoroughly considered the same, (Captain James Barron having declined to offer any defence,) report to the honorable the Secretary of the Navy of the United States, as by his said warrant is required, a state of the matters touching the said surrender, together with their opinion thereon, as followeth:

1. It appears to the court, that the United States' ship Chesapeake, then under the command of James Barron, Esq. a captain in the navy of the United States, sailed from Hampton Roads, on an intended cruise in the Mediterranean sea; on the morning of the 22d of June last past, having on board a crew consisting of more than three hundred and seventy men, and completely equipped with every thing necessary for such a ship of war, sailing on such a cruise.
2. It appears to the court, that Captain Barron was appointed commodore of the ships and vessels destined for the Mediterranean service, on the 15th day of May last past, and hoisted his broad pendant on board the Chesapeake, the first time he came on board of her after her arrival in Hampton Roads; to wit, on or about the 6th day of June last past.
3. It appears to the court, that Commodore Barron visited the Chesapeake only twice during the period she remained in Hampton Roads, and before he came on board to proceed to sea; on neither of which occasions did he examine particularly into her state and condition.
4. It appears to the court, that the guns of the Chesapeake were never exercised before she proceeded to sea; that her crew were quartered but a few days previous to that time, and had never been called to quarters more than three times prior to her sailing for sea.
5. It appears to the court, that the ship was reported to Commodore Barron to be ready for sea, on the 17th day of June, that he came on board on the 21st, and that the ship sailed on the morning of the 22d of June last past.
6. It appears to the court, that antecedent to the sailing of the Chesapeake, there had been received on board of her, some persons who had been claimed by the British Government as deserters from their service, but who were not ordered to be delivered up by the American officers. That there was also a report in circulation, and generally known on board the Chesapeake, that a threat had been used by the captain of the British ship of war Melampus, to take these men from the Chesapeake. That Commodore Barron had full knowledge of the fact, that such men were on board his ship, that they had been demanded by the British Government, and had not been delivered up, the court are perfectly satisfied; but no positive evidence has been adduced to prove, that the report of the threat above mentioned was communicated to him before his ship sailed.
7. It appears to the court, that the Chesapeake, in proceeding from Hampton Roads to sea, passed a British squadron at anchor in Lynnhaven bay, who, at the time of her passing them, were making signals to each other, which was not only reported to Commodore Barron by one of his officers but actually observed by himself.
8. It appears to the court, that the British ship of war Leopard, of fifty guns, one of the squadron then at anchor within the limits of the United States, weighed immediately after these signals were thrown out, and stood to sea.
9. It does not appear to the court, that at this time there was any vessel in sight, or any other object to induce her to go to sea, but the Chesapeake.
10. It appears to the court, that at the time the Leopard got under weigh, the wind was at south southwest, and, therefore, fair for her to proceed to sea; but that, instead of availing herself of this to clear the land, she hauled by the wind, close round Cape Henry, and stood to the southward, under easy sail; thereby showing it was not her intention to get off the land speedily.
11. It appears to the court, that after this the wind became light and baffling, and likely to shift, and came out from the eastward: that when this happened, the Leopard shortened sail, and stood to the eastward.
12. It appears to the court, that after this, the wind did come out about south southeast, and that the Leopard then having thus got the weathergage, preserved it by tacking in shore, when the Chesapeake did so in order to get off her pilot, and after the Chesapeake again stood off to the eastward, that the Leopard wore, and bore down for her.
13. It appears to the court, that when the Leopard tacked and stood in shore, on the same tack with the Chesapeake, that her lower deck ports were all triced up.
14. It appears to the court, that when the Leopard run down for the Chesapeake, she rounded to on her starboard quarter, and to windward of her, and that at this time her tompions were out of her guns.
15. It appears to the court, that Commodore Barron was upon deck, observing the Leopard during the time these manœuvres were practising, and these appearances exhibited.
16. The court is of opinion, that the circumstances above stated were in themselves so suspicious, as to have furnished sufficient warning to a prudent, discreet, and attentive officer, of the probable designs of a ship of war conducted in that way, and ought to have induced Commodore Barron to have prepared his ship for action, especially with the information he possessed of the situation of his crew generally, of those who had been demanded by the British Government particularly, and of the general state of the ship at that time.
17. It appears to the court, that Commodore Barron, nevertheless, did not order his ship to be cleared for action, and that he did not call his men to quarters.
18. It appears to the court, that when the Leopard came alongside of the Chesapeake, an officer was sent from her, with a communication from Captain Humphreys, the captain of the Leopard, to Commodore Barron, which the latter could not, and did not misunderstand, but very correctly concluded to be a demand with which he ought not, and could not comply, and one which, if refused, would be enforced, if possible.
19. It appears to the court, that although such was the situation and impression of Commodore Barron at this time, yet that he did not still order his ship to be prepared for action, although ample time was allowed for that purpose, the British officer being detained on board the Chesapeake from thirty-five to forty-five minutes.

20. The court is of opinion, that the neglect of Commodore Barron to prepare his ship for action under such circumstances, is a direct breach of the fourth article of the rules and regulations for the government of the navy of the United States, adopted by an act of the Congress of the United States, passed on the 23d day of April, 1800, entitled "An act for the better government of the navy of the United States."

21. It appears to the court, that after the British officer left the Chesapeake, bearing a positive refusal from Commodore Barron to the demand which had been made by Captain Humphreys, and after Commodore Barron was himself satisfied that an attack upon his ship would be made, he did not take prompt, necessary, and efficient means to prepare his ship for battle. That his first order was merely to clear his gun-deck, and the second, given after the lapse of some time, was, to get his men to quarters secretly, without beat of drum; although, with such a crew as he had on board, and in such a situation as the ship then was, it was not to be expected that such orders could be effectually accomplished.

22. It appears to the court, that the conduct of Commodore Barron, during the attack of the *Leopard*, manifested great indecision, and a disposition to negotiate, rather than a determination bravely to defend his ship; that he repeatedly hailed the *Leopard* during her attack upon him; that he drew his men from their guns, to lower down boats, to send on board the attacking ship; and that he ordered his first lieutenant from his quarters during the attack, to carry a message on board the *Leopard*, at that time firing upon him.

23. It appears to the court, that during the attack, Commodore Barron used language, in the presence of his men, calculated to dispirit his crew, by ordering them to keep down, that they would all be cut to pieces.

24. It appears to the court, that Commodore Barron ordered the colors of the *Chesapeake* to be struck, and they were struck before a single gun of any kind was fired from her, and that at the time they were so struck, her main-deck battery was in a situation which would have enabled the return of a broadside in a very short time.

25. The court is therefore of opinion, that the *Chesapeake* was prematurely surrendered, at a time when she was nearly prepared for battle, and when the injuries sustained either in the ship or crew did not make such a surrender then necessary; and that for this, Commodore Barron falls under a part of the sixth article of the rules and regulations for the government of the navy of the United States, adopted by an act of the Congress of the United States, passed on the 23d day of April, 1800, entitled "An act for the better government of the navy of the United States."

26. The court is of opinion, that although the conduct of Commodore Barron, before and during the attack of the *Leopard*, evinced great inattention to his duty, and want of decision, yet that, during that attack, he exposed his person, and did not manifest, either by his orders or actions, any personal fear or want of courage.

27. It appears to the court, that although the *Chesapeake* might and ought to have been better defended than she was, yet that she was not in a situation, at the time of the attack made upon her, to have enabled so gallant a defence being made as might be expected. Some of her guns were not securely fitted in their carriages, some of her sponges and wads were too large, but few of her powder-horns were filled, her matches were not primed, some of her rammers were not in their proper places, her marines were neither supplied with enough cartridges, nor were those of which they had of the proper size. None of these circumstances, however, could have influenced Commodore Barron in striking his colors, because they were not known to him at the time.

28. The court is of opinion, that the conduct of all the other officers of the ship, except those whose duty it was to have remedied the deficiencies before stated, and of the crew generally, was proper, commendable, and honorable.

L. W. TAZEWELL, *Judge Advocate.*

10th CONGRESS.]

No. 206.

[1st Session.

GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 19, 1807.

To the House of Representatives of the United States:

NOVEMBER 19, 1807.

According to the request expressed in your resolution of the 18th instant, I now transmit a copy of my proclamation interdicting our harbors and waters to British armed vessels, and forbidding intercourse with them, referred to in my message of the 27th of October last.

TH: JEFFERSON.

By Thomas Jefferson, President of the United States of America.

A PROCLAMATION.

During the wars which, for some time, have unhappily prevailed among the Powers of Europe, the United States of America, firm in their principles of peace, have endeavored, by justice, by a regular discharge of all their national and social duties, and by every friendly office their situation has admitted, to maintain with all the belligerents their accustomed relations of friendship, hospitality, and commercial intercourse. Taking no part in the questions which animate these Powers against each other, nor permitting themselves to entertain a wish but for the restoration of general peace, they have observed with good faith the neutrality they assumed; and they believe that no instance of a departure from its duties can be justly imputed to them by any nation. A free use of their harbors and waters, the means of refitting and of refreshment, of succor to their sick and suffering, have, at all times, and on equal principles, been extended to all, and this, too, amidst a constant recurrence of acts of insubordination to the laws, of violence to the persons, and of trespasses on the property of our citizens, committed by officers of one of the belligerent parties received among us. In truth, these abuses of the laws of hospitality have, with few exceptions, become habitual to the commanders of the British armed vessels hovering on our coasts, and frequenting our harbors. They have been the subject of repeated representations to their Government. Assurances have been given that proper orders should restrain them within the limits of the rights and of the respect due to a friendly nation; but these orders and assurances have been without effect; no instance of punishment for

past wrongs has taken place. At length a deed, transcending all we have hitherto seen or suffered, brings the public sensibility to a serious crisis, and our forbearance to a necessary pause. A frigate of the United States, trusting to a state of peace, and leaving her harbor on a distant service, has been surprised and attacked by a British vessel of a superior force, one of a squadron then lying in our waters and covering the transaction, and has been disabled from service, with the loss of a number of men killed and wounded. This enormity was not only without provocation or justifiable cause, but was committed with the avowed purpose of taking by force, from a ship of war of the United States, a part of her crew; and that no circumstance might be wanting to mark its character, it had been previously ascertained that the seamen demanded were native citizens of the United States. Having effected her purpose she returned to anchor with her squadron within our jurisdiction. Hospitality under such circumstances ceases to be a duty: and a continuance of it, with such uncontrolled abuses, would tend only, by multiplying injuries and irritations, to bring on a rupture between the two nations. This extreme resort is equally opposed to the interests of both, as it is to assurances of the most friendly dispositions on the part of the British Government, in the midst of which this outrage has been committed. In this light the subject cannot but present itself to that Government, and strengthen the motives to an honorable reparation of the wrong which has been done, and to that effectual control of its naval commanders, which alone can justify the Government of the United States in the exercise of those hospitalities it is now constrained to discontinue.

In consideration of these circumstances and of the right of every nation to regulate its own police, to provide for its peace and for the safety of its citizens, and consequently to refuse the admission of armed vessels into its harbors or waters, either in such numbers or of such descriptions, as are inconsistent with these, or with the maintenance of the authority of the laws, I have thought proper, in pursuance of the authorities specially given by law, to issue this my Proclamation, hereby requiring all armed vessels bearing commissions under the Government of Great Britain, now within the harbors or waters of the United States, immediately and without any delay to depart from the same, and interdicting the entrance of all the said harbors and waters to the said armed vessels, and to all others bearing commissions under the authority of the British Government.

And if the said vessels, or any of them, shall fail to depart as aforesaid, or if they or any others, so interdicted, shall hereafter enter the harbors or waters aforesaid, I do in that case forbid all intercourse with them, or any of them, their officers or crews, and do prohibit all supplies and aid from being furnished to them or any of them.

And I do declare, and make known, that if any person from or within the jurisdictional limits of the United States, shall afford any aid to any such vessel contrary to the prohibition contained in this Proclamation, either in repairing any such vessel, or in furnishing her, her officers or crew, with supplies of any kind, or in any manner whatsoever, or if any pilot shall assist in navigating any of the said armed vessels, unless it be for the purpose of carrying them, in the first instance, beyond the limits and jurisdiction of the United States, or unless it be in the case of a vessel forced by distress, or charged with public despatches as hereinafter provided for, such person or persons shall, on conviction, suffer all the pains and penalties by the laws provided for such offences.

And I do hereby enjoin and require all persons bearing office, civil or military, within or under the authority of the United States, and all others, citizens or inhabitants thereof, or being within the same, with vigilance and promptitude to exert their respective authorities, and to be aiding and assisting to the carrying this Proclamation, and every part thereof, into full effect.

Provided nevertheless, that if any such vessel shall be forced into the harbors or waters of the United States, by distress, by the dangers of the sea, or by the pursuit of an enemy, or shall enter them charged with despatches or business from their Government, or shall be a public packet for the conveyance of letters and despatches, the commanding officer immediately reporting his vessel to the collector of the district, stating the object or cause of entering the said harbors or waters, and conforming himself to the regulations in that case prescribed under the authority of the laws, shall be allowed the benefit of such regulations respecting repairs, supplies, stay, intercourse, and departure, as shall be permitted under the same authority.

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

Given at the city of Washington the 2d day of July, in the year of our Lord 1807, and of the sovereignty and independence of the United States the thirty-first.

TH: JEFFERSON.

By the President:

JAMES MADISON, *Secretary of State.*

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, DECEMBER 8, 1807.

DECEMBER 7, 1807.

Gentlemen of the Senate and House of Representatives:

Having recently received from our late minister plenipotentiary at the court of London a duplicate of despatches, the originals of which have been sent by the Revenge schooner, not yet arrived, I hasten to lay them before both Houses of Congress. They contain the whole of what has passed between the two Governments on the subject of the outrage committed by the British ship Leopard on the frigate Chesapeake. Congress will learn from these papers the present state of the discussion on that transaction, and that it is to be transferred to this place by the mission of a special minister.

While this information will have its proper effect on their deliberations and proceedings respecting the relations between the two countries, they will be sensible that, the negotiation being still pending, it is proper for me to request that the communications may be considered as confidential.

TH: JEFFERSON.

10th CONGRESS.]

No. 208.

[1st Session.

GREAT BRITAIN AND FRANCE.

COMMUNICATED TO CONGRESS, DECEMBER 18, 1807.

DECEMBER 18, 1807.

To the Senate and House of Representatives of the United States:

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise, are threatened, on the high seas and elsewhere, from the belligerent powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.

TH: JEFFERSON.

[TRANSLATION.]

Extract of a letter from the Grand Judge, Minister of Justice, to the Imperial Attorney General for the Council of Prizes.

PARIS, September 18, 1807.

SIR:

I have submitted to His Majesty the Emperor and King the doubts raised by His Excellency the Minister of Marine and Colonies, on the extent of certain dispositions of the Imperial Decree of the 21st November, 1806, which has declared the British Isles in a state of blockade. The following are His Majesty's intentions on the points in question:

1. May vessels of war, by virtue of the Imperial Decree of the 21st November last, seize, on board neutral vessels, either English property, or even all merchandise proceeding from the English manufacturers or territory?

Answer. His Majesty has intimated that, as he did not think proper to express any exception in his decree, there is no ground for making any in its execution, in relation to any whomsoever, (a l'égard de qui que ce peut être.)

2. His Majesty has postponed a decision on the question, whether armed French vessels ought to capture neutral vessels bound to or from England, even when they have no English merchandise on board.

REGNIER.

[NOTE. That a proclamation on the subject of impressments has been published by the British Government has been officially made known; but not the instrument itself. The enclosed form, however, has been published in such a manner as to leave no doubt of its correctness substantially. TH: J.]

[From the London Gazette, October 17.]

BY THE KING.

A PROCLAMATION,

For recalling and prohibiting British seamen from serving foreign Princes and States.

GEORGE R.

Whereas it hath been represented unto us, that great numbers of mariners and seafaring men, our natural born subjects, have been enticed to enter into the service of foreign states, and are now actually serving, as well on board the ships of war belonging to the said foreign states, as on board the merchant vessels belonging to their subjects, notwithstanding our former Proclamation recalling them, contrary to the duty and allegiance which our said subjects owe unto us, and to the great disservice of their native country; we have therefore thought it necessary, at the present moment, when our kingdom is menaced and endangered, and when the maritime rights on which its power and greatness do mainly depend, are disputed and called in question, to publish, by and with the advice of our privy council, this our Royal Proclamation: We do hereby strictly charge and command all masters of ships, pilots, mariners, shipwrights, and other seafaring men, being our natural born subjects, who may have been enticed into the pay or service of any foreign state, or do serve in any foreign ship or vessel, that forthwith they and every of them do (according to their bounden duty and allegiance, and in consideration that their native country hath need of all their services) withdraw themselves, and depart from, and quit such foreign service, and do return home to their native country; or do enter on board such of our ships of war as they may chance to fall in with, either on the high seas, or in any rivers, waters, havens, roads, ports, or places, whatsoever or where-soever.

And, for the better execution of the purposes of this our Royal Proclamation, we do authorize and command all captains, masters, and others, commanding our ships and vessels of war, to stop and make stay of all and every such person or persons (being our natural born subjects) as shall endeavor to transport or enter themselves into the service of any foreign state, contrary to the intent and command of this our Royal Proclamation, and to seize upon, take, and bring away, all such persons as aforesaid, who shall be found to be employed or serving in any foreign merchant ship or vessel as aforesaid; but we do strictly enjoin all such our captains, masters, and others, that they do permit no man to go on board such ships and vessels belonging to states at amity with us, for the purpose of so seizing upon, taking, and bringing away, such persons aforesaid, for whose discreet and orderly demeanor the said captains cannot answer; and that they do take especial care that no unnecessary violence be done or offered to the vessel, or to the remainder of the crew, from out of which such persons shall be taken.

And in case of their receiving information of any such person or persons being employed or serving on board of any ship of war belonging to such foreign state at amity with us, we do authorize and command our captains, masters, and others, commanding our ships of war, to require of the captain or commander of such foreign ship of war, that he do forthwith release and discharge such person or persons, being our natural born subject or subjects; and if such release and discharge shall be refused, then to transmit information of such refusal to the commander-in-

chief of the squadron under whose orders such captain or commander shall be then serving; which information the said commander-in-chief is hereby strictly directed and enjoined to transmit, with the least possible delay, to our minister resident residing at the seat of Government of that state to which the said foreign ship of war shall belong, or to our Lord High Admiral, or Lords Commissioners of the Admiralty for the time being, in order that we, being apprized of such proceeding, may forthwith direct the necessary steps to be taken for obtaining redress from the Government to which such foreign ship of war shall belong, for the injury done to us by the unwarranted detention of our natural born subjects in the service of a foreign state.

And whereas it has been further represented unto us, that divers mariners and seafaring men, our natural born subjects, have been induced to accept letters of naturalization, or certificates of citizenship, from foreign states; and have been taught to believe that, by such letters or certificates, they are discharged from that duty of allegiance which, as our natural born subjects, they owe to us; now we do hereby warn all such mariners, seafaring men, and others, our natural born subjects, that no such letters of naturalization, or certificates of citizenship, do, or can, in any manner, divest our natural born subjects of the allegiance, or in any degree alter the duty which they owe to us their lawful sovereign. But, in consideration of the error into which such mariners and seafaring men as aforesaid may have been led, we do hereby publish and declare our free pardon to all such our subjects, who, repenting of the delusion under which they have acted, shall immediately, upon the knowledge of this our Royal Proclamation, withdraw themselves from foreign service, and return to their allegiance to us; and we do declare that all such our subjects, who shall continue in the service of foreign states, in disregard and contempt of this our Royal Proclamation, will not only incur our just displeasure, but are liable to be proceeded against for such contempt, and shall be proceeded against accordingly; and we do hereby declare, that if any such masters of ships, pilots, mariners, seamen, shipwrights, or other seafaring men, (being our natural born subjects,) shall be taken in any foreign service by the Algerines, or other Barbary powers, and carried into slavery, they shall not be reclaimed by us as subjects of Great Britain.

And we do hereby notify, that all such our subjects as aforesaid, who have voluntarily entered, or shall enter, or voluntarily continue to serve on board of any ships of war belonging to any foreign state at enmity with us, are and will be guilty of high treason; and we do by this our Royal Proclamation declare, that they shall be punished with the utmost severity of the law.

Given at our Court at the Queen's Palace, the sixteenth day of October, one thousand eight hundred and seven, and in the forty-seventh year of our reign.

GOD SAVE THE KING.

10th CONGRESS.]

No. 209.

[1st SESSION.

TRIPOLI—HAMET CARAMALLI.

REPORTED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 18, 1807.

The committee to whom was referred the letter of William Eaton, communicating a memorial from Hamet Caramalli, ex-Bashaw of Tripoli, report:

That the memorial is dated "Syracuse, the 18th of February, 1807," in which the memorial states, that he has sacrificed all his means of support, and exposed his life in the service of the United States; that he is in exile at Syracuse, far from his family, and deprived of every convenience of life; that he had hoped to be recompensed by an equivalent to his usefulness and to his sacrifices; that the promises made to him admitted no suspicion that so much time would have elapsed, and that hope not yet realized. He complains of the delay in affording him relief, and appeals to the magnanimity of Congress to restore to him his family, and to grant him a competent support.

The committee, having examined the subject, find the following to be a brief statement of the facts relative to the situation of the memorialist, and his claim to further remuneration from this Government.

The memorialist, Hamet Caramalli, being driven from the throne of Tripoli by his younger brother, the present reigning Bashaw; having made various unsuccessful efforts to regain it, and still meditating the recovery of his inheritance; in 1804, while the United States were prosecuting a war with that State, it was represented to the Executive that a co-operation with our forces was desirable to the ex-Bashaw; but, in order to enable him to carry on his operations with greater effect, it would be necessary to furnish him with arms, ammunition, and some money.

Considering that concerted operations with him against the reigning Bashaw, who was then his as well as our common enemy, was justifiable, and might be productive of beneficial effects to both, without binding this Government to pursue the war any longer than to effect the objects for which it was commenced, the Executive authorized Commodore Barron, then proceeding with his squadron to the Mediterranean, to enter into such an understanding with the ex-Bashaw, if he should deem it useful to co-operate with him; and, in that case, to furnish him with arms, ammunition, and money, to a moderate extent.

It appears to the committee, that Commodore Barron perfectly understood his instructions, to go no further than to authorize a co-operation with the ex-Bashaw, leaving the agents of our Government at full liberty to conclude a peace with the regency of Tripoli, whenever such terms should be offered by that Power, as our agent, authorized to negotiate a treaty and conclude such peace, should think proper to accept of; and the commodore's letter to General Eaton, who joined the ex-Bashaw in his operations by land, appears to be conformable to that opinion of his powers.

That, when the ex-Bashaw, with the aid of General Eaton and a number of other Americans, and with the assistance of the arms and other supplies furnished by Commodore Barron, had recovered the city of Derne, and the possession of that province, from which he had formerly been driven, overtures of peace were made by the reigning Bashaw to our agent, Mr. Lear, and a peace concluded with that regency.

That, in one of the articles of this treaty it is stipulated, that the Americans will use all the means in their power to persuade the ex-Bashaw to withdraw from the territory of the reigning Bashaw, but not employ force or improper means to effect it; and, in case he should withdraw himself as aforesaid, the reigning Bashaw engaged to deliver up to him his wife and children. It appears, however, to the committee, that the influence and resources of the ex-Bashaw were so small, although in possession of that province, that he, himself, considered it necessary to his own safety that he should withdraw; and, therefore, this circumstance can form no ground of a claim on this Government; and, that the stipulation in the treaty, on the part of the reigning Bashaw, to deliver up his wife and children, in case he should so withdraw himself, was not in consequence of any previous engagement, on the part of this Government, to effect that object.

That the ex-Bashaw left Derne in June, and arrived at Syracuse in July, 1805, and that he still resides at that place, with a few of his followers or suite, which are said to be about twelve or fifteen in number.

That, from the 12th of July, 1805, to the 12th of May, 1807, he received from Mr. Dyson, navy agent, on an order issued by Commodore Rodgers, two hundred dollars per month, amounting to four thousand four hundred dollars; and that, in the month of May or June last, the further sum of two thousand four hundred dollars, appropriated by an act, passed 21st April, 1806, was also paid him, amounting, in the whole, to six thousand eight hundred dollars; by which it will be seen, that, at the date of his memorial, he was receiving, regularly, two hundred dollars per month; and that, since its date, he has also received two thousand four hundred dollars.

That, although the wife and children of the ex-Bashaw were not delivered up on the 3d of June last, nor any provision made, by the reigning Bashaw for his support, yet he had given assurances to the American consul at Tripoli, that the wife and children would be delivered at any time a conveyance could be procured for them; and that expectations were entertained by the consul, that the ruling Bashaw would make some pecuniary arrangements for his brother and the other exiles.

From this view of the subject, although the United States are not under any obligation to support the ex-Bashaw, or to have given him what has already been bestowed, yet as an act of generosity, on the part of Government, towards an individual who may have rendered it services, and whose expectations may have been improperly raised, in relation to the transaction which is the cause of the present application, the committee are of opinion, that a sum, in addition to what has already been paid to him, should be placed in the power of the Executive, to be paid over, under his direction, to the said ex-Bashaw; but with the understanding, that he is not to expect any further pecuniary aid from this Government. The committee, therefore, submit the following resolution for the consideration of the House:

Resolved, That the sum of ——— dollars be, and the same is hereby appropriated, out of any money in the treasury, not otherwise appropriated, to be paid under the direction of the President of the United States, to Hamet Caramalli, ex-Bashaw of Tripoli.

SIR:

WASHINGTON CITY, *November 3, 1807.*

I beg leave, through the medium of the chair, to lay the enclosed communication before the Representatives of the United States in Congress.

I have the honor to be, very respectfully, sir, your most obedient servant,

WILLIAM EATON.

To the Hon. the SPEAKER of the *House of Representatives.*

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Since the adjournment of the first session of the ninth Congress, I have received, at different times, communications from Hamet Caramalli, ex-Bashaw of Tripoli, stating his distressed situation, and imploring relief from the beneficence of the United States; which communications have been transmitted to the proper department. I have the honor to offer, for the consideration of Congress, a translated copy of the last address from him, (the original in Italian is in the office of the Department of State,) which is evidently intended for the representatives of the people of the United States, and is as follows:

To their most Serene Highnesses:

SYRACUSE, *February 18, 1807.*

In the depth of my miseries, my only consolation has been the reliance I placed on the powerful support of a republic so distinguished throughout the world for that justice which protects and sustains whoever confides himself to her patronage. This credulity resigned me wholly to her discretion. But I could never have thought that this my confidence should work out my individual destruction. I have sacrificed all my means, and exposed my life in the service of the United States. It was impossible for me to expect, by way of recompense, an exilement in Syracuse far from my family, and deprived of every convenience of life. I hoped to be recompensed by an equivalent to my usefulness and to my sacrifices. The promises made to me admitted no suspicion that so much time should have elapsed and that hope not yet realized; or that I should not yet have found repose. Public ships of war have repeatedly returned hither which had been bearers of my communications. Seeing myself nevertheless unnoticed, I suspect my letters have been miscarried; for it is impossible to persuade me, my circumstances and wants being known to them, that the United States would abandon me.

My situation does not enable me to undertake a long voyage for the purpose of making a personal representation of my deplorable condition. I hope the exalted republic will not require this of me, in order to awaken their feelings to my just expressions of solicitude and concern for myself: it would be unjust to neglect my complaints, and severely felt by those who occasion them.

I have lost my family; I have lost my inheritance; my acquisitions and my fair prospects are lost also. I have, indeed, sacrificed my claim to the confidence of a faithful ally,* whom I abandoned through my partiality to the Americans. I had no right to apprehend that my devotion and my placency would overwhelm me in bottomless ruin.

To my own individual sufferings I ought to annex also those of my faithful people, whose attachment to me has involved in the same wretchedness; who suffer with me the same sequestration from their country, from their families, and from their property: all which they have left through violations of those whose duty it was to sustain them.

I will not, like the world, reproach the representatives of the American nation with ingratitude. I rather implore their commiseration towards me; at least so far as to restore to me my family, and to grant me a competence.

* Elfi Bey.

It is yet possible that, absent from my own country, I may become serviceable to the United States. My former subjects are ever ready to devote their lives to my service: mine with theirs I will hold ever ready to devote to that of the exalted republic,

And am, forever, most Serene Highnesses,
HAMET BASHAW CARAMALLI, *Son of Ali Bashaw, &c.*

Some expectations have been lately entertained by our Government, from the representations of Consul Davis, that provisions would be made by the ruling Bashaw of Tripoli for the subsistence of his exiled brother. But upon information directly from Syracuse, by George Dyson, Esq. navy agent of the United States, now in this city, it is rendered *certain*, that no relief can be relied on from that quarter; and *probable*, that whatever encouragement of this nature had been held out by the usurper, it had no other object than to betray his brother to destruction.

Having had myself the chief influence, as an agent of the United States, in drawing the ex-Bashaw from his situation in Upper Egypt; and having, in conformity to treaty arrangements, been instrumental in reconciling him to the unparalleled reverse of abandoning his flattering prospects; of relinquishing forever his hopes of recovering the kingdom wrested from him by treason, and now apparently within his grasp; and of receding from victory, like a prisoner, to a land of strangers. Having effected this by the assurances which I was authorized to make to him, that his wife and family should be restored to him, and that a manly respect to his future well-being would be had by our country, it may not be deemed inconsistent with the dictates of commiseration towards the supplicant, nor with my duties of respect towards the honorable body to whom his supplications are addressed, if I indulge a remark on the occasion.

It is remarkable, for it is an incontestable truth that, whether the claims of the ex-Bashaw go to the *justice* or the *generosity* of the United States, the use which was made of his services contributed much if not wholly influenced the overtures of peace on the part of the ruling Bashaw; for it was negotiated at a time when no coercion of our squadron then in the Mediterranean had as yet been attempted to be tried upon him, and when the infirmities of Commodore Barron placed such an experiment at an incalculable distance. That no serious impressions had from any quarter been made on the apprehensions of the enemy after the transfer of the squadron from Commodore Preble to Commodore Barron, except what were impressed by the capture and subjugation of his eastern province, the internal revolution of his kingdom, and the annihilation of his army through the influence and co-operation of Hamet Bashaw. That the United States alone enjoy the advantages resulting from those events, while the ex-Bashaw, as he has truly represented, reaps no other benefit from his confidence and his exertions than privation and exile, but a little better than captivity.

It cannot be contested that Hamet Bashaw has two fair claims on this nation. *To be reinstated in a situation as eligible as that from which he has been drawn, and to have his family restored to him:* the former guaranteed by honorable promises, the latter by the solemnity of treaty stipulation. And it is firmly believed the people of the United States are liberally disposed to see those obligations cancelled.

From a country blessed beyond the common lot of nations, rich in her means, and proud in the righteousness of her dispositions, does not *honor, justice, and humanity*, give the world a right to expect that the hand of charity at least will be opened to a friend whom, without his fault or free agency, and from causes so notorious, accident has thrown into misery so profound as this unfortunate prince now suffers?

It ought not to be concealed from Congress also, that there are at Malta and elsewhere sundry foreigners, Frenchmen, Greeks, and Mahometans, whose wounds received in the service of the United States in the province of Derne render them incapable of acquiring a subsistence, and to whose cases no provisions made by law can be extended.

Most respectfully submitted.

WILLIAM EATON.

General Eaton to General Thomas.

SIR:

My statement to the Speaker of the House of Representatives, February 20, 1804, and to the Secretary of the Navy of August, 1805, are fair indices to all our engagements with Hamet Caramalli, ex-Bashaw of Tripoli, and to the result of the measures concerted with him. Much document concerning this subject has been exhibited, both to the committee of the Senate and to that of the House of Representatives, who had it under consideration during the first session of the ninth Congress; to which recurrence may now be had for information.

The general instructions from the Secretary of the Navy of 1804-5 to the commander-in-chief of the expedition, Commodore Barron, and the instructions of the Secretary of State of June 6, 1804, and April 20, 1805, to the commissioner, Mr. Lear, show the views and expectations of Government, both in regard to the operations of the force provided for the Mediterranean, and to the terms on which peace might be concluded. It will appear, on examination, that in both Government have been disappointed. To those exhibits, and the comments of the committee of the Senate thereon, in their report, it seems nothing need be added to enable your committee to form a clear opinion on the subject referred to them.

The following copy of an order from Commodore Rodgers, and the statement annexed, show the provisions passed to the Bashaw since our having removed him from the province of Derne, in his kingdom:

U. S. SHIP CONSTITUTION, SYRACUSE, July 12, 1805.

SIR:

For the subsistence of Hamet Bashaw, you will be pleased to pay him two hundred Spanish dollars per month, on account of the United States, giving him one month in advance.

This order to continue in force until the pleasure of the Government of the United States shall be made known to you through a regular channel; observing, at the same time, that, on his leaving this island without my consent, you are to consider this obligation as no longer obliging you to make him any further advances on account of the United States.

I have the honor to be, sir, your obedient servant,

JOHN RODGERS.

GEORGE DYSON, Esq. *United States' Navy Agent, Syracuse.*

I certify the above to be a true copy from the original:

GEORGE DYSON.

WASHINGTON CITY, November 12, 1807.

On the within order, Mr. Dyson paid him, up to the 12th of May, 1807, \$4,400; and, in the end of May, or beginning of June of the same year, the further sum of \$2,400, agreeably to special appropriation, amounting to \$6,800.

The number of the Bashaw's suite, on arrival at Syracuse, was about forty, attached to his person; that number is reduced, by death or desertion, to about twelve or fifteen.

The moveable property, consisting of horses, camels, arms, and clothing, which he abandoned at Derne, did not exceed \$50,000. But when drawn from Upper Egypt, he was at the head of the Mameluke Arabs, as General-in-chief, in alliance with Elfi Bey. He cannot return thither.

The sum of \$30,000 or \$40,000 might be considered a generous provision for his future subsistence; but, to enable him to enjoy it, he should be removed to some part of the Turkish dominions.

Very respectfully, sir,

WILLIAM EATON.

Hon. GENERAL THOMAS,

Chairman of the Committee on the memorial of Hamet Caramalli.

The Secretary of State to Mr. Thomas.

DEPARTMENT OF STATE, November 11, 1807.

SIR:

In answer to your letter of the 10th instant, making certain inquiries relative to the ex-Bashaw of Tripoli, I have the honor to observe, that the execution of the act of Congress appropriating \$2,400 to his immediate relief having taken place through the Navy Department, the information requested on that point does not belong to this.

On the other points, I have to state that the wife and children of the ex-Bashaw had not been delivered up on the 3d of June last; but the reigning Bashaw had given assurances to the American consul at Tripoli, that it would be done at any time when a conveyance should be procured for them; and expectations were entertained by the consul that some pecuniary arrangement would also be made by the reigning Bashaw for the exiles; to what precise or probable amount is not explained.

I have the honor to be, with great respect, sir, your most obedient servant,

JAMES MADISON.

Hon. DAVID THOMAS, *Chairman of a Committee of Congress.*

The Secretary of the Navy to Mr. Thomas.

NAVY DEPARTMENT, November 16, 1807.

SIR:

I have had the honor of receiving your letter of the 13th instant.

The sum of \$2,400 appropriated by act of Congress of 21st April, 1806, for the relief of Hamet Caramalli, ex-Bashaw of Tripoli, was remitted to the officer commanding the naval forces in the Mediterranean, in June, 1806; and although the Navy Department does not possess any official information as to the fact of this money having been paid over to Hamet Caramalli, yet there exists good reason to presume that it was paid to him; that in May, 1807, \$1,000, part of the \$2,400, was paid to him, and that in June, 1807, the balance, viz. \$1,400, was paid to him.

The commanding officer to whom the remittance was made has lately arrived in the country, and will shortly exhibit his accounts for settlement, when full information will be afforded upon the subject of these payments.

I have the honor to be, respectfully, sir, your obedient servant,

ROBERT SMITH.

Hon. DAVID THOMAS,

Chairman of Committee upon Hamet Caramalli's petition, &c.

10th CONGRESS.]

No. 210.

[1st SESSION.]

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, FEBRUARY 4, 1808.

To the Senate and House of Representatives of the United States:

Having received an official communication of certain orders of the British Government against the maritime rights of neutrals, bearing date the 11th of November, 1807, I transmit them to Congress as a further proof of the increasing dangers to our navigation and commerce which led to the provident measure of the act of the present session laying an embargo on our own vessels.

TH: JEFFERSON.

FEBRUARY 2, 1808.

At the Court at the Queen's Palace, the 11th November, 1807, present, the King's Most Excellent Majesty in Council.

Whereas certain orders, establishing an unprecedented system of warfare against this kingdom, and aimed especially at the destruction of its commerce and resources, were, sometime since, issued by the Government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation all vessels, with their cargoes, which should continue to trade with His Majesty's dominions:

And whereas by the same orders, "all trading in English merchandise is prohibited, and every article of merchandise belonging to England, or coming from her colonies, or of her manufacture, is declared lawful prize."

And whereas the nations in alliance with France, and under her control, were required to give, and have given, and do give, effect to such orders:

And whereas His Majesty's order of the 7th of January last has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation, but, on the contrary, the same have been recently enforced with increased rigor.

And whereas His Majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights, and for supporting that maritime power which the exertions and valor of this people have, under the blessing of Providence, enabled him to establish and maintain; and the maintenance of which is not more essential to the safety and prosperity of His Majesty's dominions, than it is to the protection of such states as still retain their independence, and to the general intercourse and happiness of mankind:

His Majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe, from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, shall, from henceforth, be subject to the same restrictions in point of trade and navigation, with the exceptions hereinafter mentioned, as if the same were actually blockaded by His Majesty's naval forces in the most strict and rigorous manner. And it is hereby further ordered and declared, that all trade in articles which are of the produce or manufacture of the said countries, or colonies, shall be deemed and considered to be unlawful; and that every vessel trading from or to the said countries, or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries, or colonies, shall be captured, and condemned as prize to the captors.

But although His Majesty would be fully justified, by the circumstances and considerations above recited, in establishing such system of restrictions with respect to all the countries and colonies of his enemies, without exception or qualification; yet His Majesty, being nevertheless desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrying into effect His Majesty's just determination to counteract the designs of his enemies, and to retort upon his enemies themselves the consequences of their own violence and injustice; and being yet willing to hope that it may be possible (consistently with that object) still to allow to neutrals the opportunity of furnishing themselves with colonial produce for their own consumption and supply; and even to leave open, for the present, such trade with His Majesty's enemies as shall be carried on directly with the ports of His Majesty's dominions, or of his allies, in the manner hereinafter mentioned;

His Majesty is therefore pleased further to order, and it is hereby ordered, that nothing herein contained shall extend to subject to capture or condemnation any vessel, or the cargo of any vessel, belonging to any country not declared by this order to be subjected to the restrictions incident to a state of blockade, which shall have cleared out with such cargo from some port or place of the country to which she belongs, either in Europe or America, or from some free port in His Majesty's colonies, under circumstances in which such trade from such free ports is permitted, direct to some port or place in the colonies of His Majesty's enemies, or from those colonies direct to the country to which such vessel belongs, or to some free port in His Majesty's colonies, in such cases, and with such articles, as it may be lawful to import into such free port; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall have cleared out from some port or place in this kingdom, or from Gibraltar or Malta, under such regulations as His Majesty may think fit to prescribe, or from any port belonging to his Majesty's allies, and shall be proceeding direct to the port specified in her clearance; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall be coming from any port or place in Europe which is declared by this order to be subject to the restrictions incident to a state of blockade, destined to some port or place in Europe belonging to His Majesty, and which shall be on her voyage direct thereto; but these exceptions are not to be understood as exempting from capture or confiscation any vessel or goods which shall be liable thereto in respect of having entered or departed from any port or place actually blockaded by His Majesty's squadrons, or ships of war, or for being enemies' property, or for any other cause than the contravention of this present order.

And the commanders of His Majesty's ships of war and privateers, and other vessels acting under His Majesty's commission, shall be, and are hereby, instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France, or of her allies, or of any other country at war with His Majesty; or to any port or place from which the British flag as aforesaid is excluded, or to any colony belonging to His Majesty's enemies, and which shall not have cleared out as is hereinbefore allowed, to discontinue her voyage, and to proceed to some port or place in this kingdom, or to Gibraltar or Malta; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of this His Majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors:

And whereas countries, not engaged in the war, have acquiesced in the orders of France, prohibiting all trade in any articles the produce or manufacture of His Majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions by accepting from persons, styling themselves commercial agents of the enemy, resident at neutral ports, certain documents, termed "certificates of origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of His Majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and submitted to by such merchants, as part of the new system of warfare directed against the trade of this kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it;

His Majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of this His Majesty's order at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to, or authenticating the same, such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons by whom, or on whose behalf, any such document was put on board.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein, as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 11th of November, 1807, present, the King's Most Excellent Majesty in Council.

Whereas articles of the growth and manufacture of foreign countries cannot by law be imported into this country, except in British ships, or in ships belonging to the countries of which such articles are the growth and manufacture, without an order in Council specially authorizing the same:

His Majesty taking into consideration the order of this day's date, respecting the trade to be carried on to and from the ports of the enemy, and deeming it expedient that any vessel belonging to any country in alliance, or at amity with His Majesty, may be permitted to import into this country articles of the produce or manufacture of countries at war with His Majesty:

His Majesty, by and with the advice of his Privy Council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandises, specified and included in the schedule of an act, passed in the forty-third year of his present Majesty's reign, entitled "An act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof, may be imported from any port or place belonging to any state not at amity with His Majesty, in ships belonging to any state at amity with His Majesty, subject to the payment of such duties, and liable to such drawbacks as are now established by law upon the importation of the said goods, wares, or merchandise, in ships navigated according to law; and with respect to such of the said goods, wares, or merchandise, as are authorized to be warehoused under the provisions of an act, passed in the forty-third year of His present Majesty's reign, entitled "An act for permitting certain goods imported into Great Britain, to be secured in warehouses without payment of duty, subject to all the regulations of the said last-mentioned act; and with respect to all articles which are prohibited by law from being imported into this country, it is ordered, that the same shall be reported for exportation to any country in amity or alliance with His Majesty.

And His Majesty is further pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the United Kingdom, or at the port of Gibraltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information, in any other manner, of the said order, subsequent to their having taken on board any part of their cargoes, whether previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination, (if not unlawful before the issuing of the said order,) or to any port at amity with His Majesty, upon receiving a certificate from the collector or comptroller of the customs at the port at which they shall so enter, (which certificate the said collectors and comptrollers of the customs are hereby authorized and required to give,) setting forth that such vessels came into such port in consequence of being so warned, or of receiving such information as aforesaid; and that they were permitted to sail from such port under the regulations which His Majesty has been pleased to establish in respect to such vessels. But in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same, upon such terms and conditions as the said cargo might have been imported upon, according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the United Kingdom, or at Gibraltar, or Malta, in conformity and obedience to the said order, shall be allowed, in respect to all articles which may be on board the same, except sugar, coffee, wine, brandy, snuff, and tobacco, to clear out to any port whatever, to be specified in such clearance; and with respect to the last-mentioned articles, to export the same to such ports, and under such conditions and regulations only, as His Majesty, by any licence to be granted for that purpose, may direct.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the Court at the Queen's Palace, the 11th of November, 1807, present, the King's Most Excellent Majesty in Council.

Whereas the sale of ships by a belligerent to a neutral is considered by France to be illegal:

And whereas a great part of the shipping of France, and her allies, has been protected from capture during the present hostilities by transfers, or pretended transfers, to neutrals:

And whereas it is fully justifiable to adopt the same rule, in this respect, towards the enemy, which is applied by the enemy to this country:

His Majesty is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that, in future, the sale to a neutral, of any vessel belonging to His Majesty's enemies, shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessel; and all vessels now belonging, or which shall hereafter belong to any enemy of His Majesty, notwithstanding any sale or pretended sale to a neutral, after a reasonable time shall have elapsed for receiving information of this His Majesty's order at the place where such sale, or pretended sale, was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

10th CONGRESS.]

No. 211.

[1st Session

ALGIERS.

COMMUNICATED TO CONGRESS ON THE 10TH AND 16TH OF FEBRUARY, 1808.

[Reported on April 25, 1808.]

FEBRUARY 9, 1808.

To the Senate and House of Representatives of the United States:

I communicate to Congress, for their information, a letter from the person acting in the absence of our consul at Naples, giving reason to believe, on the affidavit of a Captain Sheffield, of the American schooner *Mary Ann*, that the Dey of Algiers has commenced war against the United States. For this no just cause has been given on our part, within my knowledge. We may daily expect more authentic and particular information on the subject from Mr. Lear, who was residing as our consul at Algiers.

TH: JEFFERSON.

FEBRUARY 15, 1808.

To the Senate and House of Representatives of the United States:

I communicate, for the information of Congress, a letter from the consul of the United States at Malaga to the Secretary of State, covering one from Mr. Lear, our consul at Algiers, which gives information that the rupture threatened on the part of the Dey of Algiers has been amicably settled, and the vessels seized by him are liberated.

TH: JEFFERSON.

NAPLES, November 9, 1807.

SIR:

I have the honor to inform you that, from the report of Captain Ichabod Sheffield, of the schooner *Mary Ann*, of New York, arrived on the 4th instant in this port from America, it appears that an unexpected war has taken place between the regency of Algiers and the United States. He has declared in this consulate, upon oath, that, on the 26th ultimo, he fell in, within the straits, with an Algerine frigate of forty-four guns, by which he was made a prize of, and which, without hardly any examination, took three men out of his said schooner, and ordered her into Algiers, under the charge of nine Turks, including a boy. He was in their possession till the 29th, when, being near the Barbary shore, he determined himself to endeavor to retake his vessel, in which he had the good fortune to succeed, having thrown four of the Turks overboard by surprise, secured four of the others, whom he embarked in a boat, and kept the boy, who is now on board. He after that shaped his course towards Italy, and came safe in our mole on the 4th aforesaid. Captain Sheffield has further declared that the brig *Violet*, of Boston, loaded with colonial produces for Leghorn, was also taken, within sight of him, by the said frigate; and that he had also heard they had captured an American ship and schooner a few days before.

I mention in haste these circumstances to you, in order that you may make them known to what Americans are or may arrive in your port, and take such steps as you deem most prudent for their safety.

I am, respectfully, your most obedient humble servant,

In the absence, and by the authorization, of FREDERICK DEGEN, Esq., consul of the United States,

J. B. DUCOSTER.

MARSEILLES, November 21, 1807.

A true copy:

STEPHEN CATHALAN, JUN.

NOTE.—Captain Sheffield retook his vessel with three men and a boy.

STEPHEN CATHALAN, *Commandant and Navy Agent for the U. S., Marseilles.*

MARSEILLES, November 21, 1807.

SIR:

I had the honor of addressing you on the 5th of last August, and the 14th ultimo.

This, under cover of William Lee, Esq., our consul at Bordeaux, is to remit you, here enclosed, a copy of a letter I just received from our consul at Naples, dated the 9th instant, begging your reference to its unexpected contents.

I have already advised the American masters and citizens of the United States in my district, and am sending copies of the same to the minister plenipotentiary of the United States at Paris and several consuls, in order that they may take proper steps for the safety of our merchant vessels and seamen.

In haste, I have the honor to be, with great respect, sir, your most obedient humble servant,

STEPHEN CATHALAN, JUN.

JAMES MADISON, Esq., *Secretary of State of the United States, Washington.**Extract of a letter from William Kirkpatrick, consul of the United States at Malaga, to the Secretary of State, dated*

JANUARY 5, 1808.

By my last letter of the 15th December, I enclosed copies of the information I had received from Barcelona and Marseilles, regarding the hostilities commenced on our commerce by the cruisers of the Dey of Algiers, and am now happy in having it in my power to transmit a copy of a letter I have just received from Colonel Lear, under date of December 16 and 17, with the pleasing information that he has succeeded in adjusting matters with the Dey, and that the vessels captured had been set at liberty, which I hasten to communicate to you, by a vessel on the departure for Calais.

From Tobias Lear to William Kirkpatrick, Esq.

ALGIERS, December 16, 1807.

SIR:

You have undoubtedly before this, heard that three American vessels had been detained by a frigate of this place, in consequence of the annuities, for two years past, not having been sent from the United States in naval and military stores, as stipulated by treaty, notwithstanding the amount thereof has been repeatedly offered in cash.

These vessels are the ship *Eagle* of New York, Thater, master, from Bristol to Palermo; cargo, glass bottles; brig *Violet* of Boston, James Merrit, master, from Oporto to Leghorn; cargo, sugar, hides, indigo, &c.; and schooner *Mary Ann* of New York, Ichabod Sheffield, master, from the straits of Belle Isle to Leghorn; cargo, fish.

The two former have been in this port upwards of forty days. The schooner has not arrived, and is supposed to have made some other port. The people on board these vessels have been treated very well, and no pillage of any kind has been committed.

I have now the honor to inform you that I have adjusted this business with the Dey, who has received the amount of two years' annuities due, in cash, and the vessels are liberated, and that our commerce will receive no further molestation from the cruisers of this regency.

I pray you will have the goodness to give this as much publicity as possible, for the benefit of all concerned therein.

I have the honor, &c.

TOBIAS LEAR.

WM. KIRKPATRICK, Esq. *Consul of the United States, Malaga.*

DECEMBER 17, 1807.

P. S. We have this moment heard, by an arrival from Leghorn, that the schooner before mentioned has arrived in Naples, having been retaken by the captain, and part of the crew left on board, who threw overboard four of the captors, and put four others into the boat to shift for themselves.

I have myself received no advice of this, and on application to the Dey, who first sent me the information, he assures me that it shall not alter the arrangement made yesterday, and that our vessels may navigate without fear of molestation. At present all their cruisers are in port.

I have the honor, &c.

T. L.

Please to forward a copy of this letter to the Secretary of State of the United States by the first opportunity.

A true copy:

WM. KIRKPATRICK.

MALAGA, January 5, 1808.

[The following report was made to the House of Representatives on the 25th of April, 1808, by the committee to whom the foregoing papers were referred.]

The committee to whom was referred the message of the President of the United States of the 9th and 15th of February relative to the rupture and amicable settlement with the Dey of Algiers, report:

That they have received from the Secretary of State a letter touching the relations of the United States with that regency, which they submit for the information and consideration of the House.

By order:

JOSIAH QUINCY, *Chairman.*

APRIL 25, 1808.

WASHINGTON, DEPARTMENT OF STATE, April 12, 1808.

SIR:

As the documents in this office did not enable me fully to answer the queries contained in the letters written by you as chairman of the committee "to whom were referred the messages of the President of the United States of the 9th and 15th February, relative to the rupture and to the amicable settlement with the Dey of Algiers," I have delayed my reply to them, under the daily hope of receiving such communications from Colonel Lear, our consul general at Algiers, as would enable me to give you the information you ask for; but as yet I have received none. As further delay, however, may be inconvenient to the committee, I have the honor to state that our payments to Algiers are of two kinds:

1st. That stipulated by treaty, viz: twelve thousand sequins, equal to twenty-one thousand six hundred dollars, made annually in naval stores.

2d. Those made in conformity with what is called *usage* at Algiers, by which it is understood we are bound. These are

1st. The present on the presentation of a consul, \$20,000.

2d. The biennial presents to the officers of Government, estimated at \$17,000.

3d. Incidental and contingent presents, as well on the promotion of the principal officers of the Dey and regency, as for the attainment of any important object. Of these no estimate can be made.

As these presents are made in cash, or in articles procured at Algiers for the occasion, and as Col. Lear has been furnished with the means of making them, it is believed that they have been regularly made; but of this there is no positive information, as the accounts have not been received.

Various causes have occasionally delayed the payment of the annuity in naval stores. Some of these will readily suggest themselves to the committee. It may be proper here to state that the loss on the payment made in this way is from fifty to one hundred per cent., as the estimate of the stores is made by officers of the Algerine Government, without any reference to their cost. Hence, our agent has been instructed to use his efforts to obtain the substitution of a cash payment for that of naval stores: and to enable him the more readily to do this, he had authority to draw either on our bankers in London, or on this Department. Draughts, accordingly, to enable him to meet the arrangements he lately made at Algiers, have been received at this office; but owing to some cause, unknown to me, no despatches from him on that subject have come to hand. We know only that the annuity due in March, 1806, was then paid, and something advanced on account of the annuity which would become due in March, 1807. To meet the payment of this annuity, cannon had been purchased; but before they were shipped, it was understood that the present Dey would not have them, although they had been asked for by his predecessor. Hence, it became necessary to order other articles in place of them. This was done last summer; and the shipment would have been made but for the precarious state of our foreign relations, and a hope that Colonel Lear would be able to prevail on the Dey to receive money in lieu of naval stores.

I have the honor to be, very respectfully, sir, your most obedient servant,

JAMES MADISON.

The Hon. JOSIAH QUINCY, Esq.

COMMITTEE ROOM, *February 13, 1808.*

SIR:

The committee to whom was referred the message of the President of the United States of the 9th instant, relative to the war, commenced against the United States by the Dey of Algiers, have instructed me to request that you would cause to be laid before them, the present state of the pecuniary stipulations of the United States with that regency; the period to which they are known to have been fulfilled; the amount and nature of the remittances on account of such annual payments as are not yet known to be discharged; specifying the persons, to whom, and the time when, such remittances were made.

The committee are also desirous of being informed of the present state of the Dey's maritime force, so far as that information is in the possession of your Department.

I am, sir, very respectfully, your humble servant,

JOSIAH QUINCY.

The Hon. the SECRETARY OF STATE.

COMMITTEE ROOM, *February 13, 1808.*

SIR:

The committee, to whom was referred the message of the President of the United States, of the 9th instant, relative to the war, commenced against the United States, by the Dey of Algiers, have instructed me to request a statement of the maritime force, which will be sufficient to give effectual protection to the commerce of the United States in the Mediterranean sea, against the power of the regency of Algiers.

The committee particularly solicit your opinion as to the number of vessels required; and the species best adapted for service in that sea, and on the Algerine coast. They request an estimate of the annual expense of such vessels and of the appropriation requisite to prepare them for the service.

The committee are also desirous that any information, in the possession of your Department, relative to the present state of the maritime force of that regency may be communicated to them.

I am, sir, very respectfully, your humble servant,

JOSIAH QUINCY.

The Hon. the SECRETARY OF THE NAVY.

DEPARTMENT OF STATE, *February 29, 1808.*

SIR:

May I be permitted to inquire whether the committee of which you are the chairman wish a report from this office in reply to your letter of the 13th instant. We had made some progress in it when the last information was received from Algiers, which led to a belief that it might not be wanted; it was in consequence laid aside to give place to some more urgent business; but if you wish it, it will be again taken up.

With sentiments of the highest respect, I have the honor to be, sir, your most obedient servant,

JOHN GRAHAM, *Chief Clerk, Department of State.*

The Hon. JOSIAH QUINCY.

COMMITTEE ROOM, *March 9, 1808.*

SIR:

In reply to your inquiry, contained in Mr. Graham's letter of the 29th ult. I am instructed by the committee, to whom were referred the messages of the President of the United States of the 9th and 15th of February, relative to the rupture and to the amicable settlement with the Dey of Algiers, to state, that, notwithstanding "the late information from Algiers," they are desirous of the statements requested in my former letter.

They have also instructed me to request that, in addition to the information sought by that letter, you would communicate the causes which occasioned the omission, for two years, of the payment of the annuities to the Dey; the amount of the offers of cash mentioned in Mr. Lear's letter to Mr. Kirkpatrick, and when they were made; the sum finally accepted by the Dey in lieu of the stipulated maritime stores; when the remittances, which enabled Mr. Lear to make the cash payments, were made; whether the arrangements with the Dey, as to the cash liquidation, extend to future annuities; and what are the advantages accruing to the United States by payments in cash, instead of maritime stores.

The committee are also desirous to be informed whether any legislative interposition be necessary to secure hereafter punctual performance of the treaty stipulations with that regency.

I am, sir, very respectfully, your humble servant,

JOSIAH QUINCY.

The Honorable the SECRETARY OF STATE.

[The following letters were communicated to Congress on the 8th November, 1808.]

SIR:

ALGIERS, *March 31, 1808.*

A copy of what I had the honor of writing to you on the 28th instant, with its enclosures, accompanies this. The vessel which took the aforesaid letter did not sail until the 29th.

Yesterday I sent my drogman to the palace to know from the Dey what were his ultimate intentions (if he chose to declare them) respecting the business mentioned in my last; and to request that I might be allowed three months to receive the orders of my Government. The answer brought was, that if I paid the money in the course of the day we should stand as we were before; but if I did not, he should pursue his own measures. As I was yet uncertain whether his threats would be put in execution against me personally, or against our commerce, I remained fixed in my first resolution. This morning the two frigates, which had been preparing for some days past, made the signal for sailing; and as a formal message was sent to inform me that they had orders to capture American vessels, (the threats of personal violence to me having had no effect,) I thought it a duty which I owed to my Government and to my country, to prevent, if possible, the calamity which might fall on our citizens and their property; I therefore sent to inform the Dey, that if he should recall his orders from these vessels before they sailed, and make no renewal of them to these or others, I would pay the money; but that I considered it as a measure forced upon me, and as such should represent it to my Government. The order was recalled, after the frigates had got under way; and the money is to be paid to-morrow; which I shall obtain by bills on John Gavino, Esq. our consul in Gibraltar, to whom I shall give bills on the Secretary of State of the United States, to meet the same. The frigates have gone out, and the other cruisers will be got ready for sea immediately. A vessel is expected to sail in a few days for Alicante, by which I shall write to our consul, contravening the positive advices for our vessels not to leave the ports in which they may be; but, at the same time, directing them to be strictly on their guard.

I have this day had an opportunity of writing to Tripoli, (the first which has occurred for more than three months,) which I have improved; and by the same route to Tunis, giving information of what has passed.

Painful as has been my situation in this affair, I feel conscious of having discharged my duty to my country in the best, and indeed only manner in my power. While I could believe that the consequence of refusing to make this unjust payment would fall upon me personally, I was ready to meet it; but when I was convinced that my country would suffer in the persons and property of its citizens, I was obliged to yield.

My letters which accompany this contain all I have to say on our affairs here; and I shall only add the assurances of high respect, and sincere attachment with which

I have the honor to be, sir, your most faithful and obedient servant,

TOBIAS LEAR.

The Honorable JAMES MADISON, *Secretary of State of the United States of America.*

Mr. Lear to the Secretary of State.

ALGIERS, March 28, 1808.

SIR:

I have the honor to enclose triplicate of my respects to you of the 4th of January, and duplicate of that of the 9th instant, and the schedule of my account with the United States. Since forwarding the first of these I have heard nothing respecting the United States, excepting by a letter from Mr. Montgomery, our consul in Alicante, that an embargo had been laid on all vessels in the ports of the United States.

It is with regret I have to inform you that our affairs here wear a different aspect from what they did when I had last the honor of writing to you. On the 16th instant the Dey sent me a message by my drogerman, that I should pay immediately sixteen thousand dollars for eight of the subjects of this regency, said to have been destroyed on board the American schooner *Mary Ann*, captured some time since by one of his frigates, as mentioned in my former letters. I returned for answer that I had not yet received any authentic advice of this business, and could therefore say nothing about it. The Dey then sent me word that he would wait the arrival of the courier from Alicante, by which I might receive some information. But on the 24th (the courier not having yet arrived) the drogerman informed me that the Dey had sent for him and ordered him to tell me that if I did not pay the money before night I should be sent to prison in chains.

I ordered him to return immediately to the Dey, and say, that I could not pay the money without the order of my Government, as it was an affair out of the usual course of our business here, and that I was ready to meet the event. He brought me word that the Dey would see me the next day at noon on the subject. He accordingly sent for me at noon on the 25th.

When I entered the palace I met Mr. Ulrich the Danish consul, who was descending from an audience of the Dey. He was seized by a Chaux, who carried him through the streets in a most indignant manner, to the slave prison, where he was loaded with an enormous chain, the reason assigned for which was, that he had been called upon for his biennial presents, which he declared he could not make without having time given him, as the vessel containing it, and annuities for the regency, had been taken by the English.

On meeting the Dey he demanded from me immediate payment for the prisoners before mentioned, together with an additional two thousand dollars for the boy said to have been carried in the schooner to Naples.

I told him with firmness that I could not pay it without the orders of my Government, as it was an extraordinary case, and requested time to write and receive an answer; but was answered, that if it was not paid immediately, I knew what the consequence would be; I replied, that let the consequence be what it might, I should not pay it. I was then ordered to leave his presence.

On descending to the area of the palace, where the Danish consul had been seized, I expected the same compliment which he had met with, and was prepared for it; but finding no one to molest me, I left the palace and returned to my own house, where I supposed the orders would be sent to have me arrested; but the day passed without my hearing any thing more of the matter. In the evening I met the French and Swedish consuls (the others being at their gardens) and we agreed to send for the other consuls the following morning, to concert measures for the liberation of the Dane. At noon we met at the Danish consul's house, with our respective drogermen, and proceeded to the palace, where we had an audience with the Dey, who, after some conversation, agreed to release the Danish consul from his chains, at the intercession made for him. From thence we went to the marine, where the consul had been sent to work with the other slaves carrying a chain of forty pounds weight, to receive and conduct him to his house. While we were with the Dey on the business before mentioned, he asked me, in presence of the consuls, if I did not intend to pay the money. I answered him as I had done the day before, to which he made the same reply; and I remain in daily expectation of experiencing the effects of this refusal, which is dictated by a sense of duty and a conviction that the honor of my country demands such conduct from me. I make no comments on the unpleasantness of my situation; my Government and my country will consider it, and do what is right respecting it.

As it is very likely that the cruisers which are now fitting out will have orders to capture American vessels, I have written to our consul in Alicante by this opportunity, which is unexpected, and the only one likely to occur soon, to convey notice to all the consuls of the United States in this sea, to guard our merchant vessels against the evil which may occur. A copy of my letter to him I have now the honor to enclose. In consequence of the barbarous outrage which has been committed on the Danish consul, and threatened to be put in execution against me, the consuls have been brought to reflect on their precarious situation here; and I trust that in a few days there will be a compact entered into among us, that we will use our best endeavors to enforce that article which exists in all the treaties between this regency and christian powers, securing the person and family of the consul from violence and outrage, in consequence of any thing he may do in the exercise of his official functions. And I hope each one will bind himself not to do any act as a public agent, while any one is held in, or threatened with, duance vile.

Our respective Governments I trust will sanction such a measure, and give orders to their consuls accordingly.

Notwithstanding all I have stated it is possible that the Dey may not proceed to extremities towards me, or commit hostilities on our commerce and citizens, until I hear from my Government on the subject. But I have thought it my duty to guard as much as possible against the evil by giving notice to our vessels which may be in this sea, as well as those in the Atlantic, for at present there is nothing to prevent their cruisers from passing the straits.

The camp is expected to march in a few days against Tunis, and their cruisers are said to be intended for that quarter; but there is no doubt but some of them will cruise in every part of this sea, and probably go into the Atlantic.

With sentiments of the highest respect, and most sincere attachment,

I have the honor to be, sir, your most faithful and obedient servant,

TOBIAS LEAR.

The Honorable JAMES MADISON, *Secretary of State of the United States of America, Washington.*

10th CONGRESS.]

No. 212.

[1st Session.]

GREAT BRITAIN—IMPRESSED AMERICAN SEAMEN.

COMMUNICATED TO THE SENATE, MARCH 2, 1808.

To the Senate of the United States:

MARCH 2, 1808.

In compliance with a resolution of the Senate of November 30, 1807, I now transmit a report of the Secretary of State on the subject of impressments, as requested in that resolution. The great volume of the documents, and the time necessary for the investigation, will explain to the Senate the causes of the delay which has intervened.

TH: JEFFERSON.

DEPARTMENT OF STATE, *February 29, 1808.*

Agreeably to a resolution of the Senate of the 30th November last, the Secretary of State has the honor to submit to the President, for the information of the Senate, the statements herewith enclosed, from No. 1 to 13, inclusive.

No. 1. A statement of impressments from American vessels into the British service, since the last report made from this Department on the 5th March, 1806, founded upon documents transmitted in the first instance to this office.

Those from No. 2 to 13 inclusive, being a series of returns and abstracts received from General Lyman, the agent of the United States at London, giving an account of the applications made by him in relation to seamen, from 1st April, 1806, to 30th June, 1807, and of the result of these applications, and exhibiting other particulars required by the resolution.

Not having received any returns from the West Indies since the date of the last report to the House of Representatives on this subject, nor from General Lyman for the quarter ending on the 1st January last, the Secretary of State has not the means at present of giving, with any degree of precision, the information asked for in the last clause of the resolution. From the returns in the office it would appear that four thousand two hundred and twenty-eight American seamen had been impressed into the British service since the commencement of the war, and that nine hundred and thirty-six of this number had been discharged, leaving in that service three thousand two hundred and ninety-two. General Lyman, in a letter dated on the 21st October, 1807, estimates the American seamen now detained in the British service at a number greatly beyond what is here stated; but he does not give the data on which his estimate is made.

All which is respectfully submitted.

JAMES MADISON.

The PRESIDENT of the United States.

No. 1.

A statement of impressments from American vessels into the British service since the last report made by the Secretary of State, on the 5th of March, 1806, founded upon documents transmitted in the first instance to the Department of State.

Seamen's names.	Dates of impressments.	Places of impressments.	Names of the vessels into which impressed.	NATIONAL CHARACTER.		
				Americans.*	Neutral aliens.	British.
Francis Eveleth,	Dec. 18, 1805,	Not stated,	Not stated,	American.		
Duncan McFarlan,	Oct. 25, 1805,	ditto,	La Seine,	-	-	British.
William Wheeler,	March 9, 1803,	ditto,	The Antelope,	ditto.		
Peter Lewis,	Not stated,	ditto,	The King Fisher,	ditto.		
Nathaniel Sebastin,	Not stated,	ditto,	Not stated,	ditto.		
Amos Wright,	Ditto,	ditto,	Albion,	ditto.		
Joshua Siddons,	Ditto,	ditto,	Osprey,	ditto.		
David Smith,	Ditto,	At St. Kitts,	Not stated,	ditto.		
John Hill,	Sept. 1805.	At Liverpool,	ditto,	-	-	ditto.
John Smith,	Ditto,	ditto,	ditto,	-	-	ditto.
Fritz Ludwig,	Not stated,	Not stated,	Cambrian,	ditto.		
Oliver Child,	Ditto,	ditto,	Vengeance,	ditto.		
Ellery King,	Ditto,	ditto,	ditto,	ditto.		
John Hughes,	Ditto,	ditto,	Zealand,	ditto.		
Joseph West,	Ditto,	ditto,	Osprey,	ditto.		
Frederick Porter,	Ditto,	ditto,	Cambrian,	ditto.		
Francis Roger,	Nov. 22, 1803,	ditto,	Repulse,	ditto.		
James Bean,	Not stated,	ditto,	Osprey,	ditto.		
Robert Robertson,	Ditto,	ditto,	Decouvert,	ditto.		
William Jarvis,	Ditto,	ditto,	Not stated,	ditto.		
Robert Williams,	Not stated,	Not stated,	Not stated,	ditto.		
John Peters,	Ditto,	ditto,	La Franchise,	ditto.		
Thomas Simpson,	Feb. 2, 1806,	Bermuda,	Adonis,	ditto.		
Andrew Clark,	Not stated,	Not stated,	Magnanime,	ditto.		
John Lindsey,	Ditto,	ditto,	Dictator,	ditto.		
David Tuttle,	August 5, 1805,	Not stated,	Hawk,	ditto.		
Joseph S. Worthy,	Not stated,	ditto,	La Franchise,	ditto.		
David Hendricks,	Jan. 1, 1806,	ditto,	The Elk,	-	Prussian.	
William Johnson,	Not stated,	ditto,	The Zealand,	ditto.		
Francis Wood,	August 7, 1804,	At London,	Not stated,	ditto.		
Absalom Lemkins,	June 21, 1804,	Not stated,	Iris,	ditto.		
Henry Jackson,	Aug. 20, 1805,	Not stated,	Not stated,	-	A Lascar.	
Thomas Pierce,	Sept. 18, 1805,	ditto,	ditto,	-	-	British.
John Downing,	Not stated,	ditto,	ditto,	ditto.		

* Proof of this fact has been furnished in all cases, (under this head,) except otherwise stated.

STATEMENT—Continued.

Seamen's names.	Dates of impress-ments.	Places of impress-ments.	Names of the vessels into which impres-sed.	NATIONAL CHARACTER.		
				Americans.	Neutral aliens.	British.
Mark A. Bassaleur,	Not stated,	Not stated,	The Diana,	American.		
Thomas Smith,	ditto,	ditto,	ditto,	ditto.		
John Eaton,	ditto,	ditto,	ditto,	ditto.		
*John Dean,	ditto,	ditto,	ditto,			
*Thomas Norman,	ditto,	ditto,	ditto,			
*John Marshall,	ditto,	ditto,	ditto,			
*Spencer Ripley,	ditto,	ditto,	ditto,			
*William Williams,	ditto,	ditto,	ditto,			
*John Butler,	ditto,	ditto,	ditto,			
*John Barnscoat,	ditto,	ditto,	ditto,			
*Wareham Maxham,	ditto,	ditto,	ditto,			
*Aaron Maxham,	ditto,	ditto,	ditto,			
*William Lawrence,	ditto,	ditto,	ditto,			
*John Thompson,	ditto,	ditto,	ditto,			
*John Dixon,	ditto,	ditto,	ditto,			
John Hudson,	ditto,	ditto,	ditto,			
John Badd,	August 7, 1805,	ditto,	Cambrian,	ditto.		
Roles Morris,	ditto,	ditto,	Diana,	ditto.		
*William Mackay,	May 1, 1805,	ditto,	ditto,	ditto.		
*John Koin,	ditto,	ditto,	Flyingfish,			
*Adam Bowin,	Sept. 9, 1805,	ditto,	ditto,			
*John Hays,	Nov. 6, 1806,	ditto,	Avon.			
*Edward Bridgen,	Dec. 20, 1806,	ditto,	Shark.			
*John Bates,	Dec. 25, 1805,	ditto,	Diana.			
*John Williams,	Dec. 13, "	ditto,	Tartar.			
*Job Wilcox,	Dec. 23, "	ditto,	Carysford.			
*Benjamin Mingo,	ditto,	ditto,	ditto,			
Christian Ferrell,	Not stated,	ditto,	ditto,			
Thomas Manton,	ditto,	ditto,	Powerful,	ditto.		
John Brookes,	ditto,	ditto,	Blanche,	ditto.		
John Peters,	Oct. 9, 1805,	At Jamaica,	Soleby,	ditto.		
Elijah Clark,	ditto,	ditto,	La Franchise,	ditto.		
Joseph Nicolls,	ditto,	ditto,	ditto,	ditto.		
Joseph Spalding,	Oct. 20, 1805,	Not stated,	Repulse,	ditto.		
Zepheniah Lyles,	Not stated,	ditto,	Not stated,	ditto.		
John Patten,	ditto,	ditto,	ditto,	ditto.		
Henry Taylor,	Nov. 1805,	Gravesend, Eng.	ditto,	ditto.		
William Wood,	Dec. 19, "	Not stated,	Dolphin.			
Thomas Hollowood,	March 4, 1806,	ditto,	Drake,	ditto.		
John Dickson,	Jan. 1, "	ditto,	Pitterel.			
Thomas Nesbit,	Not stated,	Londonderry, Id	Not stated,	ditto.		
Morgan Bourke,	} June 13, 1805,	Not stated,	Thetis,			British.
John Smith,	Not stated,	South Sea,	Not stated,	American.		
Samuel Willard,	ditto,	Not stated,	Carysford,	ditto.		
William Smith,	ditto,	ditto,	Safeguard,	ditto.		
Samuel Southern,	March 22, 1806,	ditto,	Thetis,	ditto.		
Ephraim Mayhew,	Not stated,	ditto,	Not stated,	ditto.		
John Rice,	ditto,	ditto,	La Franchise,	ditto.		
Thomas Gootie,	} ditto,	ditto,	ditto,			
John Spiers,	Jan. 10, 1806,	ditto,	Magnanime,	ditto.		
John Geohagan,	Not stated,	ditto,	Hibernia,	ditto.		
George Jamison,	ditto,	ditto,	Carysford,	ditto.		
John Sebastian,	ditto,	ditto,	Osprey,	ditto.		
John English,	ditto,	ditto,	Triumph,	ditto.		
Jesse Emmons,	ditto,	ditto,	Basilisk,	ditto.		
Henry Clark,	ditto,	ditto,	Gun brig Blazer,	ditto.		
James Banister,	ditto,	ditto,	Not stated,	ditto.		
John Benson, Jr.,	} ditto,	ditto,	Montague,	ditto.		
alias John Rich,	June, 1798,	ditto,	Wolf,	ditto.		
Thomas Barnes,	Not stated,	ditto,	Cleopatra,			A Swede.
Samuel Bailey,	ditto,	ditto,	Surveillante,	ditto.		
John H. Guildson,	Jan. 6, 1806,	ditto,	Gallant,	ditto.		
Simon Armstrong,	Sept. 12, 1805,	ditto,	Malabar,	ditto.		
John Joseph,	Not stated,	ditto,	Indian,	ditto.		
John Doak,	ditto,	ditto,	Sloop Bermuda,	ditto.		
William Miles,	} ditto,	ditto,				
William Lush,	ditto,	ditto,				
William Jones,	} ditto,	ditto,				
Eli Lane,	ditto,	ditto,				
*Thomas Rowland,						
*John Chase,						
*Gilbert Lewis,						
*John Whitehead,						
*Reuben Wiley,						
*Peter Smith,						
*John Rodes,						
*George Doley,	ditto,	ditto,	Cæsar.			
*Isaac Cooper,						
*Peter Harvey,						
*William Cox,						
*Elijah Russel,						

* All these men claim to be American citizens, but they have not exhibited proof to the Department of State.

STATEMENT—Continued.

Seamen's names.	Dates of impressments.	Places of impressments.	Names of the vessels into which impressed.	NATIONAL CHARACTER.		
				Americans.	Neutral aliens.	British.
*John Brown,	Not stated,	Not stated,	Cæsar.	-	A Swede.	British.
Frederick Teath,	Jan. 5, 1806,	Demerara,	Not stated,	-	-	
Daniel Wheeler,	Jan. "	Not stated,	Vengeance,	-	A Swede.	
Louis Krutzager,	Jan. 1, "	At Bermuda,	Not stated,	American.	-	
Primus, (a black,)	March 4, "	ditto,	The brig Grinder,	ditto.	-	
William Innis,	Not stated,	Not stated,	Not stated,	ditto.	-	
James Slater,	March 4, "	ditto,	The Bermuda,	ditto.	-	
Frederick Moser,	Not stated,	ditto,	The Diadem,	ditto.	-	
William Lear,	} ditto,	} ditto,	} Not stated,	} ditto.	} -	
Thomas Jones,						
Noah Parker, Jr.	} ditto,	} ditto,	} La Fortunée,	} ditto.	} -	
Robert Rogers, Jr.						
John Parks,	April 9, 1806,	ditto,	The Wolf,	ditto.	-	
John Brown,	Not stated,	ditto,	The Pert,	ditto.	-	
Thomas Anderson,	Dec. 1, 1805,	ditto,	Not stated,	ditto.	-	
Samuel Brown,	Not stated,	ditto,	Powerful,	ditto.	-	
Robert Williams,	ditto,	ditto,	Cleopatra,	ditto.	-	
John Collin,	Feb. 25, 1806,	ditto,	Abico,	ditto.	-	
Joseph West,	March 23, "	ditto,	Leander,	-	-	
George Cooper,	} May 5, "	} ditto,	Kingfisher,	ditto.	-	
John Irvin,	Not stated,	ditto,	Not stated,	-	A Lascar.	
William Warren,	Jan. 1, 1806,	At Liverpool,	Cleopatra,	-	-	
James Baptist,	Feb. 16, "	Off Bermuda,	Not stated,	-	-	
John Heslat,	March 12, "	ditto,	The Wasp,	-	-	
William Robertson,	Feb. 16, "	Not stated,	Terpsichore,	ditto.	-	
Henry Kirkpatrick,	} June 7, 1805,	} ditto,	} Arethusa,	} ditto.	} -	
Nathaniel Perry,						
James Vent,	Feb. 21, 1806,	ditto,	Not stated,	ditto.	-	
John Jamieson,	} Aug. 27, 1805,	} Off Sandy Hook,	} ditto,	} ditto.	} -	
John Austin Matt,						
Jacob Bonegard,	March, 1806,	Off Goodwins'ds	Brig Nimble,	-	A Swede.	
John Hubbard,	April 17, "	At Tortola,	ditto,	ditto.	-	
Christian Fitch,	ditto,	ditto,	Cleopatra,	ditto.	-	
John Days,	March 8, 1806,	Not stated,	ditto,	ditto.	-	
Robert Smith,	} Not stated,	} ditto,	} ditto,	} ditto.	} -	
James Love,						
Edward Hayes,	} ditto,	} ditto,	} Cambrian,	} ditto.	} -	
William Stephens,						
Leonard Johnson,	Oct. 1805,	ditto,	Saturn,	ditto.	-	
Thomas Smith,	Not stated,	ditto,	Kingfisher,	ditto.	-	
Thomas Warnock,	ditto,	ditto,	Not stated,	ditto.	-	
Peter Pittigrew,	ditto,	ditto,	La Loire,	ditto.	-	
John Tuck,	ditto,	ditto,	Belina transport,	ditto.	-	
John Cain,	ditto,	ditto,	La Franchise,	ditto.	-	
Jacob Trusty,	ditto,	ditto,	The Lion,	-	-	
Thomas Osman,	ditto,	ditto,	A British tender,	ditto.	British.	
John Walter,	ditto,	ditto,	Diamond,	ditto.	-	
Joseph Bailey,	ditto,	ditto,	Namur,	-	-	
Samuel Quimby,	ditto,	ditto,	Haddock,	-	-	
William Warren,	March 4, 1806,	ditto,	Elephant,	ditto.	-	
William Gray,	Not stated,	ditto,	Cambrian,	ditto.	-	
John Reynolds,	July 9, 1806,	ditto,	Mermaid,	ditto.	-	
Gilbert Russell,	Not stated,	ditto,	Formidable,	ditto.	-	
Thomas Farrell,	ditto,	ditto,	Cleopatra,	ditto.	-	
Edward Herren,	ditto,	ditto,	Cambrian,	ditto.	-	
Howell S. Woodruff,	ditto,	ditto,	Not stated.	-	-	
George Manning,	ditto,	ditto,	The Blenheim.	-	-	
John L. Deneber,	ditto,	ditto,	Not stated.	-	-	
*Samuel Hill,	} May 2, 1806,	} ditto,	} Ethalion.	} ditto.	} -	
*Henry Kilpatrick,						
*W. R. Woods,	Feb. 11, "	ditto,	ditto.	-	-	
*John Hammond,	May 20, "	ditto,	ditto.	-	-	
*Peter Manure,	Not stated,	ditto,	ditto.	-	-	
*Samuel Mitchell,	ditto,	ditto,	ditto.	-	-	
*William Tucker,	ditto,	ditto,	ditto.	-	-	
*George Albro,	ditto,	ditto,	ditto.	-	-	
*Charles Davis,	ditto,	ditto,	ditto.	-	-	
*John Hawkins,	ditto,	ditto,	ditto.	-	-	
*Henry Pearson,	ditto,	ditto,	ditto.	-	-	
Benj. Wilkinson,	Feb. 19, 1806,	ditto,	Not stated,	American.	-	
Joseph Baker,	Not stated,	ditto,	ditto,	ditto.	-	
Daniel Parson,	ditto,	ditto,	ditto,	ditto.	-	
Henry Johnson,	ditto,	ditto,	ditto,	ditto.	-	
Thomas Brown,	ditto,	ditto,	The Pallas,	ditto.	-	
Edward Prichard,	ditto,	ditto,	Not stated,	ditto.	-	
William Allen,	} ditto,	} ditto,	} Gun-brig Bold,	} ditto.	} -	
William Witherald,						
Benjamin Newton,	ditto,	ditto,	The Conqueror,	ditto.	-	
William Wood,	March 4, 1806,	ditto,	Dolphin.	ditto.	-	
Edward Hayes,	Not stated,	ditto,	Cleopatra,	ditto.	-	
Francis Deal,	ditto,	ditto,	ditto,	ditto.	-	

* These men call themselves citizens of the United States, but no proof of the same can be found in this office.

STATEMENT—Continued.

Seamen's names.	Dates of impress-ments.	Places of impress-ments.	Names of the vessels into which impres-sed.	NATIONAL CHARACTER.		
				Americans.	Neutral aliens.	British.
Jacob Campbell,	Not stated,	Not stated,	Cleopatra,	American.		
Edward Nicholson,	ditto,	ditto,	ditto,	ditto.		
James Love,	ditto,	ditto,	ditto,	ditto.		
Nathaniel York,	ditto,	ditto,	ditto,	ditto.		
Nathaniel Small,	ditto,	ditto,	ditto,	ditto.		
John Gibson,	ditto,	ditto,	ditto,	ditto.		
John Taylor,	Nov. 9, 1805,	ditto,	The Isis,			
Peter Newman,	Not stated,	ditto,	The Tartar,			
Edward Brown,	ditto,	ditto,	ditto,	} ditto.		
Benjamin Pavey,	ditto,	ditto,	ditto,			
Peter Frank,	ditto,	ditto,	ditto,			
William Fursman,	ditto,	ditto,	ditto,			
Samuel Mark,	ditto,	ditto,	ditto,			
Benjamin Forbes,	ditto,	ditto,	ditto,			
† Francis M'Cormick,	} June 28, 1806,	ditto,	The Fame.			
† Henry Connor,	} June, "	ditto,	Cambrian.			
† John Thompson,	} Not stated,	ditto,	Not stated.			
† William Tarr,	} ditto,	ditto,	ditto.			
† Christr. Beekman,	Not stated,	ditto,	ditto.			
† Martin Deits,	ditto,	ditto,	ditto.			
† John Thompson,	ditto,	ditto,	ditto.			
† Oppy Simkins,	ditto,	ditto,	ditto.			
† John Hyler,	ditto,	ditto,	ditto.			
† Samuel Leithbury,	ditto,	ditto,	ditto.			
† Robert Britton,	} May, 1806,	ditto,	The Osprey.			
† Thomas Morris,	} June 1, "	ditto,	The Wasp.			
† John Herbert,	Not stated,	ditto,	Chichester,	ditto.		
† James Lind,	June 22, 1806,	ditto,	Flyingfish,	ditto.		
Peter Butler,	Not stated,	ditto,	Not stated,	ditto.		
James Robertson,	ditto,	ditto,	ditto,	ditto.		
Joseph Gould,	ditto,	ditto,	Le Clerc,	ditto.		
Joseph Hough,	ditto,	ditto,	Cleopatra,	ditto.		
John Thompson,	June 27, 1806,	ditto,	Abrio,	ditto.		
Francis Roach,	Dec. 3, 1805,	ditto,	Lilly,	ditto.		
Joseph West,	Not stated,	ditto,	Boxer,	ditto.		
Dennis M'Ready,	Dec. 21, 1805,	ditto,	Nassau,	ditto.		
Nath'l. M. Warren,	June 25, 1806,	ditto,	Leander,	ditto.	A Dane.	
Robert Thompson,	June 3, 1806,	ditto,	Lilly,	ditto.		
William Smith,	Not stated,	ditto,	Regular,	ditto.		
William Trimbo,	ditto,	ditto,	Diana,	ditto.		
Peter Miller,	ditto,	ditto,	ditto,	ditto.		
Paul Starbuck,	Not stated,	ditto,	Colossus.			
Samuel Thompson,	ditto,	ditto,	Mermaid.			
Eli Davis,	Dec. 3, 1805,	ditto,				
† Augustus Tompkins,	} June 25, 1806,	ditto,	The Tartar.			
† John Marden,	Not stated,	ditto,				
† George Stewart,	ditto,	ditto,				
† James Fowler,	ditto,	ditto,				
† James Bennett,	ditto,	ditto,				
† John Lein,	Not stated,	ditto,				
† Robert Silver,	ditto,	ditto,				
Francis J. Cook,	ditto,	ditto,				
James Oppa,	ditto,	ditto,				
William Ambrose,	ditto,	ditto,				
Jacob Pister,	ditto,	ditto,				
Aaron Williams, alias	ditto,	ditto,				
Thomas Wright,	ditto,	ditto,				
Charles Davis,	ditto,	ditto,				
John Saunders,	ditto,	ditto,				
Reuben Wyley,	ditto,	ditto,				
Peter Hansen,	ditto,	ditto,				
Warren Thompson,	ditto,	ditto,				
Walter Harman,	ditto,	ditto,				
William Zane,	ditto,	ditto,				
Peter Harvey,	ditto,	ditto,				
William Story,	ditto,	ditto,				
S. H. Rawlins,	ditto,	ditto,				
David Chubb,	August, 1805,	ditto,				
Charles Mice,	ditto,	ditto,				
John Reiley,	Not stated,	ditto,				
Andrew Hagien,	June 2, 1806,	British channel,				
John Algrove,	June, "	Off Turk's is'ld,				
Thomas Edgerton,	ditto,	ditto,				
Thomas Dodge,	June 19, 1806,	Not stated,				
Isaac Day,	Not stated,	ditto,				
Amos Howard,	ditto,	ditto,				
John Gorp,	August 29, 1806,	ditto,				
James Scendling,	June 26, "	ditto,				
Ralph Gott,	August 19, 1805,	ditto,				
Thomas Hallett,	ditto,	ditto,				

† These men call themselves American citizens, but proof of this fact is not to be found in the Department of State.

STATEMENT—Continued.

Seamen's names.	Dates of impressions.	Places of impressions.	Names of the vessels into which impressed.	NATIONAL CHARACTER.		
				Americans.	Neutral aliens.	British.
Charles Russel,	Not stated,	Not stated,	The Hebe,	American,		
*Edward Herren,	ditto,	ditto,	The Melampus,	ditto.		
John Dickinson,	ditto,	ditto,	Not stated.			
Stephen Ball,	ditto,	ditto,	Grampus,	ditto.		
John Andrews,	ditto,	ditto,	Magnificent,	ditto.		
†John Herbert,	ditto,	ditto,	Wasp.			
†Henry Jennings,	ditto,	ditto,	Alligator.			
†Abraham Lacy,	ditto,	ditto,	Dominica.			
James Lin,	ditto,	ditto,	Wasp,			
John Sebastian,	ditto,	ditto,	ditto,			
John Young,	ditto,	ditto,	Hippomenus,	} ditto.		
Mitchel Dennis,	ditto,	ditto,	ditto,			
James Beans,	ditto,	ditto,	Osprey,			
John Harvy,	ditto,	ditto,	Not stated,	ditto.		
John White,	ditto,	ditto,	Elephant,	ditto.		
Archibald Kossam,	ditto,	ditto,	Brig Geolan,	ditto.		
John Miller,	ditto,	ditto,	The Leander,	ditto.		
Joseph Watson,	Feb. 1806,	ditto,	La Franchise,	ditto.		
John Marshall,	Not stated,	ditto,	Royal William,	ditto.		
Thomas Dodge,	August, 1798,	ditto,	La Topaze,	ditto.		
Jacob Bradbury,	Not stated,	ditto,	The Peterel,	ditto.		
John Covel,	ditto,	ditto,	Not stated,	ditto.		
William Russel,	ditto,	ditto,	L'Observation,	ditto.		
William Gibson,	} ditto,	ditto,	Isis,	ditto.		
Stephen Hurley,	} ditto,	ditto,	Conqueror,	ditto.		
James Ratvie,	ditto,	ditto,	Not stated,	ditto.		
William Cox,	ditto,	ditto,	Le Pompée,	ditto.		
Elijah Armstrong,	} ditto,	ditto,	The Hazard,	ditto.		
Richard Wills,	} ditto,	ditto,	Le Tribune,	ditto.		
Philip Thompson,	ditto,	ditto,	ditto,	ditto.		
Abraham Vokes,	ditto,	ditto,	The Bermuda,	ditto.		
John Couch,	ditto,	ditto,	ditto,	ditto.		
Thomas Stevens,	ditto,	ditto,	Not stated,	ditto.		
William Scott,	ditto,	ditto,	The Bermuda,	ditto.		
Martin Powers,	Decem. 1806,	At London,	Not stated,	ditto.		
William Connell,	Not stated,	Not stated,	The Bermuda,	ditto.		
Andrew Swainson,	ditto,	ditto,	The Eagle,	ditto.		
Samuel Speer,	ditto,	ditto,	Not stated,	ditto.		
John Miller,	ditto,	ditto,	The Leander,	ditto.		
Nathan Wamps,	ditto,	ditto,	The Cleopatra,	ditto.		
S. H. Olney,	ditto,	ditto,	The Haddock,	ditto.		
†Edward Williams,	ditto,	ditto,	ditto,			
†Samuel Sidlinger,	ditto,	ditto,	The Halifax,			
†S. B. Johnson,	ditto,	ditto,	The Bermuda,			
†William Hall,	ditto,	ditto,	ditto.			
†John Driver,	ditto,	ditto,	ditto.			
†Francis Cosswell,	ditto,	ditto,	The Mermaid.			
Henry Condell,	ditto,	ditto,	Not stated,	ditto.		
S. B. Hunt,	ditto,	ditto,	Magnanime,	ditto.		
Wes. Cunningham,	ditto,	ditto,	Skylark,	ditto.		
Samuel Peterson,	ditto,	ditto,	Not stated,	ditto.		
Lewis Henry,	ditto,	ditto,	La Fortunée,	ditto.		
Thomas Easterly, Jr.	ditto,	ditto,	La Franchise,	ditto.		
†Henry Havra,	ditto,	ditto,	The Haddock.	ditto.		
†Henry Pierson,	ditto,	ditto,	The Ethalion.			
†Samuel Bond,	ditto,	ditto,	Not stated.			
Peter M'Castle,	ditto,	ditto,	The Amethyst,	ditto.		
Joseph Watson,	ditto,	ditto,	La Franchise,	ditto.		
John M'Donald,	ditto,	ditto,	Barfleur,	ditto.		
John Rust,	ditto,	ditto,	Leopard,	ditto.		
John Dennie,	ditto,	ditto,	Not stated,	ditto.		
William Fisher,	ditto,	ditto,	Mediator,	ditto.		
John Thompson,	ditto,	At London,	Not stated,	ditto.		
William Aitkin,	ditto,	At Barbadoes,	The Dart,	ditto.		
William Carrigan,	ditto,	Not stated,	The Orpheus,	ditto.		
John Ringrose,	ditto,	ditto,	Not stated,	ditto.		
Edward Osburn,	ditto,	ditto,	The Tartar,	ditto.		
Thomas Pierce,	ditto,	At Cork,	Not stated,	ditto.		
John Sparks,	Mar. 18, 1807,	Off Cape Henry,	Melampus,	ditto.		
Joseph Baily,	Not stated,	Not stated,	Not stated,	ditto.		
John Rumburk,	Nov. 2, 1806,	Jamaica,	The Shark,	ditto.		
Lindsay Hedden,	Not stated,	Not stated,	The Cuba,	ditto.		
Frederick Raymond,	ditto,	ditto,	La Magnanime,	ditto.		
Thomas Baldwin,	ditto,	ditto,	Not stated,	ditto.		
William Guthridge,	ditto,	ditto,	ditto,	ditto.		
Daniel Parker,	ditto,	ditto,	The Namur,	ditto.		
Charles Helmes,	ditto,	ditto,	Princess Amelia,	ditto.		
David Griffin,	ditto,	ditto,	The Repulse,	ditto.		
F. Cogswell,	ditto,	ditto,	Not stated,	ditto.		
Nathl. Pendleton,	} Feb. 2, 1807,	Tortola,	The Alexandria,	ditto.		

* Discharged.

† These men call themselves Americans, but have not exhibited proof.

STATEMENT—Continued.

Seamen's names.	Dates of impress-ments.	Places of impress-ments.	Names of the vessels into which impres-sed.	NATIONAL CHARACTER.		
				Americans.	Neutral aliens.	British.
William Dennis,	Feb. 2, 1807.	Tortola,	The Alexandria,	American.		
Charles Miller,	} August, 1806,	Rio Janiero,	Not stated,	ditto.		
York Brihton,	Not stated,	Not stated,	La Fortunée,	ditto.		
Samuel Whitehurst,	ditto,	ditto,	ditto,	ditto.		
F. Edmonds,	February, 1806,	ditto,	ditto,	ditto.		
John Williams,	Not stated,	ditto,	ditto,	ditto.		
William Contright,	ditto,	ditto,	Le Pique,			
Joseph Hobs,	ditto,	ditto,	Not stated,			British.
John Henry,	ditto,	ditto,	The Bonaparte,	ditto.		
P. S. Thompson,	ditto,	ditto,	The Dapper,	ditto.		
Wm. Cummins,	ditto,	ditto,	Cleopatra,	ditto.		
Saxon Pamer,	Nov. 18, 1806,	ditto,	Inconstant,	ditto.		
William Harvey,	Not stated,	ditto,	Not stated,	ditto.		
Elijah Nash,	ditto,	ditto,	Melampus,	ditto.		
Robert Lavush,	April 19, 1807,	Off Cape Henry,	Not stated,	ditto.		
William Law,	Not stated,	Not stated,	La Couvert,	ditto.		
William Pero,	April 11, 1807,	ditto,	Not stated,	ditto.		
Joseph Coffin,	Not stated,	ditto,	The Hebe,	ditto.		
William Hill,	ditto,	ditto,	The Belleisle,	ditto.		
Robert Williams,	ditto,	ditto,	The Hebe,	ditto.		
Wm. Richardson,	ditto,	ditto,	The Drake,	ditto.		
William Brown,	ditto,	ditto,	Not stated,	ditto.		
William Bogen,	June, 1806,	ditto,	The Latona,	ditto.		
James Green,	} Jan. 1, 1807,	Curacoa,	ditto,		Prussian.	
Matthias Maulman,	ditto,	ditto,	ditto,			
Henry Janson,	Not stated,	Jamaica,	Not stated,	ditto.		
William Anderson,	ditto,	ditto,	ditto,	ditto.		
*William Talbot,	ditto,	ditto,	The Drake,	ditto.		
Dennis Perry,	ditto,	ditto,	The Hebe,	ditto.		
William Dury,	ditto,	ditto,	ditto,	ditto.		
John Foster,	ditto,	ditto,	Not stated,	ditto.		
Thomas Malone,	} ditto,	ditto,	Not stated,	ditto.		
Benjamin Price,	ditto,	ditto,	Leopard,	ditto.		
N. Bingman,	ditto,	ditto,	Laurel,	ditto.		British.
Wm. Amandale,	ditto,	ditto,	ditto,	ditto.		
Wm. McPherson,	April 12, 1807,	Off Canary isl'ds,	ditto,	ditto.		
George Shields,	ditto,	ditto,	Onboard the British	ditto.		
John Henry,			squadron recently			
John Leach,			off the capes of			
John Weir,			Virginia.			
Jeffry Farrell,	In the years	Not stated,		ditto.		
Jeremiah Holmes,	1806 & '7.					
Henry Layman,						
Wm. Gourley,						
P. Lefevre,						
Thomas Wood,						
Thomas Osborn,	Not stated,	ditto,	The Heron,	ditto.		
*John Wharff,	ditto,	ditto,	The Rattler,			
E. L. Wells,	ditto,	ditto,	The Saturn,	ditto.		
Wm. Schooley,	ditto,	ditto,	Prince George,	ditto.		
Thomas Brookes,	April 26, 1807,	Antigua,	The Belvidere,	ditto.		
William Means,	Mar. 15, "	Not stated,	La Ville de Milan	ditto.		
James Brown,	} Not stated,	ditto,	The Nimrod,	ditto.		
Thomas Harley,	Not stated,	ditto,	The Melampus,		A Swede.	
C. I. Eikerman,	June 5, 1807,	Off Cape Henry.	Not stated,	ditto.		
Jonathan Wright,	Not stated,	Not stated,	ditto,	ditto.		
John Paul,	ditto,	ditto,	Osprey,	ditto.		
John English,	ditto,	ditto,	Thisbe,	ditto.		
G. A. Kling,	ditto,	ditto,	Haddock,	ditto.		
George Conner,	ditto,	ditto,	Not stated,	ditto.		
A. Fleming,	ditto,	ditto,	ditto,	ditto.		
Robert Gardon,	ditto,	ditto,	Melampus,	ditto.		
James Hodge,	ditto,	ditto,	Not stated,	ditto.		
Anthony Miller,	ditto,	ditto,	Osprey,	ditto.		
Joseph West,	ditto,	ditto,	Bellona,	ditto.		
S. W. Pindell,	ditto,	ditto,	Raisonable,	ditto.		
Zophar Wood,	ditto,	ditto,	Not stated,	ditto.		
Z. B. Johnson,	ditto,	ditto,	The India,	ditto.		
G. P. Fister,	ditto,	ditto,	The Sabine,	ditto.		
E. Dominic,	ditto,	ditto,	Royal William,	ditto.		
J. G. Weidman, alias	} ditto,	ditto,	Squirrel,	ditto.		
George White,	ditto,	ditto,	Leopard,	ditto.		
William Mears,	ditto,	ditto,	Bellona,	ditto.		
James Burchell,	ditto,	ditto,	Melampus,	ditto.		
Richard Pearce,	ditto,	ditto,	ditto,	ditto.		
Jared Russell,	ditto,	ditto,	ditto,	ditto.		
Benjamin Gordon,	ditto,	ditto,	Edgar,	ditto.		
N. Carpenter,	ditto,	ditto,	Not stated,	ditto.		
James Halsey,	ditto,	ditto,	Brig Hawk,	ditto.		
A. Landerkin,	ditto,	ditto,				
Isaac Thomas,	ditto,	ditto,				

* Discharged.

STATEMENT—Continued.

Seamen's names.	Dates of impressments.	Places of impressments.	Names of the vessels into which impressed.	NATIONAL CHARACTER.				
				Americans.	Neutral aliens.	British.		
Charles Hall,	Not stated,	Not stated,	Hyacinth,	American.				
Thomas Ryan,	ditto,	ditto,	Not stated,					
*Samuel Holland,	}	ditto,	Hyacinth.					
*John Porter,								
*William Sloane,	}	ditto,	The Brunswick,				ditto.	
John Bolton,			ditto.					
William Fleetwood,	ditto,	ditto,	The Skipjack,				ditto.	
John Tucker,	ditto,	ditto,	Not stated,				ditto.	
Francis Davis,	ditto,	ditto,	ditto.				ditto.	
Joseph Watson,	ditto,	ditto,	The Excellent,				ditto.	
Joseph Hackett,	ditto,	At Tortola,	Not stated,				ditto.	
William S. Barton,	ditto,	At Greenock,	ditto,	ditto.				
Martin Hart,	Aug 24, 1807,	Not stated,	Brig Ferret,	-	-	British.		
John Blackwood,	Not stated,	ditto,	Not stated,	ditto.	-	-		
John Clark,	ditto,	ditto,	ditto,	ditto.	-	-		
John Maury,	July, 1807,	Cape Clear,	The Virginia,	-	-	British.		
Absalom Hinard,	Not stated,	Not stated,	The Flyingfish,	ditto.	-	-		
David Smith,	}	At Belfast,	Not stated,	ditto.	-	-		
John Bennet,								
James Middleton,	July, 1807,							
James Wilson,	}	Not stated,	Columbine,	-	-	A Prussian.		
M. Boche,								
Nicholas King,	Not stated,	Not stated,	Flyingfish,	ditto.	-	-		
John Miller,	Feb, 1807,	Jamaica,			-	-		
Jacob Kanolm,	ditto,	ditto,	ditto,	-	-	A Swede.		
James Colgher,	Not stated,	At Cowes,	Not stated,	ditto.				
John Dickinson,	ditto,	Not stated,	Jason,	ditto.				
John Edwards,	ditto,	ditto,	Leopard,	ditto.				
S. J. Bee,	ditto,	ditto,	Melville,	ditto.				
William Williams,	ditto,	ditto,	Argo,	ditto.				
Jonathan Wiley,	ditto,	ditto,	Bellona,	ditto.				
Robert Fowler,	ditto,	ditto,	Not stated,	ditto.				
*Samuel Biddle,	June 20, 1806,	England,	Wolverine.					
*George Armstrong,	In the year 1804,	Tortola,	ditto.					
*Samuel Wilcox,	October 8, 1806,	Barbadoes,	ditto.					
*Joseph Breed,	June 10, 1807,	ditto,	ditto.					
*Benjamin Webber,	May 19, 1807,	ditto,	ditto.					
Robert Mathews,	July, 1807,	At Lisbon,	Adamant,	ditto.	-	-		
Joseph Mackie,	June 10, 1807,	At Liverpool,	Not stated,	-	-	British.		
Soran Lonfield,	August 3, 1807,	Greenock,	ditto,	-	-	A Swede.		
John Richards,	Not stated,	Not stated,	ditto,	ditto.				
Joseph Watson,	ditto,	ditto,	Excellent,	ditto.				
Samuel Fullently,	ditto,	ditto,	Porcupine,	ditto.				
John Byman,	ditto,	ditto,	Cæsar,	ditto.				
John McMillan,	ditto,	ditto,	Not stated,	ditto.				
Joseph Jones,	ditto,	ditto,	ditto,	ditto.				
Andrew Whiteman,	ditto,	ditto,	La Virginie,	ditto.				
*William Griffin,	ditto,	London,	Prince George.					
*John Thompson,	March 23, 1806,	Barbadoes,	Malta.					
John Smith,	Not stated,	Not stated,	The Lily,	ditto.				
William King, Jun.	April, 1804,	ditto,	Isis,	ditto.				
John Mity,	In 1807,	Montevideo,	Not stated,	-	-	Otaheitan.		
Thomas Jeffry,	Not stated,	Not stated,	Emerald,	ditto.				
Joseph Thompson,	}	ditto,	Argo,	ditto.				
alias Jos. Thorp,								
John Ryan,	ditto,	ditto,	Pilchard,	ditto.				
James Johnson,	}	Near Madeira,	The schr. Quail,	ditto.				
John Long,								
Joseph Russell,	May 9, 1807,							
John Deverick,	}	Not stated,	Indian,	ditto.				
William Jacobs,			ditto,	ditto,	Boadicea,	ditto.		
John Starkman,			ditto,	ditto,	Not stated,	ditto.		
John Hall,			ditto,	ditto,	Cerberus,	ditto.		
Henry Moore,			ditto,	ditto,	Paulina,	ditto.		
John Eaton,			ditto,	ditto,	Æolus,	ditto.		
Thomas Trueman,			ditto,	ditto,	Not stated,	ditto.		
John Allsworth,			July, 1807,	ditto,	Haddock,	ditto.		
Walter Harmon,			Not stated,	ditto,				
Benjamin Parker,			ditto,	ditto,				
George Wilkham,			}	ditto,	Not stated,	ditto.		
Ebenezer Berry,								
James Holmes,	}	ditto,	Adamant,	ditto.				
Joseph B. Hart,			ditto,	ditto,	The Argo,	ditto.		
John Saunders,			ditto,	ditto,	Le Clerc,	ditto.		
Joseph Thorp,			ditto,	ditto,	Not stated,	-	-	British.
G. A. Cope,			July 15, 1807,	Dublin,	Cleopatra,	ditto.		
Mathew Mathews,			December, 1805,	Not stated,	The Dapper,	ditto.		
Edward Hays,			Not stated,	ditto,	Enterprise,	ditto.		
John Cummins,			June 4, 1807,	Jamaica,	Pallas,	ditto.		
William Harrington,			Not stated,	Not stated,				
John Mark,			Not stated,	Not stated,				

* These men call themselves Americans, but have not exhibited proof.

STATEMENT—Continued.

Seamen's names.	Dates of impressments.	Places of impressments.	Names of the vessels into which impressed.	NATIONAL CHARACTER.		
				Americans.	Neutral aliens.	British.
Thomas Mercer,	Not stated,	Not stated,	Repose,	American.		
George Thompson,	Nov. 15, 1807,	ditto,	The Ganchapine,	ditto.		
Enos Blanchard,	Sept. 1803,	ditto,	The Defence,	ditto.		
Henry Hovenater,	Nov. 30, 1807,	ditto,	The Latona,	ditto.		
John Fleming,	Not stated,	ditto,	The Hebe,	ditto.		
John Lombard,	ditto,	ditto,	The Saturn,	ditto.		
David McCrackin,	ditto,	ditto,	Salvador del Mundo.	ditto.		
Jonathan Stewart,	ditto,	ditto,	Le Clair,	ditto.		
John Baty,	ditto,	ditto,	The Pultusk,	ditto.		
Nathaniel Rider,	ditto,	ditto,	La Fortune,	ditto.		
Olphert Tittle,	} ditto,	ditto,	Crescent,	ditto.		
William Foster,			ditto,	ditto.		
Peter Lizzette,			ditto,	Spartiate,	ditto.	

RECAPITULATION.

The total number of applications received at the Department of State, in cases of impressed seamen, from the 1st March, 1806, (the date of the last report,) to the 1st day of January, 1808, is six hundred and ninety-seven.

Comprehending,	1. Persons in whose cases proofs of citizenship have been exhibited,	-	-	-	545.
	2. Persons whose national character is not ascertained,	-	-	-	105
	3. Neutral aliens,	-	-	-	24
	4. British subjects,	-	-	-	23
	Total,	-	-	-	<u>697</u>

A return or list of American seamen and citizens who have been impressed and held in service on board his Britannic Majesty's ships of war, between 1st April and 30th June, 1806, inclusively.

No.	Date of application to the admiralty.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
2799	1806. April 2,	Henry Cross,	New York, N. Y.	Nov. 5, 1805,	Yarmouth roads,	Echo,	B.	John Peck,	Elephant,	Custom house protection from Norfolk, No. 300, -	N. B. Was applied for on the 14th Nov. 1805. Ordered to be discharged. Mr. Tucker's letter, 2d May, 1806; documents returned.
2800	"	William Goold,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Quebec,	Do. from New York, 4870. -	N. B. Was applied for on the 17th Aug. 1805. Ordered to be discharged.
2801	"	John Dennis,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Gibraltar,	Custom house protection from Savannah, 561, -	Ordered to be discharged.
2802	"	Reuben M'Kenzie,	- - - -	March 5, 1805,	Bristol,	N. York Packet,	A.	Mat. Dunnett,	Achilles,	Protection from a notary public,	N. B. Was applied for on the 6th Mar. 1806. Being married in Eng: refused to be disch'd.
2803	"	Paris Memure,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Phebe,	Protection from Mr. Erving.	-
2804	"	Paul Starbuck,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Regulus,	Custom house protection from Nantucket, No. 1. -	-
2805	"	Henry Williams,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Enterprize,	Do. from Rhode Island, 1063, -	Being a British subject, refused to be disch'd.
2806	"	William Brown,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Magnanime,	Do. from Boston and Charlestown, 2942, -	Ordered to be discharged.
2807	April 8,	Richard Smith,	Gloucester, N. J.	1794,	- - - -	- - - -	- - - -	- - - -	Argonaut,	Affidavit of his uncle, Mr. David Smith, merchant of Philadelphia, before Clement Biddle, notary public at that place. -	N. B. Was applied for on the 14th November, 1805, and 7th January last. Ordered to be discharged.
2808	"	Isaac Wilson,	Chester, Penn.	1804,	Cape Francois,	Tartar,	A.	Wadsworth,	Orestes,	- - - -	N. B. Was applied for on the 15th Nov. 1805. Having no document, refused to be disch'd.
2809	"	Samuel Dickinson,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Kingfisher,	Certificate from Samuel Sterett, notary public, Baltimore. -	-
2810	"	William Warren,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Kingfisher,	Cust. house protection from Portland and Falmouth, 261, -	Ordered to be discharged.
2811	"	Frederick Johnson,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Antelope,	Protection from G. W. Erving, -	Having entered, refused to be discharged.
2812	"	Henry Bowline,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Antelope,	Do. from do. -	N. B. Was applied for on the 22d Aug. 1803, 22d May, and 9th Oct. 1804. Being a native of Africa, refused to be discharged.
2813	"	John Simpson,	Charleston, S. C.	1801,	Shields,	- - - -	- - - -	- - - -	Plymouth Hosp.	Affidavit of John Sutherland, merchant, London, -	Ordered to be discharged.
2814	"	William Watts,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Flora,	Certificate from Capt. Ball, of the Zealand, stating that his protection was transmitted to the admiralty, on the 17th Feb. 1805, and not since returned, -	-
2815	"	James Harding,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Vestal,	Protection from G. W. Erving, -	N. B. Was applied for on the 12th Sept. last. Having acknowledged himself to be a British subject, refused to be discharged.
2816	"	John Finlay,	Boston, Mass.	- - - -	- - - -	- - - -	- - - -	- - - -	Zealand,	- - - -	N. B. Was applied for on the 15th and 16th Feb. 15th Oct. and 23d Nov. 1805. Having no document, refused to be discharged.
2817	"	W. Tyson Bunch,	Danvers, Mass.	- - - -	- - - -	- - - -	- - - -	- - - -	Zealand,	- - - -	N. B. Was applied for on the 22d June and 7th July, 1804, 15th Oct. and 23d Nov. 1805. Having no document, refused to be disch'd.

2818	April 12,	William Pierce,								Resolution,	Custom house protection from New York, 3908,	Document insufficient, refused to be disch'd.
2819	"	Jacob Potter,			Lisbon,					Antelope,	Certificate from J. G. Bogart, notary public, New York,	Documents insufficient, refused to be disch'd.
2820	"	William Wilson,								Lion,	Cust. house protection, Newbern, No. 723,	Ordered to be discharged.
2821	"	Thomas Harding,								Pomona,	Do. from New York, 3711,	The Pomona being on a foreign station, no steps can at present be taken respecting his discharge.
2822	April 18,	John Finlay,								Zealand,		N. B. Was applied for on the 15th and 16th Feb. 15th Oct. and 23d Nov. 1805, and 8th instant. Ordered to be discharged.
2823	"	W. Tyson Bunch,								Zealand,		N. B. Was applied for on the 22d June and 7th July, 1804, 15th Oct. and 23d Nov. 1805, and 8th inst. Ordered to be disch'd.
2824	"	John Dunham,								Princess,	Custom house protection from New York, 4546.	Being married, and his wife living in Liverpool, refused to be discharged. Ordered to be discharged.
2825	"	Thomas Shaw,								Royal William, Earnest,	Do. from Norfolk & Portsm'th, 370,	Has been discharged.
2826	"	Zenas Howard,									Custom house protection from Boston and Charlestown, No. 7416, and a certificate from the consul at the island of Walcheren,	Drowned.
2827	April 24,	Benjamin Wilkinson,								Plymouth hosp.	Certif. from Mr. Maury, Liverpool,	Document insufficient, refused to be disch'd.
2828	"	Lewis J. Verdeil,								Detained as a prisoner of war at Leek.	Letter from Mr. Lee, consul at Bordeaux, to his excellency James Monroe, Esq.	Refused to be discharged, being a Frenchman, and being first mate of the Robuste, merchant vessel, of Bordeaux, in which he was taken.
2829	"	Thomas Southack,	Portsmouth, N. H.	Sept. 19, 1804,	Dublin,					Hibernia,	Documents transmitted from the Department of State.	N. B. Was applied for on the 26th Oct. 1804, and 5th July, 1805. Ordered to be disch'd.
2830	"	W. B. Armstrong,								Detained as a prisoner of war at Norman Cross.	Do. do.	N. B. Was applied for on the 17th Nov. 1804. Discharged from Norman Cross in January, 1804, when he entered for his majesty's service; refused to be discharged.
2831	April 29,	Jesse Johnson,	Charleston, S. C.			Beaver,	B.			Boadicea,		N. B. Was applied for on the 14th Dec. 1805. Having entered, refused to be discharged.
2832	"	Thomas Pierce,								Boadicea,	Protections taken from him when impressed.	N. B. Was applied for on the 20th Feb. last. Having no documents, refused to be disch'd.
2833	"	John Donalds,								Boadicea,	Do. do.	N. B. Was applied for on the 20th Feb. last. Having no documents, refused to be disch'd.
2834	"	Noah Parker,								Whiting,	Cust. house protection from Portsmouth, 1566,	Ordered to be discharged.
2835	May 1,	Robert Williams,								Diana,	Certificate of his birth, document from the U. States, and a duplicate custom house protection from Newburyport, No. 58,	Has been discharged.
2836	"	Ebenezer Lynes,								Royal William, Princess Royal,	Protection from General Lyman.	
2837	"	William Freeman,									Custom house protection from Philadelphia, 7820,	Ordered to be discharged.
2838	May 3,	William Irving,	Pasquotank, N. C.	May 1, 1806,	Sheerness,	Ranger, A. S.	E.	Tinker,	Zealand,		Do. from Norfolk & Portsm'th, 781,	Ordered to be discharged.
2839	"	William Donnell,	Scituate, Mass.	1805,	Bahama islands,	Sampson,	A.	Thomas Pippin,	Swift,		Do. from Philadelphia, 11,013,	Ordered to be discharged.
2840	"	Barney L. Meecker,	Fairfield, Con.	1805,	Cuba,	Lioness,	B.	William Curson,	Swift,		Do. from New York, 1937,	Ordered to be discharged.
2841	"	William Parsons,	Boston, Mass.	1805,	Off Cape Clear,	Lord Nelson,			Venus,		Do. from Norfolk & Portsm'th, 434,	Ordered to be discharged.
2842	"	John Fleming,							Résolue,		Protection taken from him when impressed,	Having entered, refused to be discharged.

RETURN No. 2—Continued,

No.	Date of application to the admiralty.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
2843	1806. May 3,	John Davis,	- - -	-	-	-	-	-	Ferret,	Custom house protection from Providence, 579,	Ordered to be discharged.
2844	May 6,	Isaac Levi,	- - -	-	-	-	-	-	Lion,	Do. from Norfolk & Ports'm'th, 28.	-
2845	May 10,	John Chase,	- - -	-	-	-	-	-	Cesar,	-	N. B. Was applied for on the 22d Jan. last. Having no document, refused to be disch'd.
2846	"	Edward Owens,	- - -	-	-	-	-	-	St. George,	Documents transmitted from the Department of State.	N. B. Was applied for on the 25th Nov. 1803, 4th July, 1804, 22d and 25th Jan. and 5th Feb. 1805, and 22d Jan. last. Ordered to be discharged.
2847	"	William Cox,	- - -	-	-	-	-	-	Cesar,	Documents transmitted from the Department of State.	N. B. Was applied for on the 23d Nov. 1805. Ordered to be discharged.
2848	"	John Graves,	- - -	-	-	-	-	-	Princess,	Custom house protection from Marblehead, 90.	Being a native of the West Indies, refused to be discharged.
2849	"	Thomas Justice,	- - -	-	-	-	-	-	Cruiser,	Do. from Philadelphia, 8387,	Having entered, refused to be discharged.
2850	"	John Shay,	- - -	-	-	-	-	-	Urgent,	Do. from New York, 2820,	Having entered, refused to be discharged.
2851	May 13,	Robert Jemison,	- - -	-	-	-	-	-	Spartiate,	Protection from Mr. Hawker.	-
2852	"	John Ringrose,	- - -	-	-	-	-	-	Cruiser,	Documents transmitted from the United States.	N. B. Was applied for the 20th Jan. 1806. Having entered, refused to be discharged.
2853	"	Adam Brown,	- - -	-	-	-	-	-	Avon,	Cust. house protect. from Charleston, No. 30, and a certificate of naturalization.	N. B. Was applied for on the 26th Sept. 1805. Being a native of Leith, refused to be discharged.
2854	May 14,	William Brown,	Cambridge, Mass.	Aug. 23, 1805,	St. Lucia,	Backhouse,	E.	Ramsey,	Magnanime,	Cust. house protect. from Charleston, No. 2942.	N. B. Was applied for on the 2d April last. Ordered to be discharged.
2855	"	Daniel Shean,	- - -	-	-	-	-	-	Diana,	Do. from Baltimore, No. 48,	The Diana being on a foreign station, no steps can at present be taken respecting this man's discharge.
2856	"	John Cooke,	- - -	-	-	-	-	-	Diana,	Do. from Philadelphia, 8497,	The Diana being on a foreign station, no steps can at present be taken respecting this man's discharge.
2857	"	William Smith,	Alexandria, Va.	-	-	-	-	-	Africa,	- - - - -	N. B. Was applied for on the 25th Feb. last.
2858	"	Samuel Wanns,	New York, N. Y.	Jan. 21, 1806,	Cork,	Madison,	A.	-	Africa,	- - - - -	N. B. Was applied for on the 25th Feb. last.
2859	May 19,	David Hays,	- - -	-	-	-	-	-	Foudroyant,	Protection from Mr. Armstrong, at Octava,	Document insufficient, refused to be disch'd.
2860	"	Zina Turner,	- - -	-	-	-	-	-	Donegal,	Custom house protection from Boston, No. 5237.	-
2861	May 20,	William Simpson,	Portsmouth, N. H.	May 7, 1806,	Off the Lizard,	Pitt,	A.	Newcomb,	Locust,	Custom house protection from New York, No. 3355; certificate from Gen. Lyman of his having been formerly discharged as an American citizen from the Euryalus.	N. B. Was applied for on the 16th May, 1805. Has been discharged.
2862	"	George Mackey,	- - -	-	-	-	-	-	Plymouth hosp.	Protection from W. Bleeker, notary public, New York,	Ordered to be discharged.
2863	"	John Herbertson,	- - -	-	-	-	-	-	Archer,	Custom house protection from Philadelphia, 6785,	Ordered to be discharged.

2864	"	John Melville,								Cæsar,	Certificate of his having been discharged from his Majesty's ship Irresistible.	The Cæsar having sailed on a foreign station, no steps can at present be taken respecting this man's discharge.
2865	"	John Kerr,								Hazard,	Custom house protection from Baltimore, 395.	N. B. Was applied for on the 22d Jan. last. Has been discharged.
2866	May 23,	Ichabod Davis,								Princess,	Indentures,	Has deserted.
2867	"	John Handley,								Repulse,	Custom house protection from Baltimore, 670.	N. B. Was applied for on the 27th Aug. last. Having entered, refused to be discharged.
2868	"	Shedrick Hands,	Baltimore, Md.							Britannia,	Custom house protection from Baltimore, 664.	N. B. Was applied for on the 23d Nov. last. Having entered, refused to be discharged.
2869	"	David Johnson,		Sept. 2, 1805,						Boxer,	Certificate of his having been discharged from his Majesty's ship Camel.	N. B. Was applied for on the 7th July, 1804, and 19th Sept. 1805. Not in commission.
2870	May 26,	Paul Starbuck,	Nantucket, Mass.	March 20, 1806,	Off Dungeness,	London Packet,	B.	Robert Rabay,		Regulus,		N. B. Was applied for on the 2d April last. Ordered to be discharged.
2871	"	William Hadley,								Repulse,	Protection from Mr. Erving,	N. B. Was applied for on the 26th Sept. 1803. Having acknowledged himself to be a native of Hereford, refused to be discharged.
2872	"	Edward Moody,								Polyphemus,	Documents transmitted from the Department of State.	N. B. Was applied for on the 11th March, 13th May, and 3d October, 1805. Having been taken prisoner in the Spanish frigate Ste. Gertrude, cannot be discharged.
2873	"	James Bannister,	Lynn, Virginia,	Aug. 15, 1805,	Off Dover,	Trial,	B.	Daniel Brown,		Blazer,	Custom house protection from Norfolk and Portsmouth, 142.	N. B. Was applied for on the 19th Sept. and 12th Oct. 1805, 25th Feb. and 18th March last. Has been discharged.
2874	May 28,	Robert Evans,								Whiting,	Certificate from Lieutenant of his Majesty's ship Whiting, stating that his protection was destroyed.	
2875	"	Thomas Gray,								Ferret,	Custom house protection from Philadelphia, 9570.	
2876	"	John Osborne,								Superb,	Do. from New York, 3082,	Ordered to be discharged.
2877	"	William Canby,								Superb,	Do. from Norfolk & Ports'm'th, 570,	Ordered to be discharged.
2878	May 30,	William Williams,								Protrée,	Do. from New London, 2608,	
2879	"	Thomas Jones,								Do.	Do. from New York, 2502,	
2880	"	John Vitre,								Do.	Protection from Mr. Robertson, consul at Antwerp,	Having been taken in a ship of war of the enemy, refused to be discharged.
2881	"	Baptist Sire,								Do.	Protection from W. Bleeker, notary public, New York,	
2882	"	William Clough,								Raven,	Custom house protection from Edgerton, 194,	Ordered to be discharged.
2883	"	Levin Martin,								Majestic,	Indentures;	Not on board the Majestic.
2884	"	Joseph Anderson,								Princess,	Protection from J. Holmes, consul at Belfast.	Having acknowledged himself to be an Irishman, refused to be discharged.
2885	June 3,	David Johnson,								Zealand,	Certificate of his having been discharged from his Majesty's ship Camel.	N. B. Was applied for on the 7th July, 1804, 19th Sept. 1805, and May 23, 1806. Having no document, refused to be discharged.
2886	"	John Reilly,								Æolus,		N. B. Was applied for on the 15th May, 11th July, and 12th Oct. 1805, 22d Jan. 1806.
2887	June 12,	William Wood,								Wolverine,	Custom house protection from Alexandria, 938,	Ordered to be discharged.
2888	"	Isaac Riddler,								Africa,	Documents transmitted from the U. States.	N. B. Was applied for on the 20th Aug. 1804, 1st Aug. 1805, and 14th Nov. 1805. Ordered to be discharged.
2889	"	Joseph Hicks,								Ramilles,		N. B. Was applied for on the 20th Nov. 1804, and 5th Dec. 7th, and 22d, 11th July, 1806.

RETURN No. 2—Continued.

No.	Date of application to the admiralty.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
2890	1806. May 12,	Henry Courtney,	- - -	- - -	- - -	- - -	- - -	- - -	Charger,	Protection taken from him when impressed.	-
2891	May 14,	Billy Chiffers,	- - -	- - -	- - -	- - -	- - -	- - -	Dictator,	Certificate of freedom,	Document insufficient, refused to be disch'd.
2892	"	Chr. Tillinghast,	- - -	- - -	- - -	- - -	- - -	- - -	Blazer,	Cust. house protection from Penn. 719, and documents transmitted from the Department of State.	N. B. Was applied for on the 28th May, 1803, 11th March and 9th Sept. 1805, Jan. 30, 1806. Ordered to be discharged.
2893	June 14,	Alex. Simpson,	- - -	- - -	- - -	- - -	- - -	- - -	Monarch,	Protection taken from him when impressed,	Ordered to be discharged.
2894	"	George Johnson,	- - -	- - -	- - -	- - -	- - -	- - -	Wolverine,	Custom house protection from Norfolk and Portsmouth, 14,	Ordered to be discharged.
2895	June 17,	Philip Sharp,	- - -	- - -	- - -	- - -	- - -	- - -	Topaze,	Do. from Philadelphia, 8265,	Ordered to be discharged.
2896	"	Smith O. Freeman,	- - -	- - -	- - -	- - -	- - -	- - -	Wolverine,	Do. from New York, 2625,	Ordered to be discharged.
2897	"	William M'Guire,	Newcastle, Del.	1806.	Off Cork,	- - -	- - -	- - -	Brilliant,	Do. from Philadelphia, 12,906,	Ordered to be discharged.
2898	"	William Obree,	- - -	- - -	- - -	- - -	- - -	- - -	Salv. del Mundo,	Do. from Philadelphia,	Document insufficient, refused to be disch'd.
2899	"	John Davis,	- - -	- - -	- - -	- - -	- - -	- - -	Surinam,	- - -	N. B. Was applied for on the 25th March last. Ordered to be discharged.
2900	"	James Jameson,	- - -	- - -	- - -	- - -	- - -	- - -	Topaze,	Custom house protection from N. York, 5418.	N. B. Was applied for on the 3d March last. Ordered to be discharged.
2901	"	Thomas Harris,	- - -	- - -	- - -	- - -	- - -	- - -	Wolverine,	Do. from Philadelphia, 5198,	Ordered to be discharged.
2902	June 19,	Thomas Williams,	- - -	- - -	- - -	- - -	- - -	- - -	Royal William,	Protection from Mr. Bleeker, notary public, New York,	Ordered to be discharged.
2903	"	Ebenezer Cowell,	- - -	- - -	- - -	- - -	- - -	- - -	Royal William,	Custom house protection from Philadelphia, 11,850,	Ordered to be discharged.
2904	"	James Butler,	- - -	- - -	- - -	- - -	- - -	- - -	Mariner,	Do. from New York, 5040,	Not answering the description in his certificate, refused to be discharged.
2905	June 23,	William Hyer,	- - -	- - -	- - -	- - -	- - -	- - -	Apollo,	Do. from New Bedford, 871,	The Apollo being on a foreign station, no steps can at present be taken respecting this man's discharge.
2906	"	James Anderson,	- - -	- - -	- - -	- - -	- - -	- - -	Amethyst,	Do. from Philadelphia, 13,112,	Ordered to be discharged.
2907	"	John Berry,	- - -	- - -	- - -	- - -	- - -	- - -	Salv. del Mundo,	Certificate of naturalization,	Not on board.
2908	"	William Goold,	- - -	- - -	- - -	- - -	- - -	- - -	Quebec,	Custom house protection from N. York, No. 4870,	N. B. Was applied for on the 2d April last.
2909	"	Phil. Tompson,	- - -	- - -	- - -	- - -	- - -	- - -	Hazard,	Protection taken from him when impressed.	-
2910	June 25,	John Taylor,	- - -	- - -	- - -	- - -	- - -	- - -	Amethyst,	Custom house protection from Philadelphia, 13,055,	Ordered to be discharged.
2911	"	W. Cornthwaite,	Wilmington, S. C.	March 3, 1804,	Kingston,	Pique,	B.	- - -	Resistance,	Do. from Norfolk and Portsmouth, 70.	N. B. Was applied for on the 27th July, 1804, 14th December, 1805, and 7th Jan. 1806. Discharged.
2912	"	Samuel Heaton,	- - -	- - -	- - -	- - -	- - -	- - -	Amethyst,	Do. from New Haven, 199,	Ordered to be discharged.
2913	"	Thomas Denney,	- - -	- - -	- - -	- - -	- - -	- - -	Royal William,	Do. from New York, 461,	Ordered to be discharged.
2914	"	John Dennis,	- - -	- - -	- - -	- - -	- - -	- - -	Gibraltar,	Do. from Savannah, 561,	N. B. Was applied for on the 17th Aug. 1805, and 2d April, 1806. Ordered to be disch'd.
2915	June 28,	Jonathan Taylor,	- - -	- - -	- - -	- - -	- - -	- - -	Wolverine,	Do. from Charleston, No. 1.	-
2916	"	William Tucker,	- - -	- - -	- - -	- - -	- - -	- - -	Atlas,	Do. from New York, 4239,	Having entered, refused to be discharged.

2917	"	Robert Ritchie,	-	-	-	-	-	-	-	-	-	-	-	-	Scout,	Do. from Savannah, 752.	
2918	"	Samuel Biddle,	-	-	-	-	-	-	-	-	-	-	-	-	Wolverine,	Protection from Wm. Lyman, Esq.	
2919	"	John Lock,	-	-	-	-	-	-	-	-	-	-	-	-	Amethyst,	Protection taken from him by the	
2920	"	John Thompson,	-	-	-	-	-	-	-	-	-	-	-	-	Atlas,	1st Lieutenant,	Document insufficient, refused to be disch'd.
2921	June 30,	Thomas Connelly,	-	-	-	-	-	-	-	-	-	-	-	-	Brisk,	Custom house protection from Phi-	Ordered to be discharged.
2922	"	Alexander Beattie,	-	-	-	-	-	-	-	-	-	-	-	-	Sea Gull,	adelphia, 13,191,	
2923	"	Jacob Tornieess,	-	-	-	-	-	-	-	-	-	-	-	-	San Josef,	Do. from Philadelphia, 11,709.	
2924	"	Zina Turner,	-	-	-	-	-	-	-	-	-	-	-	-	Donegal,	Do. from Baltimore, 313.	
2925	"	Robert Jemison,	-	-	-	-	-	-	-	-	-	-	-	-	Spartiate,	Do. from Savannah, 545,	Having entered, refused to be discharged.
2926	"	William Smith,	-	-	-	-	-	-	-	-	-	-	-	-	Atlas,	Do. from Boston, 5237,	N. B. Was applied for on the 19th May, 1806.
																Do. from Mr. Hawker,	N. B. Was applied for on the 13th May last.
																Do. from Philadelphia, 594,	Ordered to be discharged.

WILLIAM LYMAN.

No. 3.

An abstract of the return or list of American seamen and citizens who have been impressed and held in service on board his Britannic majesty's ships of war, from 1st April to 30th June, 1806, inclusively.

Number of applications,	-	-	-	-	-	-	-	-	-	-	2926							
Original applications,	-	-	-	-	-	-	-	-	-	-	2798	Refused to be discharged,	} Protections from consuls and vice-consuls,	-	-	-	2	
Of which are duplicate applications,	-	-	-	-	-	-	-	-	-	-	8	documents insufficient.		Collectors' protection,	-	-	-	4
Discharged, and ordered to be discharged,	-	-	-	-	-	-	-	-	-	-	50		Discharges from King's ships as American citizens,	-	-	-	1	
Refused to be discharged,	} Having no documents,	-	-	-	-	-	-	-	-	-	4	Not on board the ships as stated,	Of different descriptions,	-	-	-	2	
		Said to be British subjects,	-	-	-	-	-	-	-	-	5	Said to have deserted,	-	-	-	-	2	
		Being a native of Africa,	-	-	-	-	-	-	-	-	1	Said to be drowned,	-	-	-	-	-	1
		Having taken the bounty,	-	-	-	-	-	-	-	-	11	On board ships on foreign stations,	-	-	-	-	-	5
		Being a native of the West Indies,	-	-	-	-	-	-	-	-	1	Applications unanswered,	-	-	-	-	-	22
		Said to be married in England,	-	-	-	-	-	-	-	-	2							
Said to be prisoners of war,	-	-	-	-	-	-	-	-	6								2926	

WILLIAM LYMAN.

A return or list of American seamen and citizens who have been impressed and held in service on board his Britannic majesty's ships of war, from 1st July to 30th September, 1806, inclusively.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
2926	1806. July 2,	James Black,	Philadelphia, Pen.	July 30, 1805,	Off Beachy head,	India Packet,	-	Range,	Intelligent,	Custom house protection from Norfolk and Portsmouth, 643,	} Ordered to be discharged.
2927	"	Charles Glumbeen,	Philadelphia, Pen.	June 20, 1806,	Off Beachy head,	Courtney,	-	Bryant,	Intelligent,	Do. from Alexandria, 779,	
2928	"	Samuel Dickinson,	-	-	-	-	-	-	King's Fisher,	Certificate from Samuel Sterett, notary public, Baltimore.	
2929	July 8,	William Millener,	-	-	-	-	-	-	Princess,	Custom house protection from N. York, 4545,	} Ordered to be discharged. Being married to a woman now residing at Cork, to whom he has allotted half his pay; refused to be discharged.
2930	"	Henry Ashworth,	-	-	-	-	-	-	Topaze,	Do. from do. 3823,	
2931	"	Allen Patterson,	Norwell, Conn.	June 13, 1806,	Off Dover,	Airy Castle,	B.	W. Burgess,	Clyde,	Do. from Savannah, 613,	} Ordered to be discharged.
2932	"	James Bull,	-	-	-	-	-	-	Royal William,	Affidavit.	
2933	"	Samuel Davidson,	Pennsylvania,	1806,	Port Royal,	Columbus,	-	Wm. Cannon,	Atlas,	Custom house protection from Mississippi, 748,	Ordered to be discharged.
2934	"	Ephr. M'Intire,	-	-	-	-	-	-	Malabar,	Do. from Wiscasset, 73,	} N. B. Was applied for on the 12th Mar. 1805.
2935	"	Richard Weaver,	-	-	-	-	-	-	Atlas,	Protection taken from him by the captain of the Atlas,	
2936	July 9,	William Basdale,	Portsmouth, N. H.	March 31, 1806,	Jamaica,	Friends,	-	Wm. Jones,	Malabar,	Custom house protection from Baltimore, No. 682,	Having no document, refused to be disch'd.
2937	"	Henry Jackson,	-	-	-	-	-	-	Trusty,	Certificate from D. Gulston, notary public, New York,	Ordered to be discharged.
2938	"	William Bevan,	Chatham, Conn.	June 21, 1806,	Off Kinsale,	-	-	-	Espiègle,	Custom house protection from Norfolk and Portsmouth,	Run from the Trusty.
2939	July 12,	David Johnson,	-	-	-	-	-	-	Zealand,	Certificate of his having been discharged from his majesty's ship Camel, and a protection from Mr. Maury, Liverpool.	Discharged.
2940	"	John Reilly,	-	-	-	-	-	-	Æolus,	N. B. Was applied for on the 7th July, 1804, 19th Sept. 1805, June 3d, 1806, and 23d May, 1806. Documents insufficient, refused to be discharged.	} N. B. Was applied for on the 12th Oct. 1805, 23d Jan. 15th May, 3d June, and 11th July, 1806.
2941	"	Pardon Harris,	N. London, Conn.	June 26, 1806,	Nore,	Ann,	-	Green,	Terror,	Protection taken from him by the commander,	
2942	July 15,	John Thompson,	Germantown, Pa.	July 12, 1806,	London,	Enterprise,	-	-	Enterprise,	Protection from the consul at Cuba,	} Ordered to be discharged.
2943	"	Robert Whebell,	Middletown, Conn.	Dec. 13, 1804,	Barbadoes,	-	-	C. Lawson,	Amelia,	Custom house protection from Baltimore, 125,	
2944	"	Peter Lovell,	Newberry, S. C.	July 3, 1806,	Tortola,	-	-	-	Amelia,	Protection from General Lyman,	
2945	"	Joseph Sheppard,	New York, N. Y.	Dec. 3, 1804,	Barbadoes,	Hough,	-	Benj. Helton,	Amelia,	Custom house protection from N. York, 3509,	} N. B. Was applied for on the 30th Jan. 1806. Having no document, refused to be disch'd.
2946	"	Jeremiah Culver,	-	-	-	-	-	-	Amelia,	Protection taken from him when impressed.	
2947	"	Samuel Larrabee,	Salem, Mass.	Dec. 3, 1804,	At sea,	Cynthia,	A.	L. H. Andrews	Amelia,	Do. do. do.	N. B. Was applied for on the 12th June, 1805. Ordered to be discharged.

No.	Month	Day	Name	Place of Birth	Date	Port	Ship	Agent	Notes
2948	"		William Hyer,	-	-	-	Apollo,	-	Custom house protection from N. Bedford, 871. N. B. Was applied for on the 23d June, 1806. The Apollo being on a foreign station, no steps can at present be taken respecting this man.
2949	"		Arthur Anderson,	-	-	-	Enterprise,	-	Protection taken from him when impressed. Being a native of Ireland, refused to be discharged.
2950	"		William Goold,	-	-	-	Quebec,	-	Custom house protection from N. York, 4870. N. B. Was applied for on the 2d April and 23d June, 1806.
2951	"		Philip Thompson,	-	-	-	Hazard,	-	Protection taken from him when impressed. N. B. Was applied for on the 23d June last.
2952	"		Thomas Gitschel,	-	-	-	Enterprise,	-	Do. do. do.
2953	"		James Daniels,	-	-	-	Enterprise.	-	
2954	"		John Pickering,	-	-	-	Royal William,	-	Documents transmitted from the United States. Not on board the Royal William.
2955	July	18,	Walter Halladay,	Suffield, Conn.	1805,	Antigua,	Argus,	Wm. Brown,	Amelia,
2956	"		James Hutchings,	Norfolk, Virginia,	May 27, 1806,	Liverpool,	Hope,	H. Shield,	Plymouth hosp.
2957	"		Samuel Bond,	-	-	-	-	-	Gibraltar,
2958	"		Peter Rivers,	-	-	-	-	-	Colossus,
2959	"		Joseph Jarvis,	-	-	-	-	-	[lotte, impressed. Protection taken from him when N. B. Was applied for on the 8th May, 1804. Having no document, refused to be disch'd.
2960	"		John Peters,	-	-	-	-	-	Princess Char-Sampson,
2961	"		Henry Wright,	-	-	-	-	-	Certificate from S. Shelton, notary public, Maryland, Ordered to be discharged.
2962	July	19,	Mark Sharp,	-	-	-	-	-	Princess, Letter from Mr. Maury, - Having no document, refused to be disch'd.
2963	"		John Watts,	-	-	-	-	-	Princess Char-[lotte, Custom house protection from Baltimore, 1233.
2964	July	21,	Cupid Dean,	-	-	-	-	-	Zealand, Protection from S. Williams, - } Having entered, refused to be discharged.
2965	"		Aaron Young,	-	-	-	-	-	Ceres, Protection from I. Keese, notary public, New York, } Having no document, refused to be disch'd.
2966	July	23,	John Campbell,	-	-	-	-	-	Sampson, Protection taken from him when impressed, Custom house protection from Baltimore, 237.
2967	"		Alexander Hall,	-	-	-	-	-	Diana, Do. from Pennsylvania, 4294.
2968	July	24,	William Williams,	-	-	-	-	-	Diana, Do. from New York, 5452, - } Being British subjects, refused to be discharged.
2969	"		Jonas Fawson,	-	-	-	-	-	Cleveland tend. Do. from Savannah, 813, - } Being British subjects, refused to be discharged.
2970	"		Henry Spencer,	-	-	-	-	-	Cleveland tend. Do. from New York, 3298, - } Being British subjects, refused to be discharged.
2971	July	28,	James Derrington,	-	-	-	-	-	Royal William, Do. from New York, 3298, - } Being British subjects, refused to be discharged.
2972	"		Francis Lockwood,	-	-	-	-	-	Amelia, Certificate from W. Bleeker, notary public, New York, - Deserted.
2973	"		Francis Franks,	New York, N. Y.	Dec. 5, 1803,	St. Kitts,	Pomona,	B. J. Leonard,	Atlas, Documents transmitted from the Department of State. N. B. Was applied for on the 23d Nov. 1803, and 1st Aug. 1805. Not on board the Atlas.
2974	"		Edward Cooper,	-	-	-	-	-	Amelia, Certificate from I. Keese, notary public, New York, Ordered to be discharged.
2975	"		Robert Williams,	-	-	-	-	-	Royal William, Custom house protection from Norfolk and Portsmouth, 15, Ordered to be discharged.
2976	"		Joseph Young,	Wiscasset, Mass.	Sept. 10, 1805,	Channel,	-	-	Diana, Certificate of his birth, and documents from the U. States, and a duplicate custom house protection from Newburyport, 58, - } N. B. Was applied for on the 1st May last. N. B. Was applied for on the 3d Dec. 1805. Ordered to be discharged.
									Princess Royal, -

III TO A

RETURN No. 4—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
2977	1806, July 28,	Jeremiah Hood,	- - -	- - -	- - -	- - -	- - -	- - -	Tremendous,	Custom house protection from Philadelphia, 6885.	The Tremendous being on a foreign station, no steps can at present be taken respecting this man.
2978	July 29,	Thomas L. Proctor,	Marblehead,	Feb. 11, 1806,	Madras,	Albion,	-	Richardson,	Hindustan,	Do. from Boston and Charlestown, 6040,	Ordered to be discharged.
2979	"	John B. Williston,	Springfield, Mass.	Aug. 2, 1803,	Cowes,	Superior,	-	S. Williston,	Excellent,	Documents transmitted from the Department of State.	N. B. Was applied for on the 10th Aug. 1803, and 18th April, 1804. Ordered to be discharged.
2980	"	John Twelves,	- - -	- - -	- - -	- - -	- - -	- - -	Princess Royal,	- - -	N. B. Was applied for on the 10th May, 1803, and 17th July, 1804. Having no document, refused to be discharged.
2981	Aug. 1,	Robert McGurdy,	Philadelphia, Pen.	Feb. 9, 1806,	Madras,	Elizabeth,	-	William Lusher,	Thalia,	Custom house protection from N. York, 1330,	N. B. Was applied for on the 16th May, 1805.
2982	"	George Ferrier,	- - -	- - -	- - -	- - -	- - -	- - -	Constance,	Do. from New York, 3920,	Ordered to be discharged.
2983	Aug. 4,	James Wilson,	- - -	- - -	- - -	- - -	- - -	- - -	Princess,	Documents transmitted from the Department of State.	N. B. Was applied for on the 23d Nov. 1803, 1st Aug. 1805, & 28th July, 1806.
2984	"	Francis Lockwood,	- - -	- - -	- - -	- - -	- - -	- - -	Colossus,	- - -	- - -
2985	"	N. M. Warren,	- - -	- - -	- - -	- - -	- - -	- - -	Boxer,	Custom house protection from Portland and Falmouth, 17,	- - -
2986	Aug. 8,	Matthew Pease,	- - -	- - -	- - -	- - -	- - -	- - -	Royal William,	Do. from Baltimore, 290,	Having entered, refused to be discharged.
2987	"	Henry Howe,	- - -	- - -	- - -	- - -	- - -	- - -	Ceres,	Certificate from the Lord Mayor,	Discharged, unseviceable.
2988	"	John Roberts,	- - -	- - -	- - -	- - -	- - -	- - -	Viper,	Custom house protection from Norfolk and Portsmouth, 584.	- - -
2989	"	James Simpson,	- - -	- - -	- - -	- - -	- - -	- - -	Thetis,	Do. from New York, 5074.	- - -
2990	Aug. 12,	John Stent,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection taken from him when impressed,	Having no documents, refused to be discharged.
2991	"	John Green,	- - -	- - -	- - -	- - -	- - -	- - -	Do.	do. do.	- - -
2992	"	William Douglass,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	do. do. do.	- - -
2993	"	Ebenezer Lynes,	- - -	- - -	- - -	- - -	- - -	- - -	Richmond,	Certificate from I. Livingston, notary public, New York,	N. B. Was applied for on the 1st May last.
2994	Aug. 14,	William H. Izod,	- - -	- - -	- - -	- - -	- - -	- - -	Le Pompée,	Do. do. do.	Le Pompée being on a foreign station, no steps can at present be taken respecting this man.
2995	Aug. 15,	John Williams,	New York, N. Y.	June 23, 1806,	Barbadoes,	Alam,	B.	Keysey,	Royal William,	Custom house protection from Baltimore, 454,	- - -
2996	"	John Wilkinson,	Newtown, Conn.	Sept. 1, 1806,	Barbadoes,	Irlam,	B.	Keysey,	Royal William,	Do. from Norfolk & Portsm'th, 455.	Ordered to be discharged.
2997	"	John Norben,	Biddeford, Mass.	Aug. 1, 1806,	Off Hamburg,	Eliza,	-	Manning,	Princess Orange	Protection taken from him when impressed,	- - -
2998	"	William Harvey,	Alexandria, Va.	June 25, 1806,	Off Barbadoes,	Irlam,	A.	Keysey,	Flyingfish,	Custom house protection from N. York, 4362,	- - -
2999	"	William R. Woods,	Portsmouth, N. H.	May 18, 1806,	At sea,	Hope,	A.	Sacket,	Flyingfish,	Do. from New Hampshire, 1377,	Ordered to be discharged.
3000	Aug. 19,	William Read,	Hartford, Conn.	July 23, 1806,	Off the Downs,	William,	B.	William Still,	Avon,	Do. from Norfolk and Portsmouth, 77,	- - -
3001	"	Alex. Stanford,	Wilmington, Del.	April 27, 1806,	St. Kitts,	On shore,	-	-	Flyingfish,	Do. from Philadelphia, 11,700	- - -

3002	"	Enos Dickson,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Flyingfish,	Protection from General Lyman,	Document insufficient, refused to be disch'd.
3003	"	Edward Owens,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	St. George,	Documents transmitted from the Department of State,	N. B. Were applied for on the 25th Nov. 1803, 4th July, 1804, 23d and 25th Jan. 5th Feb. 1805, & 22d Jan. & 10th May last. Ordered to be discharged.
3004	Aug. 22,	Peter Martin,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Oberon,	Protection taken from him when impressed,	} Being married in Engl'd, refused to be disch'd.
3005	"	William Johnson,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Flyingfish,	Certificate of his having been discharged from His Majesty's ship Malta,	
3006	"	John Hamill,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Enterprise,	Protection taken from him when impressed,	Ordered to be discharged.
3007	"	William Moss,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Enterprise,	Do. do.	Ordered to be discharged.
3008	"	James Stewart,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Princess,	Custom house protection from Mississippi, 1041,	Ordered to be discharged.
3009	"	Joseph Dunn,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Fortunée,	Protection withheld from him by the captain.	
3010	Aug. 30,	Ebenezer Berry,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Surveillante,	None,	Having no document, refused to be disch'd.
3011	"	Samuel Haniford,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Dolphin,	Cust. house protect. from Charleston, 37.	Deserted.
3012	Sept. 2,	John Seymour,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	La Vertu,	Documents from the Department of State.	N. B. Was applied for on the 25th July and 20th Aug. 1804. Not on board La Vertu.
3013	"	Francis Roger,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Repulse,	Do. do.	N. B. Was applied for on the 5th Jan. 1805. Ordered to be discharged.
3014	"	John Bailey,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Ajax,	Do. do.	N. B. Was applied for on the 29th Oct. 1803. The Ajax being on a foreign station, no steps can at present be taken respecting this man.
3015	"	Joseph Roberts,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Dryad,	Do. do.	N. B. Was applied for on the 8th Aug. 1804. Ordered to be discharged.
3016	"	George Manning,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Cleopatra,	Do. do.	} The ships on board of which these men are detained being on foreign stations, no steps can be taken respecting them.
3017	"	Joshua Siddons,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Osprey,	Do. do.	
3018	"	Nathaniel Sebastian,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Emperor,	Do. do.	Ordered to be discharged.
3019	"	Augustin Jarvis,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	L'Hercule,	Do. do.	The Diadem being on a foreign station, no steps can at present be taken respecting this man.
3020	"	Frederick Moser,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Diadem,	Do. do.	Having entered, refused to be discharged.
3021	"	John M'Intosh,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Salv. del Mundo,	Do. do.	The Galatea being on a foreign station, no steps can at present be taken respecting this man.
3022	"	John Planton,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Galatea,	Do. do.	Answer, the same as above.
3023	"	Samuel Quimbey,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Diomede,	Do. do.	The Dart being on a foreign station, no steps can at present be taken respecting this man.
3024	"	John Prin,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Defiance,	Do. do.	Deserted.
3025	"	Theophilus Jones,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Dart,	Do. do.	Not on board the Carysford.
3026	"	William Smith,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Carysford,	Do. do.	N. B. Was applied for on the 19th July, 1805. Ordered to be discharged.
3027	"	Russell Davenport,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Carysford,	Do. do.	
3028	"	Jonathan Medley,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Haughty,	Do. do.	N. B. Was applied for on the 29th March, 1805. The Antelope being on a foreign station, no steps can at present be taken respecting this man.
3029	"	William Wheeler,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	Antelope,	Do. do.	N. B. Was applied for on the 8th Jan. 1804. Discharged.
3030	"	John Howard,	Providence, R. I.	Jan.	22, 1805,	Kingston,	Fame,	B.	William Turner,	Pelican,	Do. do.	-	-	-	-	-	-	-	-	-	King's Fisher,	Do. do.	N. B. Was applied for on the 20th March and 23d April, 1804. The King's Fisher being on a foreign station, no steps can at present be taken respecting this man.
3031	"	Peter Lewis,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

RETURN No. 4—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they present themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3032	1806. Sept. 2,	Kingston Barnard,	Charleston, S. C.	April 11, 1805,	Kingston,	Abbey & Sally,	A.	Lemuel Bishop,	L'Hercule,	Custom house protection from Providence, 759, -	} Ordered to be discharged.
3033	Sept. 5,	Robert Johnson,	Norfolk, Virginia,	Dec. 29, 1805,	Jamaica,	Venus,	B.	Thomas Tobin,	Salv. del Mundo,	Do. from Norfolk & Portsm'th, 443, -	
3034	"	Thaddeus Muxham,	Plymouth, Mass.	March 18, 1805,	West Indies,	Experiment,	A.	Gaylord,	Do.	Do. from New York, 3952, -	} Ordered to be discharged.
3035	"	John Little,	Baltimore, Md.	Jan. 25, 1805,	Falmouth,	Holland,	B.	John Gore,	Do.	Do. from Philadelphia, 4866, -	
3036	"	Owen Kitcart,	Nantucket, Mass.	Feb. 11, 1805,	West Indies,	Richard Capon,	A.	James Stevens,	Surveillante,	Do. from New York, 5349, -	
3037	"	John Lloyd,	Boston, Mass.	Feb. 11, 1805,	West Indies,	Richard Capon,	A.	James Stevens,	Do.	Do. from do. 3883, -	
3038	"	Joshua Mariner,	-	-	-	-	-	-	Do.	Protection from Mr. Maury, consul at Liverpool, -	} Documents insufficient, refused to be disch'd.
3039	"	Neilson Boys,	Boston, Mass.	Oct. 23, 1804,	West Indies,	-	-	-	Do.	Custom house protection from New London, 2771.	
3040	"	John Lear,	Charleston, S. C.	Feb. 9, 1805,	Jamaica,	Fanny,	A.	Jas. Blackburn,	Do.	Do. from New York, 1941, -	} Ordered to be discharged.
3041	"	George Staring,	New York, N. Y.	May 15, 1804,	Kingston,	Warren,	A.	John Everett,	Do.	Do. from Philadelphia, -	
3042	"	Samuel Smothers,	Boston, Mass.	Feb. 6, 1805,	Kingston,	Hetable,	-	-	Do.	Do. from Salem and Beverly, 910, -	
3043	"	Hezk'h Herrington,	-	-	-	-	-	-	Do.	Indentures.	
3044	Sept. 8,	John Howard,	-	-	-	-	-	-	Prince Fred'rick Zealand,	Custom house protection from Norfolk and Portsmouth, 824, -	} Ordered to be discharged.
3045	"	John B. Low,	-	-	-	-	-	-	L'Hercule,	Do. from Baltimore, 440, -	
3046	"	Thomas Whedbee,	Edenton, N. C.	June 12, 1804,	Jamaica,	Tanner,	A.	T. Lanson,	Saly. del Mundo,	Do. from Edenton, 624, -	} Ordered to be discharged.
3047	"	John Morris,	-	-	-	-	-	-	Adamant,	A Danish passport, -	
3048	"	Henry Clark,	-	-	-	-	-	-	Basilisk,	Documents transmitted from the Department of State, -	Having no document, refused to be disch'd.
3049	"	John M'Kinnick,	-	-	-	-	-	-	Royal William,	Certificate from John Lennington, notary public, New York, -	Having entered, refused to be discharged.
3050	"	John Patter,	-	-	-	-	-	-	Basilisk,	Documents transmitted from the Department of State, -	Ordered to be discharged.
3051	"	Andrew Clark,	-	-	-	-	-	-	Do.	Do. do. -	N. B. Was applied for on the 18th May, 1803.
3052	"	John Peters,	-	-	-	-	-	-	Magnanime,	Do. do. -	Drowned.
									La Franchise,	Do. do. -	Ordered to be discharged.
3053	"	John Lindsay,	-	-	-	-	-	-	Dictator,	Do. do. -	La Franchise being on a foreign station, no steps can at present be taken respecting this man.
3054	"	William Lear,	-	-	-	-	-	-	Lilly,	Do. do. -	Not on board.
3055	"	Fenel Christian,	-	-	-	-	-	-	Thetis,	Do. do. -	The Lilly being on a foreign station, no steps can at present be taken respecting this man.
3056	"	Thomas Nesbitt,	-	-	-	-	-	-	Pelter,	Do. do. -	
3057	"	William Johnson,	-	-	-	-	-	-	Zealand,	Do. do. -	
3058	"	John Rice,	-	-	-	-	-	-	Salv. del Mundo,	Do. do. -	N. B. Was applied for on the 17th Jan. 1805. Not on board the Zealand.
3059	"	John Cappit,	-	-	-	-	-	-	Enterprise,	Do. do. -	N. B. Was applied for on the 17th July, 1804. Not on board the Salvador del Mundo.
3060	"	Daniel Kemble,	-	-	-	-	-	-	Enterprise,	Protection taken from him by the captain, -	Having no document, refused to be disch'd.
3061	"	John Barrack,	-	-	-	-	-	-	Royal William,	Do. do. -	Has been discharged.
									Justice of Peace,	Protection from Mr. Stevenson, -	Ordered to be discharged.

3062	"	Daniel Sullivan,								Princess Orange,	Custom house protection from Bal-	
3063	"	John Marks,								timore, No. 701,		} Being a British subject, refused to be disch'd. } Documents insufficient, refused to be dis- } charged.
3064	"	Joseph Jones,							Receiving ship,	Protection from General Lyman,		
3065	"	Jacob Neilson,	Philadelphia, Pen.	May	22, 1806,	At sea,	Lively,		A. I. Lane,	Do. from the consul at Madeira,	Custom house protection from N.	
3066	Sept. 11,	William Bates,								York, 6488,	Protection taken from him when	Ordered to be discharged.
3067	"	Ebenezer Lynes,								impressed.		
3068	"	John Twelves,								Richmond,		N. B. Was applied for on the 1st May and
3069	"	Peter James,								Princess Royal,	Custom house protection from Nor-	12th August last.
3070	Sept. 13,	Charles Bowen,								folk and Portsmouth,	Conflict,	N. B. Were applied for on the 10th May,
										Audacious,	Affidavit made before Gen. Lyman,	1803, 17th July, 1805, and 29th July, 1806. Ordered to be discharged.
												The Audacious being on a foreign station, no steps can at present be taken respecting this man.
3071	Sept. 15,	James Burk,	New York, N. Y.	March 19,	1804,	Kingston,	Betsey,		A.	L'Hercule,	Custom house protection from N.	
3072	"	James Carr,								York, 5217,	Protection from Gen. Lyman.	Ordered to be discharged.
3073	"	John Carrell,	Philadelphia, Pen.	May	27, 1806,	Goree,	Hope,		A. Robert Barnet,	Columbine,	Cust. house protect. from Charles-	
3074	"	John Murdock,								Fortunée,	Do. from New York, 2714.	Ordered to be discharged.
3075	"	Samuel Brown,								Enterprise,	Protection taken from him when	
3076	"	John Given,	Baltimore, Md.	Oct.	2, 1804,	Jamaica,				L'Hercule,	Custom house protection from Phi-	Documents insufficient, refused to be disch'd.
3077	"	John Clark,								ladelphia,	Protection withheld from him by	Ordered to be discharged.
3078	Sept. 20,	John Morris,		Jan.	5, 1805,	In river Weser,	Albion,		B. Anderson,	Adamant,	Protection withheld from him by	Having no document, refused to be disch'd.
3079	"	Samuel Wilkinson,								Anson or Ragoon	Custom house protection from New	N. B. Was applied for on the 8th Sept. 1806.
3080	"	John Hutt,								York, 18,	Protection from G. W. Erving,	Ordered to be discharged.
3081	"	John Morris,								Blonde,	Custom house protection from Bal-	N. B. Was applied for on the 2d Jan. last.
3082	Sept. 23,	Charles Perry,								Enterprise,	timore, 822,	Document insufficient, refused to be disch'd.
3083	"	William Goold,								Quebec,	Protection taken from him by the	Ordered to be discharged.
3084	"	Pery, alias H. Lewis,									captain,	Has been discharged.
3085	Sept. 24,	Stephen Stimson,								Receiving ship,	Indentures,	N. B. Was applied for on the 2d April and
3086	"	John Thompson,	N. Hempstead, N. Y.	Jan.	1, 1805,	Greenwich,	On shore,			Boadicea,	Custom house protection from N.	23d June, and 15th July last. Having no
3087	"	Peter Petigrew,								Janus,	Carolina, 952,	document, refused to be discharged.
3088	"	John Tuck,								King's Fisher,	Certificate from W. Bache, notary	Ordered to be discharged.
3089	"	Jacob Trusty,									public, New York,	The King's Fisher being on a foreign station,
											documents transmitted from De-	no steps can at present be taken respecting
										Loire,	partment of State.	this man.
										Belina or Bellona	Do. do.	Not on board the Loire.
											Do. do.	The Bellona being on a foreign station, no
3090	"	John Watter,								Lion,	Do. do.	steps can at present be taken respecting
3091	"	Robert Williams,								Powerful,	Do. do.	this man.
3092	"	Robert Warnock,								Saturn,	Do. do.	The ships on board of which these men are
3093	"	James Vent,								Terpsichore,	Do. do.	detained being on foreign stations, no
											Do. do.	steps can at present be taken respecting
												their discharge.

RETURN No. 4—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3094	1806. Sept. 24,	John Marshall,	- - -	- - -	- - -	- - -	- - -	- - -	Leander,	Protection taken from him when impressed,	- - -
3095	"	John Bolton,	- - -	- - -	- - -	- - -	- - -	- - -	Leander,	Do. do. do.	Having no document, refused to be disch'd.
3096	"	John Reilly,	- - -	- - -	- - -	- - -	- - -	- - -	Æolus,	- - -	Do. do. do.
3097	Sept. 26,	Charles Coffin,	- - -	- - -	- - -	- - -	- - -	- - -	L'Hercule,	Protection withheld from him by the lieutenant,	Having no document, refused to be disch'd.
3098	"	Isaac Innes,	- - -	- - -	- - -	- - -	- - -	- - -	Salv. del Mundo,	Protection from Mr. Jarvis, American consul, Lisbon,	Document insufficient, refused to be disch'd.
3099	"	George Terry,	- - -	- - -	- - -	- - -	- - -	- - -	L'Hercule,	Admiralty protection.	- - -
3100	"	John B. Low,	Blaxington, Va.	March 10, 1805,	Jamaica,	- - -	- - -	- - -	L'Hercule,	Custom house protection from Baltimore, 440.	N. B. Was applied for on the 8th Sept. last. Ordered to be discharged.
3101	"	John Thomas,	- - -	- - -	- - -	- - -	- - -	- - -	Leander,	Do. from New York, 2951.	- - -
3102	"	John Marks,	- - -	- - -	- - -	- - -	- - -	- - -	Salv. del Mundo,	Protection from Gen. Lyman,	N. B. Was applied for on the 9th Sept. last.
3103	"	James Forrest,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from the consul at Rotterdam,	Document insufficient, refused to be disch'd.
3104	"	John Eaton,	- - -	- - -	- - -	- - -	- - -	- - -	Salv. del Mundo,	Custom house protection from Newburyport, 359,	Ordered to be discharged.
3105	"	Thomas Williams,	- - -	- - -	- - -	- - -	- - -	- - -	Leander,	Do. from New York, 4158,	Ordered to be discharged.
3106	Sept. 30,	James Watson,	- - -	- - -	- - -	- - -	- - -	- - -	Swift,	Do. from Baltimore, 507,	Ordered to be discharged.
3107	"	Jeremiah Hood,	- - -	- - -	- - -	- - -	- - -	- - -	L'Hercule,	Do. from Philadelphia, 6685,	N. B. Was applied for on the 28th July, 1806. Not on board L'Hercule.

WILLIAM LYMAN.

No. 5.

An abstract to the return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st July to 30th September, 1806.

Number of applications,	- - - - -	3107	} Protections from consuls and vice-consuls, - - - - - 7 } Notarial and other affidavits made in the United States, - - - - - 1 } Admiralty protections, - - - - - 1
Original applications,	- - - - -	2925	
Duplicate applications,	- - - - -	10	} Not on board the ships as stated, - - - - - 9 } Deserted, - - - - - 4 } Drowned or dead, - - - - - 1 } Invalided, - - - - - 1
Discharged, and ordered to be discharged,	- - - - -	72	
Refused to be discharged,	Having no documents,	15	} On board ships on foreign stations, - - - - - 18 } Applications unanswered, - - - - - 31
	Being British subjects,	4	
	Having taken the bounty,	5	
	Being a native of the West Indies,	1	
	Being married in England and Ireland,	2	
			Total, - - - - - 3107

WILLIAM LYMAN.

A return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st October to 30th December, 1806, inclusively.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3108	1806. Oct. 3,	Joseph Dean,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Fortunée,	Protection withheld from him by the captain, - - - -	} N. B. Was applied for on the 29th Aug. last, N. B. Were applied for on the 17th Sept. 1803. Documents insufficient, refused to be discharged.
3109	"	John Clark,	- - - -	- - - -	- - - -	- - - -	- - - -	Fortunée,	Do. do. - - - -		
3110	"	George Morris,	- - - -	- - - -	- - - -	- - - -	- - - -	Rec.shipFalm'th	Certificate from W. Bleeker, notary public, New York, - - - -		
3111	"	John Lochlin,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Princess,	Custom house protection from Baltimore, 342, - - - -	} Ordered to be discharged.
3112	"	Levin Blake,	Kent county, Del.	Oct. 5, 1805,	Downs,	Grenada,	B.	Richardson,	PrincessOrange,	Certificate from Mr. Bugden, notary public, New York, Admiralty protection, - - - -	
3113	Oct. 7,	Isaac Hill,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Pheasant,	- - - -	The Pheasant being on a foreign station, &c.
3114	"	Paris Memuir, or Muir,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Phoebe,	- - - -	N. B. Was applied for on the 2d April last.
3115	"	John Campbell,	Newcastle, Del.	Jan. 1, 1806,	Portugal,	Talbot,	A.	J. Maxfield,	Diana,	- - - -	N. B. Was applied for on the 23d July, 1806. Ordered to be discharged.
3116	"	Freeman Young,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Princess Royal,	- - - -	N. B. Was applied for on the 23d Nov. 1806.
3117	Oct. 9,	Thomas Mantor,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Blanche,	Documents transmitted from the Department of State, - - - -	Not on board the Blanche.
3118	"	John Benson, or John Rich,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Fly,	Do. do. - - - -	The Fly being on a foreign station, &c.
3119	"	Jeremiah Hood,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Atlas,	Custom house protection from Philadelphia, 6885, - - - -	N. B. Was applied for on the 28th July and 30th September last.
3120	"	John Doake,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Malabar,	Documents transmitted from the Department of State, - - - -	} Having entered, refused to be discharged.
3121	"	Joseph Spalding,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Repulse,	Do. do. - - - -	
3122	"	Robert Miller,	Baltimore, Md.	Oct. 12, 1806,	Deptford,	- - - -	- - - -	- - - -	Enterprise,	Custom-house protection from Norfolk and Portsmouth, - - - -	} Ordered to be discharged.
3123	Oct. 11,	John Rea,	Washington, N. C.	June 15, 1806,	Lisbon,	- - - -	- - - -	- - - -	Diana,	Do. from New York, 2651, - - - -	
3124	"	David Chub,	Fairfield co. Con.	Aug. 10, 1806,	Lee,	Ann,	A.	Flower,	Diana,	Protection from George Knox, consul at Hull, - - - -	
3125	"	Daniel Lauderkin,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Cambrian,	Custom house protection from Wisconsin, 103, - - - -	The Cambrian being on a foreign station, &c.
3126	"	William Dorsey,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Enterprise,	Protection withheld from him by the captain. - - - -	Being a native of Fifeshire, refused to be discharged.
3127	"	George Bround,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Leander,	Do. do. - - - -	Having no document, refused to be disch'd.
3128	Oct. 13,	James Carr,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Atlas,	- - - -	N. B. Was applied for on the 15th Sept. last. Document insufficient, refused to be disch'd.
3129	Oct. 15,	Nahum Warren,	Worcester, Md.	Oct. 12, 1806,	On shore,	- - - -	- - - -	- - - -	Enterprise,	Protection withheld from him by the captain, - - - -	Ordered to be discharged.
3130	"	John Marshall,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Leander,	Affidavit, - - - -	Having no document, refused to be disch'd.
3131	"	Robert Youes,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Formidable,	Custom house protection from Norfolk and Portsmouth, 377, - - - -	} Being a British subject, refused to be disch'd.
3132	"	John Kendall,	- - - -	- - - -	- - - -	- - - -	- - - -	- - - -	Delight,	Do. from Charleston, 518, - - - -	

RETURN No. 6—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3133	1806. Oct. 15,	Alexander Hall, James Murray,	Baltimore, Md. Alexandria, Va.	May 17, 1806, Sept. 1, 1806,	Channel, Downs,	Diana,	B.	Purvis,	Diana, Spitfire,	Custom house protection from Philadelphia, 1004,	Was applied for on the 23d July last.
3134	"	John Marks,	-	-	-	-	-	-	Salv. del Mundo,	-	Ordered to be discharged.
3135	Oct. 21,	Mark Sharp,	-	-	-	-	-	-	Pr's Charlotte,	-	Was applied for on the 9th and 26th Sept. last.
3136	"	George Saunders,	-	-	-	-	-	-	Princess,	Custom house protection from Philadelphia,	Was applied for on the 19th July last. Having entered, refused to be discharged.
3137	"	Ebenezer Andrews,	-	-	-	-	-	-	Magnificent,	Affidavit,	Ordered to be discharged.
3138	"	John Bolton,	-	-	-	-	-	-	Leander,	Do.	Was applied for on the 14th March, 1804, and 22d Jan. 1806. Not on board the Magnificent.
3139	"	Abraham Ingersoll,	-	-	-	-	-	-	Nassau,	Custom house protection from Boston, 5192,	Was applied for on the 24th Sept. last. Documents insufficient, refused to be disch'd.
3140	"	John Day,	-	-	-	-	-	-	Haughty,	Protection taken from him by the lieutenant.	Ordered to be discharged.
3141	Oct. 22,	James Simpson,	-	-	-	-	-	-	Thetis,	-	Was applied for on the 8th Aug. last. Ordered to be discharged.
3142	"	John Johnson,	-	-	-	-	-	-	Enterprise,	Protection taken from him when impressed,	Documents insufficient, refused to be disch'd.
3143	Oct. 29,	George Williams,	-	-	-	-	-	-	La Franchise,	Protection taken from him by the lieutenant.	Ordered to be discharged.
3144	"	James Davis,	Bristol, R. I.	Oct. 25, 1806,	On shore,	-	-	-	Enterprise,	Do.	Was applied for on the 19th Aug. last. Documents insufficient, refused to be disch'd.
3145	"	Enos Dixon,	-	-	-	-	-	-	Flyingfish,	Protection from Gen. Lyman,	Ordered to be discharged.
3146	"	Abraham Ely,	-	-	-	-	-	-	Skylark,	Custom house protection from New York, 2803,	Was applied for on the 19th Aug. last. Documents insufficient, refused to be disch'd.
3147	"	W. Cunningham,	-	-	-	-	-	-	Skylark,	Do. from Baltimore, 285,	Ordered to be discharged.
3148	"	James Johnston,	-	-	-	-	-	-	Haughty,	Protection from Mr. Warsdell, consul at the Helder,	Documents insufficient, refused to be disch'd.
3149	"	Thomas Wilkins,	Baltimore, Md.	Oct. 4, 1803,	Halifax,	William,	B.	Skaine,	Leander,	Custom house protection from Baltimore, 741,	Ordered to be discharged.
3150	"	William Weyman,	New York, N. Y.	April 21, 1806,	Barbadoes,	On shore,	-	-	Magnificent,	Do. from Charleston, 32,	Being a native of Scotland, refused to be discharged.
3151	"	David Hagerty,	-	-	-	-	-	-	Diana,	Protection from Samuel Sterett, notary public, Baltimore.	Custom house protection from New York, 6689.
3152	"	John Davis,	-	-	-	-	-	-	Indignant,	Do. from do. 2867.	Was applied for on the 26th Sept. last. Discharged.
3153	Oct. 30,	Thomas Smith, John Thomas,	Gloucester, N. Y.	May 27, 1806,	At sea,	Jupiter,	A.	S. Hartley,	Paulina, Leander,	-	Was applied for on the 24th April last. Has been discharged.
3154	"	Benjamin Wilkinson,	-	-	-	-	-	-	Plymouth hosp.	Documents from the Department of State, and a custom house protection from Norfolk and Portsmouth, 147.	Was applied for on the 24th April last. Has been discharged.

3157	"	John Devis,								Enterprise,	Protection from Gen. Lyman,	Documents insufficient, refused to be disch'd.
3158	"	Joseph Baker,								Phosphorus,	Documents transmitted from De-	Was applied for on the 20th July, 1804. Has
3159	"	Howel S. Woodruff,								Formidable,	Department of State.	deserted.
3160	"	William Brown,								Do.	Do.	} Having entered, refused to be discharged.
3161	Nov. 6,	Goree M'Clure,								Decade,	Protection from E. Trask, notary	
3162	"	James Murray,								Enterprize,	public, New Orleans,	} Ordered to be discharged.
3163	"	Wilmit Hambly,								Spitfire,	Indentures,	
3164	"	John Barrak,								Ganges,	Custom house protection from New	} Having entered, refused to be discharged.
3165	"	Thomas Parsons,								Columbine,	London, 3041.	
3166	"	John Bridel,	Edenton, N. C.	March 27, 1806,	Goree,	Cotton Planter,	A.	Campbell,		L'Aigle,	Justice of Peace.	} Ordered to be discharged.
3167	"	Noah Hall,								Penguin,	Cust. house protection from Port-	
3168	"	Thomas Bravo,								La Franchise,	land and Falmouth, 18,	} Having no document, refused to be disch'd.
3169	Nov. 7,	Francisco Dios,								Devastation,	Do. from Virginia, 301,	
3170	"	William Brown,								Princess,	Do. from New York, 2064.	} Having been exchanged as a British subject
3171	"	Samuel Todd,								La Franchise,	Do. from do. 5740,	
3172	"	Samuel Jackson,	—, N. J.	July 21, 1806,	Off Curacao,	Favorite,	A.	May,		Do.	Do. from do. 5192,	} Discharged.
3173	"	William Sickles,								Do.	Do. from do. 2900,	
3174	"	Elijah Clark,	Cumberland, N. J.	Oct. 9, 1805,	Off Cuba,	Chesterfield,	A.	Ford,		Do.	Do. from Mississippi,	} Ordered to be discharged.
3175	"	Oliver Beckwith,	New London, Con.	April 29, 1805,	Off Curacao,	Industry,	A.	John May,		Do.	Do. from New London, 2467,	
3176	"	John Dickinson,								Do.	Do. from Norfolk & Ports'm'th, 122,	} Not answering the description in their pro-
3177	Nov. 18,	William Burton,								Pr'ss Charlotte,	Do. from do. 803,	
3178	"	Williams Furr,								Do.	Do. from Baltimore, 837,	} Ordered to be discharged.
3179	"	Lawrence Ward,	Norfolk, Virginia,	June 8, 1805,	Providence,	Hope,				La Franchise,	Do. from New York, 539,	
3180	"	William Brown,	New York, N. Y.	April 6, 1805,	Jamaica,	Vulture,	A.	Hammond,		Do.	Discharged from L'Oiseau,	} 30th Jan. and 6th Nov. 1806. Disch'd.
3181	"	Noah Hall,	Falmouth, Mass.	April 19, 1804,	West Indies,					Do.	Cust. house protection from Port-	
3182	"	Richard Jacobs,	—, Virginia,	June 9, 1804,	Curacao,	Harmony,	A.	W. Maitland,		Do.	land and Falmouth, 108,	} Ordered to be discharged.
3183	"	Joseph Gilpin,								Do.	Do. from Norfolk & Portsmouth,	
3184	"	Richard Coward,	Baltimore, Md.	March 1, 1804,	Off New York,	Manchester,	A.	Hall,		Royal William,	Do. from Charleston, 671,	} Ordered to be discharged.
3185	"	John M'Nelly,	—, Con.	Oct. 8, 1805,	St. J's. Newf'd,	Fanny,	A.	Galloway,		Do.	Do. from Philadelphia, 11,801,	
3186	"	John Roberts,								Do.	Do. from Baltimore, 845,	} Ordered to be discharged.
3187	"	John Reid,								London,	Do. from New York, 1777,	
3188	"	Joseph Hough,								Do.	Do. from Charleston, 69,	} Ordered to be discharged.
3189	"	Charles Tracy,	Norwich,	Aug. 8, 1803,	Off Cape Henry,	Mary Ann,	A.	W. D. Seaton,		Regulus,	Duplicate protection from N. York,	
3190	"	William Tracy,								Belleisle,	and documents from the Depart-	} Ordered to be discharged.
3191	"	J. Aeton, or Eaton,	Providence, R. I.	Dec. 13, 1804,	Off Dungeness,	Ducklington,	B.			Do.	ment of State,	
3192	"	Thomas Smith,								Magnanime,	Custom house protection from New	} Ordered to be discharged.
3193	"	Thomas Eafterby,								Boadicea,	London, 1897,	
3194	Nov. 20,	John Peters,								Paulina,	Do. from New York,	} Was applied for on the 29th October, 1806.
3195	"	Thomas Gootie,								La Franchise,	Do. from Norfolk & Ports'm'th, 220,	
										Do.	Protection taken from him when	} Discharged.
										Do.	impressed,	
										Do.	Documents transmitted from the	} Discharged.
										Do.	Department of State,	
										Do.	Do.	} Discharged.

VOL. III.

RETURN No. 6—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3196	1806. Nov. 20,	William Smith,	-	-	-	-	-	-	Nassau,	Documents transmitted from the Department of State.	The only man on board the Nassau named Wm. Smith, declares he is not an American, but born in London.
3197	"	Thpmas Simpson,	-	-	-	-	-	-	Adonis,	Do. do.	The Adonis being on a foreign station, &c.
3198	"	William Davis,	-	-	-	-	-	-	Neptune, 2d,	Affidavit made before J. Wilson, consul at Belfast.	-
3199	"	Matthew Myles,	-	-	-	-	-	-	Enterprise,	Admiralty protection,	Having no documents, refused to be disch'd.
3200	"	William Wood,	-	-	-	-	-	-	Wolverine,	Documents transmitted from the Department of State,	The Wolverine being on a foreign station, &c.
3201	"	Smith Freeman,	-	-	-	-	-	-	Magnificent,	Discharged from the Wolverine,	Was applied for on the 17th June, 1806. Ordered to be discharged.
3202	"	Samuel Biddle,	-	-	-	-	-	-	Wolverine,	Custom house protection from New York, No. 3060,	The Wolverine being on a foreign station, &c.
3203	Nov. 24,	Richard Woolvin,	Boston, Mass.	June 13, 1805,	At sea,	Maria,	S.	-	Hasler hospital, or Gladiator,	Do. from Wilmington, 24,	Ordered to be discharged, when he recovers.
3204	"	John Gray,	-	-	-	-	-	-	Pr'ss Charlotte,	Protection from G. W. Erving, Esq.	Document insufficient, refused to be disch'd.
3205	"	Alex'r M'Donald,	-	-	-	-	-	-	Penguin,	Custom house protection from Philadelphia, 13,623.	-
3206	Nov. 26,	Robert Thompson,	-	-	-	-	-	-	Nassau,	Documents transmitted from the Department of State.	No man of the name of Robert Thompson on board the Nassau.
3207	"	Thomas Beal,	-	-	-	-	-	-	Plymouth hosp.	Protection from Mr. Maury, consul at Liverpool,	Document insufficient, refused to be disch'd.
3208	"	John Thompson,	-	-	-	-	-	-	Le Clerc,	Documents transmitted from the Department of State.	Was applied for on the 10th Nov. 1804, and 9th Jan. 1805. No such ship in His Majesty's service as Le Clerc.
3209	"	James Smith,	-	-	-	-	-	-	Orion,	Custom house protection from New York, and indentures.	Was applied for on the 25th Jan. 1804, 17th July, and 12th Oct. 1805. Ordered to be discharged.
3210	"	John Patterson,	-	-	-	-	-	-	Hero,	Documents transmitted from the United States,	Was applied for on the 20th January, 1806.
3211	"	Ab'm Bishop,	-	-	-	-	-	-	Princess Orange	Protection taken from him by the commander,	Ordered to be discharged.
3212	"	Goreè McClure,	-	-	-	-	-	-	Zealand,	Indentures,	Was applied for on the 6th November, 1806. Goreè M'Clure having himself declared that he has served at sea three years, and that he is about the age of eighteen years, and that he is not an American citizen, refused to be discharged.
3213	Nov. 28,	William Warner,	Providence, R. I.	Nov. 3, 1805,	Barbadoes,	-	-	-	Namur,	Documents transmitted from Department of State.	Was applied for on the 15th Nov. and 14th Dec. 1805. Ordered to be discharged.
3214	"	John Brooks,	-	-	-	-	-	-	Solebay,	Do. do.	No such man on board.
3215	"	Robert Jouens,	-	-	-	-	-	-	Formidable,	Do. do.	Was applied for on the 15th October, 1806.
3216	"	Ebe'r Andrews,	-	-	-	-	-	-	Agamemnon,	Do. do.	Was applied for on the 14th March, 1804, 22d Jan. and 21st Oct. 1806.

3217	"	John Tucke,									Belleisle,	Do.	do.	} Were applied for on the 24th Sept. last. } Ordered to be discharged. } Not to be found.
3218	Dec. 3,	Samuel Thompson,	Frankford, Pen.	May 20, 1806,	Off Cuba,	Montserrat,	A.				Diana,	Do.	do.	
3219	"	William Trumbo,									Leander,	Do.	do.	
3220	"	Thomas Brown,									Pallas,	Do.	do.	
3221	"	Thomas Osman,									La Franchise,	Do.	do.	
3222	"	John Davis,									Indignant,			Was applied for on the 29th Oct. 1806. Not answering the description in his document, refused to be discharged.
3223	"	James Green,									Emerald,			Protection taken from him by the captain of the Enterprise.
3224	"	Peter Johnson,									Tartar,			Protection withheld from him by the late captain,
3225	Dec. 6,	David Hayes,									Fourdroyant,			Ordered to be discharged.
3226	"	John Bridge,									Tartar,			Was applied for on the 19th May last.
3227	"	Levi Brown,									Boadicea,			Custom house protection from Norfolk and Portsmouth, 376, Ordered to be discharged.
3228	"	Aaron Williams, alias Thomas Wright,	Bridgetown, N. J.	Aug. 7, 1804,	Dungeness,	Active,	B.				Namur,			Document being insufficient, and there being great reason to believe him to be a British subject, refused to be discharged.
3229	"	John Saunders,									Adamant,			Documents from the Department of State. Was applied for on the 27th Oct. 1804. Ordered to be discharged.
3230	"	Thomas Thorne, alias Thomas Rowland,									Cæsar,			Do. do. do. The Adamant being on a foreign station, &c.
3231	"	Nat. W. Warren,									Boxer,			Protection from E. Laight, notary public, New York, Do. do. do. Document from the Department of State. Was applied for on the 8th Aug. 1806. No man of that name on board the Boxer (G. B.) since she was commissioned.
3232	Dec. 15,	Benjamin Newton,									Conqueror,			Do. do. do. Has deserted.
3233	"	William Lawrence,									Enterprise,			Protection from Gen. Lyman,
3234	"	George Roberts,									Enterprise,			Protection from G. W. Erving,
3235	"	William Dean,									Tartar,			Protect. from consul at Hamburgh, Documents insufficient, refused to be disch'd
3236	"	Thomas Barnes,									Montague,			Documents from the Department of State.
3237	"	Stephen Stinson,									Olympia,			Cust. house protection from Washington. Was applied for on the 24th Sept. last.
3238	"	R. E. M'Knight,									Enterprise,			Discharged.
3239	"	George, or Joseph Nicholls,									Franchise,			Protection from General Lyman, Discharged.
3240	Dec. 17,	W. Cunningham,	Baltimore, Md.	Sept. 1, 1806,	Off Hastings,	Louisiana,	A.	Jas. Norris,			Skylark,			Protection taken from him by the late captain, Documents insufficient, refused to be disch'd.
3241	"	Abraham Ely,	New York, N. Y.	Sept. 1, 1806,	Off Hastings,	Louisiana,	A.	Jas. Norris,			Albion,			} Were applied for on the 29th Oct. last. } Ordered to be discharged.
3242	Dec. 19,	Jacob Pister,												Documents from the Department of State, The Albion being on a foreign station, &c.
3243	"	John Benson, alias John Rich, Jun.									Paissant,			Do. do. do. Was applied for on the 9th Oct last.
3244	"	Peter M'Callum,	Baltimore, Md.	June 25, 1806,	Off Shetland,	Ann,	B.				Phœbe,			Custom house protection from Norfolk, 6336, } Ordered to be discharged.
3245	"	Joseph Deshon,									Zealand,			Documents from the Department of State, Not to be found.
3246	Dec. 20,	James M'Kain,									Zealand,			Certificate of naturalization, Being a native of Ireland, refused to be discharged.
3247	Dec. 26,	Dennis M'Ready,									Lilly,			Documents from the Department of State, The Lilly being on a foreign station, &c.

RETURN No. 6—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3248	1806. Dec. 26,	Edward Frethy, alias John Thomas, or Thompson.	- - -	- - -	- - -	- - -	- - -	- - -	Prince Fred'rick	Documents from the Department of State.	The only man of that name on board the Prince Frederick being a native of Scotland, and being taken in a vessel defrauding the revenue, refused to be discharged.
3249	"	Joseph Cannon,	- - -	- - -	- - -	- - -	- - -	- - -	Exertion,	Custom house protection from Philadelphia, 13,470,	Ordered to be discharged.
3250	"	Charles Hewlett,	- - -	- - -	- - -	- - -	- - -	- - -	L'Aigle,	Documents from the Department of State.	
3251	"	William Story,	- - -	- - -	- - -	- - -	- - -	- - -	Donegal,	Do. from do.	
3252	"	John Berry,	- - -	- - -	- - -	- - -	- - -	- - -	Tonnant,	Protection from S. Cooper, Esq. notary public, Boston,	Ordered to be discharged.
3253	"	Henry Crumpston,	- - -	- - -	- - -	- - -	- - -	- - -	Pallas,	Custom house protection from Portland and Falmouth,	Ordered to be discharged.
3254	"	Philip Thompson,	- - -	- - -	- - -	- - -	- - -	- - -	Hazard,	- - -	Was applied for on the 23d June and 15th July, 1805.
3255	Dec. 27,	Isaac Gains,	Newbern, N. Y.	Nov. 25, 1806,	St. Helen's,	Sterling,	A.	Jno. Johnson,	Despatch,	Protection taken from him by the master of the Despatch,	Was applied for on the 26th July, 1804, 25th Feb. 2d, 14th, and 25th May, 1805, Was applied for on the 23d Nov. 1805, and 7th Oct. last.
3256	"	Truman Young,	- - -	- - -	- - -	- - -	- - -	- - -	Princess Royal,	- - -	Ordered to be discharged.
3257	"	Richard Jacques,	- - -	- - -	- - -	- - -	- - -	- - -	Turbulent,	Protection taken from him by the commander.	Description of R. Jacques being totally different from that given in the protection, refused to be discharged.
3258	Dec. 31,	Jos'h Gardiner,	- - -	- - -	- - -	- - -	- - -	- - -	Belleisle,	Documents from the Department of State,	
3259	"	James Smith,	- - -	- - -	- - -	- - -	- - -	- - -	Matilda,	Custom house protection from Philadelphia, 11,280,	Having entered, refused to be discharged.
3260	"	John Blackwood,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from Gen. Lyman,	
3261	"	James Osmore,	- - -	- - -	- - -	- - -	- - -	- - -	Pallas,	Certificate of his having been born in Charleston, S. C.	Documents insufficient, refused to be discharged.
3262	"	William Smith,	- - -	- - -	- - -	- - -	- - -	- - -	Africa,	- - -	Were applied for on the 25th Feb. & 14th May, 1806. Ordered to be discharged.
3263	"	Samuel Wauns,	- - -	- - -	- - -	- - -	- - -	- - -	Africa,	- - -	
3264	"	Paris Memuire, or Muir,	- - -	- - -	- - -	- - -	- - -	- - -	Phoebe,	- - -	Was applied for on the 2d April and 3d Oct. 1806. Having no document, refused to be discharged.
3265	"	George Terry,	- - -	- - -	- - -	- - -	- - -	- - -	Defence,	Admiralty protection,	Was applied for on the 26th Sept. 1806. Documents insufficient, refused to be disch'd.

WILLIAM LYMAN.

No. 7..

An abstract to the return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st October to 31st December, 1806, inclusively.

Number of applications,	- - - - -	3265
Original applications,	- - - - -	3107
Duplicate applications,	- - - - -	12
Discharged, and ordered to be discharged,	- - - - -	59
Refused to be discharged,	{ Having no documents,	4
	{ Being British subjects,	6
	{ Having taken the bounty,	9
	{ Protections from consuls and vice-consuls,	11
Refused to be discharged,	{ Notarial and other affidavits made in the United States,	3
	{ Notarial and other affidavits made in England,	1
	{ Collectors' protections,	1
	{ Admiralty protections,	1
	{ Of different descriptions,	3
Not on board the ships, as stated,	{ Kept by the officers who impressed them,	4
	{	7
Deserted,	- - - - -	3
Ships on board of which they are stated to be detained, not in commission,	- - - - -	1
On board ships on foreign stations,	- - - - -	9
Said to be exchanged as British subjects, from French and Spanish prisons,	- - - - -	3
Applications unanswered,	- - - - -	21
		<hr/>
	Total,	3265

WILLIAM LYMAN.

A return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st January to the 31st March, 1807, inclusively.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	Nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3266	1807. Jan. '9,	George Barrett,	Lancaster, Pen.	Nov. 5, 1806,	Yarmouth roads,	Betsey,	B.	Hillary,	Quebec,	Custom house protection from N. York, 4722.	Was applied for on the 2d March, 1804. Ordered to be discharged. Documents insufficient, refused to be discharged.
3267	"	John Chapman,	-	-	-	-	-	-	Ceres,	Protection from General Lyman,	
3268	"	Arch'd Fleming,	-	-	-	-	-	-	Zealand,	Do. do.	
3269	"	Jos. P. Fraser,	-	-	-	-	-	-	Alligator,	Cust. house protect. from Charleston, 31.	
3270	"	John Riley,	Hudson, N. Y.	March 29, 1805,	Off Oporto,	Ceres,	B.	Brown,	Æolus,	Documents transmitted from the Department of State,	Ordered to be discharged.
3271	"	Reuben Barnard,	-	-	-	-	-	-	Tromp,	Protection from consul at Bordeaux, and an affidavit,	
3272	"	Richard Salter,	-	-	-	-	-	-	Tromp,	Do. do. Liverpool,	Document insufficient, refused to be disch'd. Ordered to be discharged.
3273	"	Dennis Megarey,	-	-	-	-	-	-	Tromp,	Do. from Gen. Lyman,	
3274	"	John Davis,	-	-	-	-	-	-	Tromp,	Do. from do.	
3275	"	Eben'r Andrews, or Anderson.	Providence, R. I.	Sept. 24, 1804,	Nore,	Little,	B.	-	Agameinnon,	Cormorant,	Were applied for on the 14th March, 1805, 22d Jan. 21st Oct. and 28th Nov. 1806. The Cormorant being on a foreign station, no steps can be taken respecting this man's discharge.
3276	"	Horace Lane,	-	-	-	-	-	-	-	Letter from R. Skinner, Esq.	
3277	"	Benj. Dennings,	-	-	-	-	-	-	Enterprise,	Do. from do.	The document which this man produced having been erased, and there being reason to believe him an Englishman, refused to be discharged.
3278	"	John Hodgskis,	Cape Ann,	Dec. 15, 1806,	Nore,	Caledonia,	B.	-	Urgent,	Custom house protection from Mississippi, 830,	Ordered to be discharged.
3279	"	Thomas Cook,	Shrewsbury, N. Y.	Dec. 26, 1806,	London,	-	-	-	Dedalus,	Discharged from His Majesty's ship Cambrian, and a certificate from T. Barclay, Esq. British consul general in the United States,	
3280	"	William Hays,	-	-	-	-	-	-	Crocodile,	Custom house protection from Norfolk and Portsmouth, 413,	
3281	"	Daniel Gooden,	Mass.	Jan. 5, 1807,	London,	-	-	-	Enterprise,	Do. do. 87,	Was applied for on the 15th Dec. 1806.
3282	"	William Storey,	-	-	-	-	-	-	Donegal,	Documents from Department of State,	
3283	Jan. 21,	John Chappell,	-	-	-	-	-	-	Neptune,	Do. from do.	Invalid.
3284	"	Oliver Chase,	-	-	-	-	-	-	Plymouth hosp.	Do. from do.	Having entered, refused to be discharged.
3285	"	Edward Ryan,	-	-	-	-	-	-	La Constance,	Do. from do.	His Majesty's ship Constance is lost.
3286	"	Spencer Ripley,	-	-	-	-	-	-	Diana,	Do. from do.	Was applied for on the 8th Feb. 1806. Has been discharged.
3287	"	Stephen Devu,	-	-	-	-	-	-	Sir Frs. Drake,	Do. from do.	The Sir Francis Drake being on a foreign station, &c.
3288	"	Thomas Hall,	-	-	-	-	-	-	Montague,	Do. from do.	Ordered to be discharged.
3289	"	Jonathan E. Scott,	-	-	-	-	-	-	Leocadia, or Boadicea,	Do. from do.	Not on board.
3290	"	William Smith,	-	-	-	-	-	-	Alligator,	Custom house protection from Savannah, 1116,	

3291	"	John Schneider,	-	-	-	-	-	-	-	-	-	Carysford,	Affidavit, and a certificate from P.	
3292	"	John Veil,	-	-	-	-	-	-	-	-	-	Boadicea,	Bond, British consul, -	No such ship in commission.
3293	"	Alex'r Stanford,	-	-	-	-	-	-	-	-	-	Inconstant,	Protection from the consul at St. Michael's,	Document insufficient, refused to be disch'd.
3294	Jan. 27,	William Johnson,	-	-	-	-	-	-	-	-	-	Agamemnon,	Custom house protection from Philadelphia, 11,700,	Ordered to be discharged.
													Documents from the Department of State.	Was applied for on the 17th Jan. 1805, and 8th Sept. 1806. This man not being born in the place stated in his document, which is supposed to belong to another man, refused to be discharged.
3295	"	Thomas Nesbitt,	-	-	-	-	-	-	-	-	-	Pelter,	-	Was applied for on the 8th Sept. 1806.
3296	"	John Lindsay,	-	-	-	-	-	-	-	-	-	Agamemnon,	Documents from the Department of State.	Was applied for on the 8th Sept. 1806. This man not being born in the place stated in his document, which is supposed to belong to another man, refused to be discharged.
3297	"	Joseph Jackson,	Bath, Mass.	Dec. 11, 1806,	Bermuda,	Endeavor,	A. Varney,	Avon,	Cust. house protection from Bath, 150,					
3298	"	John Johnson,	Boston, Mass.	Dec. 11, 1806,	Bermuda,	Polly,	A. Anderson,	Avon,	Protection from J. Lennington, notary public, New York,					
3299	"	William Hays,	Baltimore, Md.	Dec. 20, 1806,	Off Beachy head	William,	A. Fisk,	Crocodile,						
3300	Feb. 3,	William Powell,	Charleston, S. C.	Aug. 21, 1806,	In the Channel,	Hero,	B. Blowit,	Avon,	Protection from John Gardiner, notary public, Boston,					Ordered to be discharged.
3301	"	Elijah Kelly,	-	-	-	-	-	-	Custom house protection from New York, 6890.					Were applied for on the 9th Jan. 1807.
3302	"	Aaron Higgins,	-	-	-	-	-	-	Zealand,					
3303	"	William Bray,	-	-	-	-	-	-	Protection from Gen. Lyman,					Document insufficient, and having acknowledged himself to be a deserter, refused to be discharged.
3304	"	Daniel Jackson,	-	-	-	-	-	-	Crocodile,					Was applied for on the 26th December, 1804. Having been taken out of a vessel employed in defrauding the revenue, refused to be discharged.
3305	"	Martin Powers,	-	-	-	-	-	-	Vigilant,					Having been taken in a French privateer, refused to be discharged.
3306	Feb. 9,	William Harvey,	-	-	-	-	-	-	Zealand,					
									Affidavit of Capt. Skidmore, of Mississippi, and a letter from Gen. Lyman,					
3307	"	Trueman Young,	Bennington, Ver.	Oct. 12, 1805,	At sea,	Ruckers,	B. Hampden,	Princess Royal,	Custom house protection from Philadelphia, and a discharge from His Majesty's ship Flyingfish,					Document insufficient, refused to be disch'd.
3308	"	John Lindsay,	-	-	-	-	-	-	Inconstant,					Was applied for on the 15th Aug. 1806. Ordered to be discharged.
									Agamemnon,					Was applied for on the 23d Nov. 1805, 7th Oct. and 27th Dec. 1806.
3309	Feb. 19,	Joseph Forrester,	Boston Mass.	Nov. 18, 1806,	St. J's. Newf'd,	Jane,	B. Baird,	Nemesis,	Custom house protection from New York, 3738,					Was applied for on the 8th Sept. 1806, and 27th Jan. 1807. This man not being born in the place stated in his protection, refused to be discharged.
3310	"	Thomas Battis,	-	-	-	-	-	-	Alligator,					Ordered to be discharged.
3311	"	John Hayman,	-	-	-	-	-	-	Devastation,					Has voluntarily entered.
									Enterprise,					Was applied for on the 31st Mar. 1804. Being married in England, refused to be disch'd.
3312	"	Isaac Hunter,	-	-	-	-	-	-	Donegal,					Document insufficient, refused to be disch'd.
3313	"	Zina Turner,	-	-	-	-	-	-	Protection from Gen. Lyman,					Was applied for on the 19th May and 30th June, 1806.

RETURN No. 8—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3314	1807. Feb. 28,	Thomas Brown,	-	-	-	-	-	-	Satellite,	Custom house protection from Savannah, 694.	} Ordered to be discharged.
3315	"	John Bosley,	-	-	-	-	-	-	Satellite,	Do. from Providence and Rhode Island, 845.	
3316	"	Thomas Orane,	-	-	-	-	-	-	Alligator,	Do. from New York, 3678,	
3317	"	Daniel Seeman,	-	-	-	-	-	-	Alligator,	Do. from Wiscasset, 108,	
3318	"	James Beason,	-	-	-	-	-	-	Defiance,	Do. from Baltimore, and a certificate of marriage.	
3319	"	Horace Lane,	-	-	-	-	-	-	Cormorant,	Do. from Middletown, 439,	Was applied for on the 9th Jan. 1807. Not answering the description given in his protection, refused to be discharged.
3320	"	Joseph Miller,	-	-	-	-	-	-	Dapper,	Do. from Marblehead, 246,	Ordered to be discharged.
3321	"	Calvin Rockwood,	-	-	-	-	-	-	Princess,	Do. from Boston, 4108,	No such man on board the Princess.
3322	March 10,	James Mitchell,	-	-	-	-	-	-	Tend. belonging to Londonderry.	Do. from Baltimore, 785, and a letter from T. Folger, Esq.	The only man of that name on board declares he is a native of Cornwall, and has voluntarily entered.
3323	"	Aug. Dundas,	-	-	-	-	-	-	Nereid,	Admiralty protection,	The Nereid being on a foreign station, &c.
3324	"	William Simmons,	-	-	-	-	-	-	Zealand,	Protection from Gen. Lyman,	Document insufficient, refused to be disch'd.
3325	"	Daniel Ross,	-	-	-	-	-	-	Princess Royal,	Do. from New York, 741,	Ordered to be discharged.
3326	"	William Morkhall,	-	-	-	-	-	-	Enterprise,	Protection from Gen. Lyman,	Document insufficient, refused to be disch'd.
3327	"	Aaron Higgins,	-	-	-	-	-	-	Meleager,	Do. do.	Was applied for on the 3d Feb. 1807. Being a deserter from His Majesty's service, and document being insufficient, refused to be discharged.
3328	March 23,	John Hoar,	Alexandria, Va.	-	West Indies,	Lydia,	A.	Patterson,	Seine,	Custom house protection from Baltimore, 228,	Ordered to be discharged.
3329	"	Nath'l M. Warren,	-	-	-	-	-	-	Leveret,	Document from the Department of State.	Was applied for on the 8th Aug. and 6th Dec. 1806. Document insufficient, refused to be discharged.
3330	"	Peter M'Caver,	East Haven, Con.	Dec. 29, 1806,	Liverpool,	-	-	-	Belina,	Custom house protection from N. York,	Ordered to be discharged.
3331	March 31,	Charles-Hewlett,	-	-	-	-	-	-	L'Aigle,	Document from the Department of State,	Was applied for on the 26th Dec. 1806. Having entered, refused to be discharged.
3332	"	Thomas L. Proctor,	-	-	-	-	-	-	El Corso,	Custom house protection from Boston and Charlestown, 6040,	Was applied for on the 29th July, 1806.
3333	"	William Blake,	-	-	-	-	-	-	Alcmene,	Protection from Mr. Maury, consul at Liverpool.	-
3334	"	Samuel Gould,	-	-	-	-	-	-	Sparrow,	Protection from W. Stevenson, notary public, Boston,	Ordered to be discharged.
3335	"	William Cammamile,	-	-	-	-	-	-	Enterprise,	Certificate from S. Lawson, agent,	Document insufficient, refused to be disch'd.
3336	"	William Bray,	-	-	-	-	-	-	Crocodile,	Letter to Gen. Lyman,	Was applied for 26th Dec. 1804, and 3d Feb. 1807. Having been taken on board of a vessel employed in defrauding the revenue, refused to be discharged.

WILLIAM LYMAN.

No. 9.

An abstract to the return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st January to 31st March, 1807, inclusively.

Number of applications,	- - - - -	3336
Original applications,	- - - - -	3265
Duplicate applications,	- - - - -	5
Discharged, and ordered to be discharged,	- - - - -	28
Refused to be discharged,	Said to be British subjects,	1
	Having voluntarily entered,	4
	Being married in England,	1
	Having been taken out of a French privateer,	1
	Having been taken in a vessel employed in defrauding the revenue,	1
Refused to be discharged, documents insufficient.	Protections from consuls and vice-consuls,	9
	Notarial affidavits made in England,	1
	Collectors' protections,	1
	Documents from the Department of State,	3
Not on board the ships, as stated,	- - - - -	2
Invalided,	- - - - -	1
Ships on board of which they were stated to be detained not in commission,	- - - - -	1
Ships on board of which they were stated to be detained lost,	- - - - -	1
On board ships on foreign stations,	- - - - -	2
Applications unanswered,	- - - - -	9
Total,	- - - - -	<u>3336</u>

WILLIAM LYMAN.

A return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st April to the 30th June, 1807, inclusively.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3337	1807. April 10,	William Jeffers,	Long Island, N. Y.	Dec. 27, 1806,	Cork,	Sarah,	B.	Lightfoot,	Alomene,	Protection from New York, 5890,	Ordered to be discharged. Being a British subject, refused to be disch'd. Ordered to be discharged.
3338	"	William Parker,	-	-	-	-	-	Enterprise,	Protection from Gen. Lyman,		
3339	"	James Richardson,	Richmond, Va.	March 29, 1807,	Humber,	Francis,	B.	Firm,	Protection taken from him,		
3340	April 28,	George Ham,	New York, N. Y.	April 5, 1807,	Liverpool,	Margaret,	A.	Success,	Protection from Gen. Lyman,		
3341	"	David Simons,	-	-	-	-	-	Leda,	Cust. house protection from Nantucket, No. 5.		
3342	"	Allen Baker,	-	-	-	-	-	Mutine,	Do. from Boston, 6636,	Ordered to be discharged.	
3343	"	Daniel Teal,	-	-	-	-	-	Strenuous,	Do. from Baltimore, 134,	Not answering the description in his document, refused to be discharged.	
3344	"	Thomas Turner,	-	-	-	-	-	Achille,	Certif. from the purser's steward,	Having no document, refused to be disch'd.	
3345	"	Thomas Milligan,	-	-	-	-	-	Leda,	Custom house protection from Philadelphia, and a certificate of marriage.		
3346	"	Charles Buschnell,	-	-	-	-	-	Salv. del Mundo,	Protection from the consul, Lisbon,	Was applied for on the 29th Jan. and 1st Aug. 1805. Being an Irishman, refused to be discharged.	
3347	"	William Kembell,	Portsmouth, N. H.	June 25, 1805,	West Indies,	Polly,	A.	-	Cambrian,	Cust. house protect. from Charleston, 620,	Ordered to be discharged.
3348	April 30,	Henry Martin,	-	-	-	-	-	Success,	Certificate from P. Bond, Esq. British consul United States, custom house protection from Philadelphia, & a not. public's certificate,		
3349	"	John Taylor,	New York, N. Y.	March 25, 1805,	Bermuda,	Vulcan,	A.	Thos. Harris,	Cambrian,	Custom house protection from Wiscasset, 59,	Documents insufficient, refused to be disch'd.
3350	"	Benj. Williams,	—, N. C.	June 13, 1805,	West Indies,	Charles Carter,	A.	R. Tonkin,	Cambrian,	Do. from Washington, 523,	Ordered to be discharged.
3351	"	Edward Curry,	Hartford, Conn.	April 2, 1807,	Falmouth,	Duckingfield,	B.	Dunbar,	Alomene,	Do. from New London, 2667,	
3352	"	Edward Carney,	Philadelphia, Pen.	Nov. 1806,	Off Antigua,	French ship,	F.	Easters,	Gladiator,	Do. from Philadelphia, 10,638,	
3353	"	John Ab. Henry,	-	-	-	-	-	-	Endymion,	Do. from Portsmouth, 267,	
3354	"	James Crawley,	-	-	-	-	-	-	Hound,	Do. from Baltimore, 944,	Was applied for on the 26th Sept. 1804. Endymion being on a foreign station, no steps can be taken respecting this man. Ordered to be discharged.
3355	"	James Donald,	-	-	-	-	-	-	Hawk,	Letter from William Dorsey, Esq. to Gen. Lyman, and an affidavit,	
3356	"	James Smith,	-	-	-	-	-	-	Leda,	Protection taken from him by the captain, (two certificates of discharge from His Majesty's ship Gaelan.)	The Hawk being on a foreign station, &c.
3357	May 6,	Joseph Bird,	-	-	-	-	-	-	Crescent,	Custom house protection from Beverly, and a certificate of marriage,	Being a British subject, refused to be disch'd. Being a British subject, refused to be disch'd.
3358	"	John Bradley,	-	-	-	-	-	-	Enterprise,	Protection from G. W. Erving,	

3359	"	William Cheeseman,								Plymouth hosp.	Custom house protection from Baltimore, 131,	Ordered to be discharged.	
3360	"	John Wood,								Alcmene,	Protection from G. W. Erving,	Document insufficient, refused to be disch'd.	
3361	"	Richard Crawford,								Clyde,	Indentures,	Not to be found.	
3362	"	Peter Hopkins,								Woolwich,	Custom house protection from N. York, 275,	Ordered to be discharged.	
3363	"	Benj. Worrell,								Mutine,	Do. from Philadelphia, 9904,	Not answering the description in his document, refused to be discharged.	
3364	"	Samuel Davis,	—, Va.	April 20, 1807,	Guernsey,	Pedlar,	A.			Regulus,	Do. from the consul at Liverpool,	Ordered to be discharged.	
3365	"	Henry Butcher,								Alcmene,	Cust. house protection from Alexandria, 497,	Ordered to be discharged.	
3366	May 11,	John Smith,								Ceres,	Protection from Gen. Lyman,	Not to be found.	
3367	"	James Watson,								Royal William,	Protection taken from him by the capt. of His Majesty's ship Niobe.	Document insufficient, refused to be disch'd.	
3368	"	Alexander Atwood,								Cruiser,	Do. captain of the Enterprise,	Having no documents, refused to be disch'd.	
3369	"	Anthony Myers,								Niobe,	Do. captain of the Niobe.		
3370	May 19,	Nathaniel Conner,	Portsmouth, N. H.	March 8, 1805,	Bermuda,	Happy Couple,	A.	Storey,		Cambrian,	Custom house protection from Norfolk and Portsmouth, 2586,	Ordered to be discharged.	
3371	"	Robert Blakway,	New York, N. Y.	March 8, 1805,	Bermuda,	Happy Couple,	A.	Storey,		Cambrian,	Do. from Mississippi, 5,		
3372	"	Dennis Tryon,								Diana,	Do. from New York, 7342,		
3373	"	Christ. Randell,								Goliath,	Certificate of marriage,	Being a British subject, refused to be disch'd.	
3374	"	John Phillips,								Urgent,	Custom house protection from Providence, 1125.		
3375	"	Walter Halliday,								Hound,	Do. from New Haven, 175,	Was applied for on the 8th July, 1806. Has voluntarily entered.	
3376	"	Daniel Watkins,								Goshawk,	Do. from Charleston, 102,	Being an imposter, an Irishman, and married in London, refused to be discharged.	
3377	"	John Patterson,								Hero,	Documents from the U. States,	Was applied for on the 20th Jan. and 26th Nov. 1806. Documents insufficient, refused to be discharged.	
3378	"	James Davis,								Ariel,	Protection taken from him by the captain,	Appearing to be British subjects, with fraudulent protections, refused to be discharged.	
3379	"	Joseph Crosby,								Ariel,	Do. do.	Was applied for 28th ult. Not on board.	
3380	"	David Simmons,								Alacrity,	Cust. house protection from Alexandria, 799,	Ordered to be discharged.	
3381	May 23,	John Mading,								Salvador,	Documents from the Department of State,	The Saturn being on a foreign station, &c.	
3382	"	Jeremiah Holmes,								Saturn,	Custom house protection from Newbern, 861,	Ordered to be discharged.	
3383	"	Jean Moignon,								Trusty,	Protection from Gen. Lyman,	Document insufficient, and appearing to be a British subject, refused to be discharged.	
3384	"	John Allen,								Enterprise,	Plymouth hosp.	Custom house protection from Savannah, 1041,	Ordered to be discharged.
3385	"	John Adams,	Baldin, Mass.	Dec. 27, 1806,	Jamaica,	Trafalgar,	B.			Plymouth hosp.	Do. from Biddeford, 580,	Ordered to be discharged.	
3386	"	Noah Rowe,								Haslar hospital,	Do. from New London, 1720,	The Diana being on a foreign station, &c.	
3387	May 29,	O. R. Andrews,								Diana,	Do. from Tappahannock, 38,	Ordered to be discharged.	
3388	"	Thomas Abbot,								Diana,	Do. from Norfolk & Portsm'th, 44,	Ordered to be discharged.	
3389	"	David Thompson,								Pelican,	Do. from Boston and Charlestown, 6150,	Not to be found.	
3390	"	John Weeks,								Haslar hospital,	Documents from the United States,		
3391	"	Francis Harvey,								Cæsar,	Cust. house protection from Alexandria, 497.	Was applied for 6th May last. Not answering the description in his document, refused to be discharged.	
3392	"	Henry Butcher,								Hound,			
3393	"	Samuel Fullensby,								Porcupine,	An affidavit, and a letter from Admiral Young,	Having no document, refused to be disch'd.	

RETURN No. 10—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3394	1807. May 29,	John Larnard, Thomas Duffey,	- - -	- - -	- - -	- - -	- - -	- - -	Despatch, Haslar hospital,	Letter from Admiral Young, Custom house protection from Philadelphia, 8347,	Ordered to be discharged.
3395	" "	" "	" "	" "	" "	" "	" "	" "	" "	" "	Has voluntarily entered. Ordered to be discharged.
3396	" "	Daniel Parsons, William Fawcett,	Cape Ann, Mass. Petersburg, Va.	Feb. 1, 1806, Jan. 20, 1806,	Off the Havana, New Providence	Fishhook,	A.	Malling,	Haslar hospital, Haslar hospital,	Do. from Gloucester, 1105, Custom house protection from Norfolk and Portsmouth, 670, Do. from Baltimore, 785,	Discharged. N. B. Was applied for on the 10th March last. The Sea Lark being on a foreign station, &c.
3397	" "	" "	" "	" "	" "	" "	" "	" "	" "	" "	Ordered to be discharged.
3398	June 3,	James Mitchell,	- - -	- - -	- - -	- - -	- - -	- - -	Sea Lark,	Do. from Baltimore, 785,	Being a native of Greenock, refused to be discharged.
3399	" "	Edward Sands, William Rollo,	- - -	- - -	- - -	- - -	- - -	- - -	Pelican, Princess,	Do. from Portsmouth, 1380, Do. from Gloucester, 1076,	Documents insufficient, refused to be discharged.
3400	" "	" "	" "	" "	" "	" "	" "	" "	" "	" "	Do. from Gloucester, 1076,
3401	" "	York Geyer,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from Mr. Erving,	Documents insufficient, refused to be discharged.
3402	" "	John Mitchell,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise, Zealand,	Do. do. Do. from Gen. Lyman,	Do. do. do.
3403	" "	Charles Martin,	- - -	- - -	- - -	- - -	- - -	- - -	Isis,	Affidavit,	Has voluntarily entered.
3404	" "	Thomas Webb,	- - -	- - -	- - -	- - -	- - -	- - -	Paulina,	- - -	Was applied for 29th Oct. and 18th Nov. 1806. Having no document, refused to be disch'd.
3405	" "	Thomas Smith,	- - -	- - -	- - -	- - -	- - -	- - -	- - -	- - -	- - -
3406	June 6,	Stephen Kinnelley,	- - -	- - -	- - -	- - -	- - -	- - -	Hyacinth,	Custom house protection from N. York, 7612,	Not answering the description in their documents, refused to be discharged.
3407	" "	Samuel Holland,	- - -	- - -	- - -	- - -	- - -	- - -	Hyacinth,	Do. from Philadelphia, 1204,	Discharged.
3408	" "	W. Van Veghten,	Pittstown, N. Y.	May 24, 1807,	London,	- - -	- - -	- - -	Zealand, Princess,	Do. from New York, 6849, Do. from Boston and Charlestown, 5169,	Being a deserter, refused to be discharged.
3409	" "	Joseph Cambridge,	- - -	- - -	- - -	- - -	- - -	- - -	Princess,	Protection from J. G. Bogert, notary public, New York,	Documents insufficient, refused to be disch'd
3410	" "	Charles Bryan,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from Gen. Lyman,	Documents insufficient, refused to be disch'd
3411	" "	David Colman,	- - -	- - -	- - -	- - -	- - -	- - -	Hyacinth,	Protection taken from him by the captain,	Not answering the description in their protections, refused to be discharged.
3412	" "	Daniel Geary,	- - -	- - -	- - -	- - -	- - -	- - -	Princess, Pincher,	Do. consul at Cowes, Indenture,	Being an Irishman, refused to be discharged.
3413	" "	John Potter,	- - -	- - -	- - -	- - -	- - -	- - -	Blossom,	Custom house protection from Norfolk and Portsmouth, 514.	Being an Irishman, refused to be discharged.
3414	June 12,	Robert Dillon,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from Gen. Lyman,	Document insufficient, refused to be disch'd.
3415	" "	James Steveson,	- - -	- - -	- - -	- - -	- - -	- - -	Sea Gull,	Documents from Department of State.	Not answering to the description in his documents, refused to be discharged.
3416	" "	James Hughes,	- - -	- - -	- - -	- - -	- - -	- - -	Caesar, Cracker,	Do. do. Do. do.	Documents from the United States,
3417	" "	John Norben,	- - -	- - -	- - -	- - -	- - -	- - -	Le Pompée,	Documents from the United States,	Was applied for on the 14th Aug. 1806. Being a native of Smithfield, refused to be discharged.
3418	" "	John Baker,	- - -	- - -	- - -	- - -	- - -	- - -	- - -	- - -	Ordered to be discharged.
3419	" "	Amos Howard,	- - -	- - -	- - -	- - -	- - -	- - -	- - -	- - -	Documents insufficient, refused to be disch'd.
3420	June 17,	William Hands Izod,	- - -	- - -	- - -	- - -	- - -	- - -	- - -	- - -	Ordered to be discharged.
3421	" "	Joseph West,	Beverly, Mass.	March 29, 1806,	West Indies,	Wm. & Charles,	A.	J. Kellog,	Osprey, Namur,	Do. do. Do. do.	Documents insufficient, refused to be disch'd.
3422	" "	Daniel Parker,	- - -	- - -	- - -	- - -	- - -	- - -	Diomede,	Custom house protection from Norfolk and Portsmouth, 462,	Ordered to be discharged.
3423	" "	John Knox,	New York, N. Y.	Feb. 23, 1807,	Montevideo,	Minerva,	A.	- - -	- - -	- - -	- - -

3424	"	Benj. Bennet,	-	-	-	-	-	-	-	-	-	-	Crescent,	Do. from Philadelphia, 12,652,	-	Not answering the description in his document, refused to be discharged.	
3425	"	James Allen,	-	-	-	-	-	-	-	-	-	-	Alban,	Do. do. 11,372,	-	Not on board.	
3426	"	Thomas P. Carter,	-	-	-	-	-	-	-	-	-	-	Crescent,	Protection taken from him,	-	Having no document, refused to be disch'd.	
3427	"	James Newmayer,	-	-	-	-	-	-	-	-	-	-	Sprightly,	Do. do.	-	Ordered to be discharged.	
3428	June 18,	Joseph Russell,	-	-	-	-	-	-	-	-	-	-	-	Centaur,	Custom house protection from New York, 7426,	}	The master of an American vessel having given these men over for mutinous conduct to an English man-of-war, and declaring them to be British subjects with false certificates, refused to be disch'd.
3429	"	James Johnston,	-	-	-	-	-	-	-	-	-	-	Centaur,	Do. from Baltimore, 534,			
3430	"	John Long,	-	-	-	-	-	-	-	-	-	-	Centaur,	Do. do. 622,	-	Ordered to be discharged.	
3431	"	James G. Avery,	-	-	-	-	-	-	-	-	-	-	-	Dragon,	Do. from Savannah, 649,	-	Having no document, refused to be disch'd.
3432	"	Isaac Ward,	-	-	-	-	-	-	-	-	-	-	Osprey,	Certificate of birth from the United States,	-	Was applied for on the 6th July, 1804. Document insufficient, refused to be disch'd.	
3433	"	T. G. Waterman,	-	-	-	-	-	-	-	-	-	-	Princess Orange,	Protection from Mr. Erving,	-	Was applied for on the 6th Nov. 1806. Having no document, refused to be discharged.	
3434	"	Wilmot Hambly,	-	-	-	-	-	-	-	-	-	-	Ganges,	-	-	-	
3435	June 24,	Charles Puffer,	New Haven, Con.	July 7, 1807,	Cape of G. Hope	Betsey,	A. Dutch,	Ganges,	Custom house protection from New York,	-	-	-	Ganges,	Do. from Philadelphia,	-	Ordered to be discharged.	
3436	"	John Dervick,	-	-	-	-	-	-	-	-	-	-	Centaur,	-	-	Having been given up by the master of an American vessel as a British subject, refused to be discharged.	
3437	"	James Bean,	City Point, Va.	Sept. 21, 1805,	Off the Tower,	Olive Branch,	A. Lake,	Osprey,	Do. do.	-	-	-	Laurel,	Do. from Georgetown,	-	}	Ordered to be discharged.
3438	"	John Patten, Jun.	New York, N. Y.	Jan. 16, 1807,	Madeira,	Pitt,	B. Smith,	Censor,	Do. from Baltimore,	-	-	-	Censor,	Do. from New York,	-		
3439	"	John Little,	-	-	-	-	-	-	-	-	-	-	Venus,	Do. from New York,	-	}	Ordered to be discharged.
3440	"	William Chandler,	-	-	-	-	-	-	-	-	-	-	Princess Orange,	Do. do.	-		
3441	"	George Crosswell,	-	-	-	-	-	-	-	-	-	-	Porcupine,	Affidavit of Captain Gillies, of the Le Roy, and a letter from Barrings & Co.	-	Being a British subject, refused to be disch'd.	
3442	June 26,	Joseph Dean,	-	-	-	-	-	-	-	-	-	-	Amethyst,	Custom house protection from New York, 5441.	-	Document insufficient, refused to be disch'd.	
3443	"	Nathaniel Barker,	-	-	-	-	-	-	-	-	-	-	Enterprise,	Protection from Gen. Lyman,	-	Document insufficient, refused to be disch'd.	
3444	"	Robert Buchanan,	-	-	-	-	-	-	-	-	-	-	Challenger,	Certificate of discharge from His Majesty's ship Téméraire,	-	Having no document, refused to be disch'd.	
3445	June 30,	John Welsh,	-	-	-	-	-	-	-	-	-	-	-	Custom house protection from New York, 2516,	-	}	Discharged.
3446	"	William Tankard,	Norfolk, Va.	Jan. 16, 1807,	Madeira,	Pitt,	B. J. Smith,	Laurel,	Do. from Philadelphia, 11,082	-	-	-	Defence,	Do. from Philadelphia, 11,082	-		
3447	"	William Smith,	-	-	-	-	-	-	-	-	-	-	Urgent,	Do. from Providence, 1125,	-	Was applied for on the 19th May, 1807.	
3448	"	John Phillips,	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

WILLIAM LYMAN.

No. 11.

An abstract to the return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st April to 30th June, 1807, inclusively.

Number of applications,	- - - - -	3448
Original applications,	- - - - -	3336
Duplicate applications,	- - - - -	1
Discharged, and ordered to be discharged,	- - - - -	37
	Having no documents,	8
	Being British subjects,	12
	Having voluntarily entered,	4
Refused to be discharged,	Being sent on board an English man-of-war, by the master of an American vessel, for mutinous conduct, and being British subjects with fraudulent protections,	3
	Being a deserter,	1
	Being an imposter, with a fraudulent protection,	1
Refused to be discharged, documents insufficient,	Protections from consuls and vice-consuls,	11
	Notarial affidavits made in the United States,	3
	Collectors' protections not answering the description,	9
	Documents from the Department of State,	1
Not on board the ships, as stated,	- - - - -	5
On board ships on foreign stations,	- - - - -	6
Applications unanswered,	- - - - -	10
	Total,	<u>3448</u>

WILLIAM LYMAN.

A return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st July last, to 30th September, 1807, inclusively.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3449	1807. July 8,	Joseph Brownell,	-	-	-	-	-	-	Princess,	Custom house protection from New-	} Being impostors, with fraudulent protec- tions, refused to be discharged.
3450	"	Joseph Mackay,	-	-	-	-	-	Do.	port, 1628,	-	
3451	"	Timothy Fuller,	-	-	-	-	-	Do.	Do. from New York, 6145,	-	
3452	"	James Edmonds,	-	-	-	-	-	Do.	Do. from Boston, 7670,	-	
3453	"	Thomas Davis,	-	-	-	-	-	Decade,	Do. from New York, 1292,	-	
3454	"	Ira Moody,	Hamp,	March 7, 1807,	Madeira,	True Briton,	B.	Wm. Clark,	Goliath,	Do. from do. 1132.	-
3455	"	Jonathan H. Pratt,	-	-	-	-	-	-	Captain,	Do. from Salem, 1058,	-
3456	"	Abr'm Ingersoll,	-	-	-	-	-	-	Turbulent,	Do. from Boston, 5322.	-
3457	"	Samuel Robinson,	-	-	-	-	-	-	Rosamond,	Protection taken from him,	-
3458	"	Charles Cobin,	-	-	-	-	-	-	Zebra,	Do. do.	-
3459	July 10,	William Lynn,	-	-	-	-	-	-	Enterprise,	Do. do.	-
3460	"	John Ridgeway,	-	-	-	-	-	-	Topaze, or Ac-	Affidavit.	-
3461	"	John Norpot,	-	-	-	-	-	-	Do. [tive,	Affidavit.	-
3462	"	John Annable,	New Bedf'd, Mass.	March 27, 1806,	Point Peter,	Fame,	A.	Warner,	Do.	Affidavit.	-
3463	"	John Chatman,	-	-	-	-	-	-	Osprey,	Custom house protection from Sa-	-
3464	"	William Morrison,	-	-	-	-	-	-	Stork,	vannah,	-
3465	"	Samuel Lloyd,	-	-	-	-	-	-	Do. from New York, 6733,	Do. from New York, 6733,	-
3466	"	Samuel Harvey,	-	-	-	-	-	-	Kangaroo,	Do. from Mississippi,	-
3467	July 14,	John Kulen,	-	-	-	-	-	-	Ceres,	Protection from Gen. Lyman,	-
3468	"	John Bean,	-	-	-	-	-	-	Enterprise,	Do. do.	-
3469	"	George Ganzler,	-	-	-	-	-	-	Diligence,	Custom house protection from Bos-	-
3470	"	John Andrews,	-	-	-	-	-	-	Brilliant,	ton and Charlestown, No. 96,	-
3471	"	Peter Cole,	St. Mary's co. Md.	July 2, 1807,	Downs,	Winchelsea,	B.	Moffet,	Do.	Do. from Newburyport, 369.	-
3472	"	Wm. Woodhouse,	Portsmouth, N. H.	July 9, 1807,	London,	-	-	-	Magnificent,	Do. from Boston and Charlestown,	-
3473	July 21,	B. S. Hunt,	-	-	-	-	-	-	Zealand,	8600.	-
3474	"	James Ratrie,	-	-	-	-	-	-	Do.	Documents from the Department	-
3475	"	John Marshall,	-	-	-	-	-	-	Magnanime,	of State,	-
3476	"	William Belmy,	-	-	-	-	-	-	Conqueror,	Certificate from S. Sterett, notary	-
3477	"	George Crosswell,	-	-	-	-	-	-	Maida,	public, New York,	-
3478	"	John Roebuck,	-	-	-	-	-	-	Do.	Protection taken from him,	-
3479	July 31,	John Terry,	Po'keepsie, N. Y.	June 1, 1804,	Cork,	Charlton,	-	-	Phiomel,	Documents from the Department	-
3480	"	Samuel Holland,	-	-	-	-	-	-	Alceste,	of State,	-
									Amphion,	Do. do.	-
									Hyacinth,	Do. do.	-
										Do. do. 2283,	-
										Letter from Mr. Maury.	-

RETURN No. 12—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3481	1807. Aug. 4,	William Thomas,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from Mr. Erving,	Document insufficient, refused to be disch'd. Documents insufficient, refused to be discharged.
3482	Aug. 17,	William Glover,	- - -	- - -	- - -	- - -	- - -	Enchantress,	Protection from J. Hawker,		
3483	"	William Crank,	- - -	- - -	- - -	- - -	- - -	Do.	do.		
3484	"	George Foy,	- - -	- - -	- - -	- - -	- - -	Alceste,	Custom house protection from Savannah, 1069,		
3485	"	Robert Brower,	- - -	- - -	- - -	- - -	- - -	Do.	Indentures,	Has voluntarily entered. Not to be found.	
3486	"	Thomas Atherton,	- - -	- - -	- - -	- - -	- - -	Do.	Custom house protection from New York, 508,		
3487	"	J. M. Guaramaud,	- - -	- - -	- - -	- - -	- - -	- - -	Mill prison,	Passport from Mr. Madison,	Has been sent to France by order of the transport board.
3488	"	Peter Lezet,	- - -	- - -	- - -	- - -	- - -	- - -	Royal William,	Protection from Charleston, 34,	Having been given up by the master of the American ship Martha as a British subject, refused to be discharged.
3489	"	William Dunn,	- - -	- - -	- - -	- - -	- - -	- - -	Zealand,	Do. Mississippi, 858.	Not on board.
3490	"	Edward Ball,	- - -	- - -	- - -	- - -	- - -	Receiving ship at Milford,	Protection taken from him,		
3491	Aug. 20,	Smith Freeman,	- - -	- - -	- - -	- - -	- - -	- - -	Magnificent,	Documents from the U. States,	Was applied for 17th June and 20th Nov. 1806. Magnificent being on a foreign station, &c.
3492	"	Henry Martin,	- - -	- - -	- - -	- - -	- - -	- - -	Success,	Do. do.	Was applied for 30th April, 1807. Ordered to be discharged.
3493	"	Samuel Thompson,	- - -	- - -	- - -	- - -	- - -	- - -	Royal William,	Do. do.	Was applied for 3d Dec. 1806. Document insufficient, refused to be discharged.
3494	"	John Gray,	Arundel, Md.	March 6, 1806,	Montevideo,	- - -	- - -	- - -	L'Amiable,	Protection from Portsmouth, 479,	Ordered to be discharged.
3495	"	Bela Potter,	- - -	- - -	- - -	- - -	- - -	- - -	Enterprise,	Protection from Gen. Lyman,	Document insufficient, refused to be disch'd.
3496	"	John Walsh,	- - -	- - -	- - -	- - -	- - -	- - -	Challenger,	- - -	Having no document, and appearing to be a native of Ireland, refused to be discharged.
3497	"	Thomas Morris,	- - -	- - -	- - -	- - -	- - -	- - -	Favorite,	Documents from the Department of State,	The Favorite being on a foreign station, &c.
3498	"	John Stewart,	- - -	- - -	- - -	- - -	- - -	- - -	Royalist,	Protection from Mr. Erving,	Document insufficient, refused to be disch'd.
3499	"	Thomas Williams,	New York, N. Y.	Feb. 18, 1807,	Barbadoes,	Venerable,	B.	Lucas,	Canada,	Protection from New York, 2048,	Ordered to be discharged.
3500	"	John Wharff,	- - -	- - -	- - -	- - -	- - -	- - -	Rattler,	Do. Newburyport, 629,	Appearing to be a British subject, refused to be discharged.
3501	Aug. 24,	William Ellis,	- - -	- - -	- - -	- - -	- - -	- - -	Princess,	Discharged from His Majesty's ship Tiger, and a letter from Mr. Erving,	Documents insufficient, refused to be disch'd.
3502	"	Adam Demery,	- - -	- - -	- - -	- - -	- - -	- - -	Canada,	Protection from Norfolk and Portsmouth,	
3503	"	Hugh Manning,	- - -	- - -	- - -	- - -	- - -	- - -	Druid,	Do. from New York, 3553.	Being a Scotchman, refused to be discharged.
3504	"	Samuel Willard,	- - -	- - -	- - -	- - -	- - -	- - -	York,	Document from the Department of State,	
3505	"	Tobias G. Waterman,	- - -	- - -	- - -	- - -	- - -	- - -	Sapphire,	Discharged from His Majesty's ship Leyden.	Document insufficient, refused to be disch'd. Was applied for 6th July, 1804, and 18th June, 1807. Document insufficient, refused to be discharged.
3506	"	Thomas Moody,	- - -	- - -	- - -	- - -	- - -	- - -	Receiving ship at Falmouth,	Protection from Gen. Lyman,	Do. do. do.
3507	"	John Dellaway,	- - -	- - -	- - -	- - -	- - -	- - -	Zealand,	Do. from Mr. Erving,	

3508	"	William Robinson,							Sapphire,	Protection taken from him,	-	Having obtained his protection fraudulently, refused to be discharged.
3509	"	Thomas Robinson,							Sapphire,	Do. do.	-	Having obtained his protection fraudulently, refused to be discharged.
3510	"	Joshua Middleton,							Enterprise,	Protection taken from him by a police officer.	-	There being no ground to believe this man to be an American, refused to be discharged.
3511	"	Richard Soule,	Duxbury, Mass.	July 17, 1807,	Liverpool,	Ann,	A.	Flowers,	Alceste,	Protection from Plymouth,	-	Ordered to be discharged.
3512	Aug. 27,	Daniel Teal,							Strenuous,	Protection from Baltimore, and a discharge from the Acasta.	-	Was applied for 28th April, 1807. Not answering the description in his document, refused to be discharged.
3513	"	John Williams,							Princess,	Protection from Mississippi, 1796,	-	Being natives of Wales, refused to be discharged.
3514	"	John Hughes,							Do.	Do. from New York, 6407,	-	charged.
3515	"	Daniel Barry,							Imperieuse,	Do. do. 1899,	-	Being an Irishman, refused to be discharged.
3516	"	Samuel Edderton,							Do.	Do. from Charleston, 101,	-	Has voluntarily entered.
3517	"	William Thomas,							Monmouth,	Protection from G. W. Erving,	-	Document insufficient, refused to be disch'd.
3518	"	William Middleton,							Enterprise,	Protection taken from him,	-	No such man on board.
3519	"	Samuel Thompson,							Bloodhound,	Document from the Department of State.	-	Was applied for 3d Dec. 1806. Having been given up by the master of the American ship Martha as a British subject, refused to be discharged.
3520	Aug. 28,	Thomas Foss,							Elizabeth,	Protection from Norfolk and Portsmouth, 25,	-	Ordered to be discharged.
3521	"	Thomas Finley,	Newcastle co. Del.	Dec. 18, 1806,	Jamaica,	Maria,	B.	Price,	Do.	Do. from Philadelphia, 819,	-	Ordered to be discharged.
3522	"	Jacob Morris,							Canada,	Protection from Gen. Lyman,	-	Being married in England, refused to be discharged.
3523	"	William Wright,	Newport, R. I.	Feb. 18, 1807,	Barbadoes,	Venerable,	B.	Lucas,	Do.	Protect. from Philadelphia, 1045,	-	Ordered to be discharged.
3524	"	Robert Clarke,							Do.	Discharge from Princess Royal,	-	Having no protection, refused to be disch'd.
3525	"	William Cogen,							Minstrel,	Protection from Wiscasset, 151,	-	Ordered to be discharged.
3526	"	Benjamin Paterson,							Vulture,	Protection from Mr. Erving,	-	Document insufficient, refused to be disch'd.
3527	"	Joshua Brack,							Foxhound,	Protect. from Philadelphia, 6745.	-	
3528	Sept. 3,	John Peters,	Providence, R. I.	Oct. 1804,	Jamaica,	Mount Vernon,	A.	Martin,	Elizabeth,	Do. from Providence, 1222,	-	Ordered to be discharged.
3529	"	William Sloane,							Hyacinth,	Do. from Baltimore, 969,	-	Not answering description, refused to be discharged.
3530	"	Peter Jenning,							L'Imperieuse,	Certificate from J. Bogert, notary public, New York,	-	The Imperieuse being on a foreign station, &c.
3531	"	Lindsey Heady,							Cuba,	Documents from the Department of State.	-	Was applied for 25th Feb. 1805. Documents insufficient, refused to be discharged.
3532	"	Thomas Dodge,							Topaze,	Do. do.	-	Not on board.
3533	"	Syl. Pendleton,							Quebec,	Protection from New York, 2079,	-	Having entered, refused to be discharged.
3534	"	Henry Cutler,							Verago,	Documents from Department of State.	-	Being married in Ireland, refused to be discharged.
3535	"	Henry Cross,							Elephant,	Protection from Norfolk and Portsmouth, 300,	-	Was applied for 2d April, 1806. Being a native of Ireland, refused to be discharged.
3536	Sept. 5,	Zalmon Moore,							Trusty,	Do. from New York, 6953,	-	Ordered to be discharged.
3537	"	Gilbert I. Covert,							Elephant,	Documents from Department of State.	-	Not answering description in his document, refused to be discharged.
3538	"	Thomas Leagin,							Terror,	Protection from Savannah, 1270,	-	Ordered to be discharged.
3539	"	Alexander Law,							Princess,	Certificate of naturalization,	-	The lords of the admiralty do not think proper to allow this man his discharge.
3540	"	Charles Hall,							Hyacinth,	Protection from Baltimore, 791,	-	Not answering description, refused to be discharged.
3541	"	John Wilson,	Boston, Mass.	Aug. 28, 1807,	Yarmouth,				Roebuck,	Do. do. 340,	-	Ordered to be discharged.
3542	"	John Johnson,							Cuba,	Do. New York, 5056.	-	
3543	"	William Silence,	Wilmington, Del.	Sept. 26, 1806,	Kingston,				Do.	Do. Baltimore, 1071,	-	Ordered to be discharged.
3544	"	Francis Keyer,							Do.	Certificate from W. Bleecker, notary public, New York,	-	Document insufficient, refused to be disch'd.

RETURN No. 12—Continued.

No.	When applied for.	Seamen's names.	Towns and States of which they represent themselves to be citizens.	When impressed.	Where impressed.	Ships, from whence taken.	What nation.	Masters.	Ships of war on board of which detained.	Evidence of citizenship.	Result of application, and remarks.
3545	1807, Sept. 5,	Thomas Jones,	-	-	-	-	-	-	Minstrel,	Protection from Falmouth, 159,	} Ordered to be discharged.
3546	" "	Wm. H. Crosdale,	-	-	-	-	-	Do.	Do. from Baltimore, 655,		
3547	" "	John Halsey,	-	-	-	-	-	-	Do. from New York, 4329.	Do. New Bedford,	} Ordered to be discharged.
3548	" "	Ebenezer Allen,	Salem, Mass.	March 18, 1807,	East Indies,	Lord Nelson,	B.	Huddleston,	Do. Norfolk and Portsmouth.		
3549	Sept. 12,	Henry Deal,	-	-	-	-	-	-	Cuba,	Protection from Baltimore, 364.	} Ordered to be discharged.
3550	" "	William Foster,	-	-	-	-	-	-	Do. do.		
3551	" "	John Johnson,	-	-	-	-	-	-	Do. New York, 1304.	Do. do. 7194,	} Ordered to be discharged.
3552	" "	John Rogers,	-	-	-	-	-	-	Temeraire,	Certificate from Jonathan Bebbet,	
3553	" "	William Reynolds,	New York, N. Y.	June 9, 1807,	St. Domingo,	Olive Branch,	B.	-	Colossus,	of Elizabethtown,	} Document insufficient, refused to be disch'd.
3554	" "	James Johnstone,	-	-	-	-	-	-	Do. do.	Protection from Norfolk and Portsmouth, 389,	
3555	" "	William Roberts,	Philadelphia, Pen.	July 11, 1807,	Port Royal,	Alexander,	B.	Smith,	Royal William,	Documents from the U. States,	} Ordered to be discharged.
3556	" "	George White,	-	-	-	-	-	-	Minstrel,	Do. from Philadelphia, 6575,	
3557	" "	Enoch Relfe,	-	-	-	-	-	-	Zealand,	Protection taken from him,	} Not answering description, refused to be discharged.
3558	" "	John Darwin,	-	-	-	-	-	-	Do.	Do. do.	
3559	" "	Benjamin Albro,	-	-	-	-	-	-	Sylvia,	Protection from Newport.	} Being an Englishman, refused to be disch'd.
3560	Sept. 14,	James Giffin,	-	-	-	-	-	-	Monmouth,	Do. from Wiscasset, 76,	
3561	" "	John Toothaker,	-	-	-	-	-	-	Success,	Documents from the U. States,	} The Monmouth being on a foreign station, &c. Having been received from prison in exchange for a Spaniard, refused to be discharged.
3562	" "	William Dews,	-	-	-	-	-	-	Temeraire,	Protection from Savannah, 1093,	
3563	" "	Peter M'Castle,	-	-	-	-	-	-	Amethyst,	Documents from Department of State,	} Documents insufficient, refused to be discharged.
3564	" "	Henry Lewis,	-	-	-	-	-	-	Fortunée,	Do. do.	
3565	" "	Samuel Thompson,	-	-	-	-	-	-	Bloodhound,	Do. do.	} Was applied for 3d Dec. 1806, and 26th August, 1800.
3566	" "	Peter Lezet,	-	-	-	-	-	-	Do.	Protection from Charleston,	
3567	" "	Francis Lockwood,	-	-	-	-	-	-	Colossus,	Documents from Department of State,	} Was applied for 17th Aug. 1807. Was applied for 23d Nov. 1803, and 1st Aug. 1805, and 4th Aug. 1806. Document insufficient, refused to be discharged.
3568	Sept. 16,	James Patterson,	-	-	-	-	-	-	Minstrel,	Protection from Gen. Lyman,	
3569	" "	John Stafford,	-	-	-	-	-	-	Do.	Protect. from Philadelphia, 16,032,	} Having fraudulent protections, refused to be discharged.
3570	" "	William Hammon,	-	-	-	-	-	-	Do.	Do. from E. Vanderhorst,	
3571	" "	George Bennett,	-	-	-	-	-	-	Enterprise,	Do. do.	} Documents insufficient, refused to be discharged.
3572	" "	James Wilson,	-	-	-	-	-	-	Do.	Do. do.	
3573	" "	Thomas Smallpiece,	-	-	-	-	-	-	Do.	Do. do.	} Documents insufficient, refused to be discharged.
3574	" "	Michael Potter, alias Lloyd,	-	-	-	-	-	-	Do.	Do. do.	
3575	" "	Matthew White,	-	-	-	-	-	-	Alligator,	Documents from the U. States.	} Having no documents, refused to be disch'd.
3576	Sept. 23,	B. Blain,	-	-	-	-	-	-	Royal William, Minstrel,	Protection taken from him, Protection from Boston, 5648,	

3577	"	John Matthews,								Do.	Do. from New York, 1287,	The Minstrel being on a foreign station, &c.
3578	"	Quam Howard,								Enterprise,	Protection from Mr. Erving,	Documents insufficient, refused to be discharged.
3579	"	Isaac Williams,							Do.	Do.	Protection from General Lyman,	
3580	"	John Francis,							Bulwark,	Bulwark,	Protection from J. G. Bogert, notary public, New York,	
3581	"	William Hunter,								Princess,	Protection from Baltimore, 1009.	Document insufficient, refused to be disch'd. Has voluntarily entered. Document insufficient, refused to be disch'd. Has voluntarily entered. Being a British subject, with a fraudulent protection, refused to be discharged. Document insufficient, and appearing to be an Irishman, refused to be discharged. Documents insufficient, and there being strong grounds to believe him to be a British subject, refused to be discharged. Do. do. do. The Iris being on a foreign station, &c. Being married in Ireland, refused to be discharged. Ordered to be discharged.
3582	"	John Hambleton,								Inconstant,	Protection from New York, 4104.	
3583	"	Bela Potter,								Sapphire,	Protection from New Haven, 140.	
3584	"	John Spencer,								Enterprise,	Protection taken from him,	
3585	Sept. 24,	George Fox,								Statira,	Protect. from Philadelphia, 13,146.	
3586	"	Thomas Boyd,								Pallas,	Protection from consul, at Smyrna,	
3587	Sept. 29,	Samuel Pelton,								Salvador,	Custom house protection, 120,	
3588	"	John Davis,								Princess,	Do. from New York, 7938,	
3589	"	Thomas Bull,								Do.	Protection from J. Williams, notary public, New York.	
3590	"	William Lowe,								Enterprise,	Protection from Gen. Lyman, and documents from Department of State.	
3591	"	Jonathan Coffin,								Do.	Do. do. do.	
3592	"	Samuel Knowles,								Iris,	Documents from the U. States,	
3593	"	John Redding,								La Topaze,	Protection from New York, 6094,	
3594	"	John Smith,	Providence, R. I.	Oct. 29, 1807,	Off L'Orient,	Merchant,	A.	Read,		Tribune,	Protection taken from him,	
3595	"	John Latimer,								Muros,	Do. do. do.	
3596	"	T. Winterbottom,								Sir Ed. Hughes,	Do. do. do.	

WILLIAM LYMAN.

No. 13.

An abstract to the return or list of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from 1st July to 30th September, 1807, inclusively.

Applications antecedent to 1st July last,	3448	Refused to be discharged,	19
Discharged, and ordered to be discharged,	26	documents insufficient.	4
Having no documents,	2	Protections from consuls and vice-consuls, - - - - - Notarial and other affidavits made in the United States, Collectors' protections not answering the description, Discharges from King's ships, as American citizens, Documents from the Department of State.	6
Said to be British subjects,	16		2
Having voluntarily entered,	7		6
Having been exchanged as a prisoner of war,	1		7
Being married in England or Ireland,	2		8
No particular reason assigned,	1		1
Refused to be discharged,	1	Applications unanswerd,	28
Having no wish to quit His Majesty's service,	1		
Said to be impostors, with fraudulent protections,	11		
		Total,	<u>3596</u>

WILLIAM LYMAN.

10th CONGRESS.]

No. 213.

[1st Session.]

FRANCE AND SPAIN.

COMMUNICATED TO CONGRESS MARCH 17, 1808.

MARCH 17, 1808.

To the Senate and House of Representatives of the United States:

I have heretofore communicated to Congress the decrees of the Government of France, of November 21, 1806, and of Spain of February 19, 1807, with the orders of the British Government of January and November, 1807.

I now transmit a decree of the Emperor of France, of December 17, 1807, and a similar decree of the 3d of January last by His Catholic Majesty.* Although the decree of France has not been received by official communication, yet the different channels of promulgation through which the public are possessed of it, with the formal testimony furnished by the Government of Spain in their decree, leave us without a doubt that such an one has been issued. These decrees and orders, taken together, want little of amounting to a declaration that every neutral vessel found on the high seas, whatsoever be her cargo, and whatsoever foreign port be that of her departure or destination, shall be deemed lawful prize; and they prove more and more the expediency of retaining our vessels, our seamen, and property within our own harbors, until the dangers to which they are exposed can be removed or lessened.

TH: JEFFERSON.

10th CONGRESS.]

No. 214.

[1st Session.]

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, MARCH 22 AND 30, 1810.

MARCH 22, 1808.

To the Senate and House of Representatives of the United States:

At the opening of the present session I informed the Legislature that the measures which had been taken with the Government of Great Britain for the settlement of our neutral and national rights, and of the conditions of commercial intercourse with that nation, had resulted in articles of a treaty which could not be acceded to on our part; that instructions had consequently been sent to our ministers there to resume the negotiations, and to endeavor to obtain certain alterations, and that this was interrupted by the transaction which took place between the frigates Leopard and Chesapeake. The call on that Government for reparation of this wrong produced, as Congress has been already informed, the mission of a special minister to this country, and the occasion is now arrived when the public interest permits and requires that the whole of these proceedings should be made known to you.

I therefore now communicate the instructions given to our minister resident at London, and his communications with that Government on the subject of the Chesapeake, with the correspondence which has taken place here between the Secretary of State and Mr. Rose, the special minister charged with the adjustment of that difference; the instructions to our ministers for the formation of a treaty; their correspondence with the British commissioners, and with their own Government on that subject; the treaty itself, and written declaration of the British commissioners accompanying it; and the instructions given by us for resuming the negotiation, with the proceedings and correspondence subsequent thereto. To these I have added a letter lately addressed to the Secretary of State from one of our late ministers, which, though not strictly written in an official character, I think it my duty to communicate, in order that his views of the proposed treaty, and of its several articles, may be fairly presented and understood.

Although I have heretofore, and from time to time, made such communications to Congress as to keep them possessed of a general and just view of the proceedings and dispositions of the Government of France towards this country, yet, in our present critical situation, when we find that no conduct on our part, however impartial and friendly, has been sufficient to ensure from either belligerent a just respect for our rights, I am desirous that nothing shall be omitted on my part which may add to your information on this subject, or contribute to the correctness of the views which should be formed. The papers which, for these reasons, I now lay before you, embrace all the communications, official or verbal, from the French Government, respecting the general relations between the two countries, which have been transmitted through our minister there, or through any other accredited channel, since the last session of Congress, to which time all information of the same kind had, from time to time, been given them. Some of these papers have already been submitted to Congress, but it is thought better to offer them again, in order that the chain of communications, of which they make a part, may be presented unbroken.

When, on the 26th of February, I communicated to both Houses the letter of General Armstrong to M. Champagne, I desired it might not be published, because of the tendency of that practice to restrain injuriously the freedom of our foreign correspondence; but perceiving that this caution, proceeding purely from a regard to the public good, has furnished occasion for disseminating unfounded suspicions and insinuations, I am induced to believe that the good which will now result from its publication, by confirming the confidence and union of our fellow-citizens, will more than countervail the ordinary objection to such publications; it is my wish, therefore, that it may be now published.

TH: JEFFERSON.

* See message of December 23, 1808, by which these decrees, with others, were transmitted to the Senate.

(CONFIDENTIAL.)

MARCH 22, 1808.

To the Senate and House of Representatives of the United States:

In a separate message of this date I have communicated to Congress so much as may be made public of papers which give a full view of the present state of our relations with the two contending Powers of *France** and England. Every one must be sensible that in the details of instructions for negotiating a treaty, and in the correspondence and conferences respecting it, matters will occur which interest sometimes, and sometimes respect, or other proper motives, forbid to be made public. To reconcile my duty, in this particular, with my desire of letting Congress know every thing which can give them a full understanding of the subjects on which they are to act, I have suppressed in the documents of the other message the parts which ought not to be made public, and have given them in the supplementary and confidential papers herewith enclosed, with such references as that they may be read in their original places as if still standing in them; and when these confidential papers shall have been read to the satisfaction of the House, I request their return, and that their contents may not be made public.

TH: JEFFERSON.

(CONFIDENTIAL.)

MARCH 30, 1808.

To the Senate and House of Representatives of the United States:

Since my message of the 22d instant, letters have been received from our ministers at Paris and London, extracts from which, with a letter to General Armstrong from the French Minister of Foreign Relations, and a letter from the British envoy residing here to the Secretary of State, I now communicate to Congress. They add to the materials for estimating the dispositions of those Governments towards this country; the proceedings of both indicate designs of drawing us, if possible, into the vortex of their contests; but every new information confirms the prudence of guarding against these designs, as it does of adhering to the precautionary system hitherto contemplated.

TH: JEFFERSON.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, January 5,† 1804.

SIR:

The information and observations which you have as yet received from me since your arrival in London, on the impressment of our seamen and other violations of our rights, have been in private letters only. The delay in making these injuries the subject of official communications proceeded, first, from an expectation that the British Government would have notified formally to the United States, as a neutral Power, the state of war between Great Britain and France, which would have been an apt occasion for combining with assurances of the fairness with which our neutral obligations would be fulfilled, our just claims on a correspondent respect for our neutral rights, and particularly of those which had been least respected during the last war: secondly, from the expected arrival of Mr. Merry, which, if he should not be charged with such a notification, might be a favorable opportunity for commencing the explanations and discussions which must precede a thorough correction of the wrongs which we experience.

Since the arrival of Mr. Merry, accordingly no time has been lost in calling his attention to the subject, and in preparing both it and him for the negotiation which is now to be committed to you. If appearances are to be trusted, his impressions and representations will be friendly to it. In my conversations with him, which have been free and full, he has expressed the best dispositions, has listened with candor to the appeals made, as well to the considerations of justice as of the solid interest of his nation; and, although he suggests serious difficulties on certain points, he will, I believe, sincerely co-operate in lessening them, and in bringing about an arrangement which will be acceptable to this country. The only topic on which any thing has passed in writing between the Department of State and him, is that of the pretended blockade of St. Domingo. Copies of my letter to him, and of his answer, are herewith enclosed; as also of the letter written to Mr. Thornton, some time before, and referred to in that to Mr. Merry, in relation to a like blockade of Martinique and Guadaloupe.

Although there are many important objects which may be thought to invite conventional regulations between the United States and Great Britain, it is evidently proper to leave, for subsequent consideration, such as are less urgent in their nature, or more difficult in their adjustment, and thereby to render the way plainer and shorter to an agreement with respect to objects which cannot be much longer delayed without danger to the good understanding between the two nations. With this view, the plan of a convention contemplated by the President is limited to the cases of impressments of our seamen, of blockades, of visiting and searching our vessels, of contraband of war, and of the trade with hostile colonies, with a few other cases affecting our maritime rights; embracing, however, as inducements to Great Britain to do us justice therein, a provision for the surrender of deserting seamen and soldiers, and for the prevention of contraband supplies to her enemies.

The plan digested for your use is subjoined. The first column contains the articles which are to be proposed in the first instance, and which are considered as within our just expectations; the second modifies the articles into the concessions which the British Government may possibly require, and which it may be expedient for us ultimately to admit.

* The documents relating to the negotiations with France, transmitted by this message, and by the message of the 20th March, will be found with those transmitted by the message of November 8, 1808, No. 217.

† Although an extract from this letter was communicated by the message of January 17, 1806, the entire letter is now inserted.

A Convention between the United States and Great Britain.

FIRST PROPOSAL.

ARTICLE I.

No person whatever shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties, by the public or private armed ships belonging to, or in the service of, the other, unless such person be at the time in the military service of an enemy of such other party.

ARTICLE II.

The same.

ARTICLE III.

The same.

ARTICLE IV.

The same.

ARTICLE V.

The same.

ARTICLE VI.

The same.

ARTICLE VII.

Omit the preamble.

SECOND AND ULTIMATUM.

ARTICLE I.

No seaman, seafaring, or other person shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships belonging to, or in the service of, the other party; and strict and effectual orders shall be given for the due observance of this engagement; but it is to be understood that this article shall not exempt any person on board the ships of either of the parties from being taken therefrom by the other party, in cases where they may be liable to be so taken according to the laws of nations, which liability, however, shall not be construed to extend in any case to seamen, or seafaring persons being actually part of the crew of the vessel in which they may be, nor to persons of any description passing from one port to another port of either of the parties.

ARTICLE II.

No person being a subject or citizen of one of the parties, and resorting to, or residing in, the dominions of the other, shall in any case be compelled to serve on board any vessel, whether public or private, belonging to such other party; and all citizens or subjects whatever of the respective parties, at this time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled, by an adequate recompense, to return to their own country.

ARTICLE III.

If the ships of either of the parties shall be met with, sailing either along the coasts or on the high seas, by any ship of war, or other public or private armed ships of the other party, such ships of war, or other armed vessels, shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea, or the place of meeting render a nearer approach necessary; and shall in no case compel or require such vessel to send her boat, her papers, or any person from on board to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her to the number of two or three men only, who may, in an orderly manner, make the necessary inquiries concerning the vessel and her cargo; and it is agreed that effectual provision shall be made for punishing violations of any part of this article.

ARTICLE IV.

Contraband of war shall consist of the following articles only: saltpetre, sulphur, cuirasses, pikes, swords, sword belts, knapsacks, saddles and bridles, cannons, mortars, fire arms, pistols, bombs, grenades, bullets, firelocks, flints, matches, and gunpowder, excepting, however, the quantity of the said articles which may be necessary for the defence or use of the ship, and those who compose the crew; and no other articles whatever, not here enumerated, shall be reputed contraband, or liable to confiscation, but shall pass freely, without being subjected to the smallest difficulty, unless they be enemy's property; and it is to be particularly understood, that under the denomination of enemy's property is not to be comprised the merchandise of the growth, produce, or manufactures of the countries or dominions at war, which shall have been acquired by the citizens or subjects of the neutral Power, and shall be transported for their account; which merchandise cannot, in any case, or on any pretext, be excepted from the freedom of the neutral flag.

ARTICLE V.

In all cases where the prize courts of either party shall pronounce judgment against any vessel or property claimed by citizens or subjects of the other, the sentence or decree shall mention the reasons or motives on which the same shall have been founded; and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

ARTICLE VI.

In order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the disposition of the Power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

ARTICLE VII.

[In consideration of the distance of the ports likely to be blockaded by either party, from the ports of the other party, and of other circumstances incident to their relative situations,] it is agreed that no vessel sailing from the ports of either shall, although cleared or bound to a blockaded port, be considered as violating in any manner the blockade, unless on her approach towards such port she shall have been previously warned against entering the same.

ARTICLE VIII.

Omit "captains,
officers."

It is agreed that no refuge or protection shall be afforded by either party to the "captains, officers," mariners, sailors, or other persons not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf: *Provided*, that proof be made within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls or vice-consuls to the competent authorities, all deserters as aforesaid, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, and all due aid and assistance shall be given in searching for, as well as in seizing and arresting the said deserters; who shall even be detained and kept in the prisons of the country, at the request and expense of the said consuls or vice-consuls, until they shall have found an opportunity of sending them back, or removing them as aforesaid. But if they be not so sent back, or removed, within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

ARTICLE VIII.

ARTICLE IX.

Omit "officers or."

It is further agreed that no refuge or protection shall be afforded, by either of the parties, to any "officers or" soldiers, not found to be its own citizens or subjects, who shall desert from the military service of the other; but that, on the contrary, effectual measures shall be taken, in like manner, and under like regulations and conditions as with respect to sailors, for apprehending any such deserting soldiers, and delivering them to the commanding officers of the military posts, forts, or garrisons from which they shall have deserted, or to the consuls or vice-consuls on either side, or to such persons as may be duly authorized to demand their restitution.

ARTICLE IX.

ARTICLE X.

Omitted.

It is, however, understood that no stipulation herein made shall be construed to empower the civil or military officers of either of the parties to enter forcibly into any of the forts, garrisons, posts, or other places, or to use violence of any sort within the jurisdiction of the other party, or be construed in any manner to contravene or derogate from the stipulation contained in the first of the above articles, against demanding or taking any persons out of vessels on the high seas, and without the jurisdiction of either of the parties.

ARTICLE X.

ARTICLE XI.

The same.

Each party will prohibit its citizens or subjects from clandestinely carrying away, from the territories or dominions of the other, any seamen or soldiers belonging to such other party.

ARTICLE XI.

ARTICLE XII.

The same.

Neither party shall permit any of the articles above enumerated as contraband of war, to be cleared out from its ports to any place within the jurisdiction of an enemy of the other party; and, in order to enforce this regulation, due proof and security shall be given, that all such articles of contraband as may be exported from the ports of either of the parties, have been actually destined elsewhere than within the jurisdiction of an enemy of the other party.

ARTICLE XII.

ARTICLE XIII.

The same.

This convention shall be in force for the term of eight years from the date of the exchange of ratifications. It shall be ratified on both sides within — months from the day of its signature, or sooner if possible, and the ratifications exchanged, without delay, in the United States, at the city of Washington.

ARTICLE XIII.

OBSERVATIONS ON THE PRECEDING PLAN.

The first article relates to impressments from American vessels on the high seas. The commanders of British armed vessels have, as is well known, been long in this practice. They have, indeed, not only continued it, under the sanction of their superiors, on the high seas, but have, with impunity, extended it to our own coasts, to neutral ports, and to neutral territory, and, in some instances, to our own harbors. The article does not comprehend these latter cases, because it would not be very honorable in Great Britain to stipulate against the practice of such enormities, nor in the United States to recur to stipulations as a security against it; and because it may be presumed that such particular enormities will not be repeated or unpunished, after a general stop shall have been put to impressments.

The article, in its first form, renounces the claim to take from the vessels of the neutral party, on the high seas, any person whatever not in the military service of an enemy; an exception which we admit to come within the law of nations, on the subject of contraband of war.

With this exception, we consider a neutral flag on the high seas as a safeguard to those sailing under it. Great Britain, on the contrary, asserts a right to search for and seize her own subjects; and under that cover, as cannot but happen, are often seized and taken off citizens of the United States, and citizens or subjects of other neutral countries, navigating the high seas under the protection of the American flag.

Were the right of Great Britain in this case not denied, the abuses flowing from it would justify the United States in claiming and expecting a discontinuance of its exercise; but the right is denied, and on the best grounds.

Although Great Britain has not yet adopted in the same latitude with most other nations the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it by the law of nations. She must produce, then, such an exception in the law of nations in favor of the right she contends for. But in what written and received authority will she find it? In what usage, except her own, will it be found? She will find in both that a neutral vessel does not protect certain objects denominated contraband of war, (including enemies serving in the war,) nor articles going into a blockaded port, nor, as she has maintained, and as we have not contested, enemy's property of any kind. But nowhere will she find an exception to this freedom of the seas, and of neutral flags, which justifies the taking away of any person, not an enemy in military service, found on board a neutral vessel.

If treaties, British as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a contraband of war by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any sovereign to enforce his claims to the allegiance of his subjects on board neutral vessels on the high seas; on the contrary, whenever a belligerent claim against persons on board a neutral vessel is referred to in treaties, enemies in military service alone are excepted from the general immunity of persons in that situation; and this exception confirms the immunity of those who are not included in it.

It is not, then, from the law or the usage of nations, nor from the tenor of treaties, that any sanction can be derived for the practice in question. And surely it will not be pretended that the sovereignty of any nation extends, in any case whatever, beyond its own dominions, and its own vessels on the high seas; such a doctrine would give just alarm to all nations, and, more than any thing, would countenance the imputation of aspiring to a universal empire of the seas. It would be the less admissible, too, as it would be applicable to times of peace as well as to times of war, and to property as well as to persons. If the law of allegiance, which is a municipal law, be in force at all on the high seas on board foreign vessels, it must be so at all times there, as it is within its acknowledged sphere. If the reason alleged for it be good in time of war, namely, that the sovereign has then a right to the service of all his subjects, it must be good at all times, because at all times he has the same right to their service. War is not the only occasion for which he may want their services, nor is external danger the only danger against which their services may be required for his security. Again: if the authority of a municipal law can operate on persons in foreign vessels on the high seas, because, within the dominion of their sovereign, they would be subject to that law, and are violating that law by being in that situation, how reject the inference that the authority of a municipal law may equally be enforced on board foreign vessels on the high seas, against articles of property exported in violation of such a law, or belonging to the country from which it was exported? And thus every commercial regulation, in time of peace, too, as well as of war, would be made obligatory on foreigners and their vessels, not only whilst within the dominion of the sovereign making the regulation, but in every sea, and at every distance, where an armed vessel might meet with them. Another inference deserves attention: if the subjects of one sovereign may be taken by force from the vessels of another on the high seas, the right of taking them when found, implies the right of searching for them; a vexation of commerce, especially in time of peace, which has not yet been attempted, and which, for that as well as other reasons, may be regarded as contradicting the principle from which it would flow.

Taking reason and justice for the tests of this practice, it is peculiarly indefensible, because it deprives the dearest rights of persons of a regular trial, to which the most inconsiderable article of property captured on the high seas is entitled, and leaves their destiny to the will of an officer, sometimes cruel, often ignorant, and generally interested, by his want of mariners, in his own decisions. Whenever property found in a neutral vessel is supposed to be liable on any grounds to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. Can it be reasonable, then, or just, that a belligerent commander, who is thus restricted and thus responsible in a case of mere property of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel to decide the important question of their respective allegiances, and to carry that decision into instant execution, by forcing every individual he may choose into a service abhorrent to his feelings, cutting him off from his most tender connexions, exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest dangers? Reason, justice, and humanity unite in protesting against so extravagant a proceeding. And what is the pretext for it? It is, that the similarity of language and of features between American citizens and British subjects are such as not easily to be distinguished; and that, without this arbitrary and summary authority to make the distinction, British subjects would escape, under the name of American citizens, from the duty which they owe to their sovereign. Is, then, the difficulty of distinguishing a mariner of one country from the mariner of the other, and the importance of his services, a good plea for referring the question, whether he belongs to the one or to the other, to an arbitrary decision on the spot, by an interested and irresponsible officer? In all other cases, the difficulty and the importance of questions are considered as reasons for requiring greater care and formality in investigating them, and greater security for a right decision on them. To say that precautions of this sort are incompatible with the object, is to admit that the object is unjustifiable; since the only means by which it can be pursued are such as cannot be justified.

The evil takes a deeper die when viewed in its practice as well as its principles. Were it allowable that British subjects should be taken out of American vessels on the high seas, it might at least be required that the proof of their allegiance should lie on the British side. This obvious and just rule is, however, reversed; and every seaman on board, though going from an American port, and sailing under the American flag, and sometimes even speaking an idiom proving him not to be a British subject, is presumed to be such, unless shown to be an American citizen. It may safely be affirmed that this is an outrage and an indignity which has no precedent, and which Great Britain would be among the last nations in the world to suffer, if offered to her own subjects and her own flag. Nor is it always against the right presumption alone, which is in favor of the citizenship corresponding with the flag, that the violence is committed. Not unfrequently it takes place in defiance of the most positive proof, certified in due form by an American officer. Let it not be said that, in granting to American seamen this protection for their rights, as such, the point is yielded; that the proof lies on the American side; and that the want of it in the prescribed form justifies the inference that the seaman is not of American allegiance. It is distinctly to be understood that the certificate, usually called a protection, to American seamen, is not meant to protect them under their own, or even any other neutral flag on the high seas. We can never admit that, in such a situation, any other protection is required for them than the neutral flag itself on the high seas. The document is given to prove their real character, in situations to which neither the law of nations, nor the law of their own country is applicable; in other words, to protect them within the jurisdiction of the British laws, and to secure to them within every other jurisdiction the rights and immunities due to them. If, in the course of their navigation, even on the high seas, the document should have the effect of repelling wrongs of any sort, it is an incidental advantage only of which they avail

themselves, and is by no means to be misconstrued into a right to exact such a proof, or to make any disadvantageous inference from the want of it.

Were it even admitted that certificates for protection might be justly required in time of war from American seamen, they could only be required in cases where the lapse of time, from its commencement, had given an opportunity for the American seamen to provide themselves with such a document. Yet it is certain, that in a variety of instances, seamen have been impressed from American vessels, on the plea that they had not this proof of citizenship; when the dates and places of impressments demonstrated the impossibility of their knowing, in time to provide the proof, that a state of war had rendered it necessary.

Whether, therefore, we consult the law of nations, the tenor of treaties, or the dictates of reason and justice, no warrant, no pretext can be found for the British practice of making impressments from American vessels on the high seas.

Great Britain has the less to say in excuse for this practice, as it is in direct contradiction to the principles on which she proceeds in other cases. Whilst she claims and seizes on the high seas her own subjects voluntarily serving in American vessels, she has constantly given, when she could give, as a reason for not discharging from her service American citizens, that they had voluntarily engaged in it. Nay, more, whilst she impresses her own subjects from the American service, although they may have been settled and married, and even naturalized in the United States, she constantly refuses to release from hers American citizens impressed into it, whenever she can give for a reason that they were either settled or married within her dominions. Thus, when the voluntary consent of the individual favors her pretensions, she pleads the validity of that consent. When the voluntary consent of the individuals stands in the way of her pretensions, it goes for nothing! When marriage or residence can be pleaded in her favor, she avails herself of the plea. When marriage and residence, and even naturalization, are against her, no respect whatever is paid to either! She takes by force her own subjects voluntarily serving in our vessels. She keeps by force American citizens involuntarily serving in hers! More flagrant inconsistencies cannot be imagined.

Notwithstanding the powerful motives which ought to be felt by the British Government to relinquish a practice which exposes it to so many reproaches, it is foreseen that objections of different sorts will be pressed on you. You will be told first, of the great number of British seamen in the American trade, and of the necessity for their services in time of war and danger. Secondly, of the right and the prejudice of the British nation, with respect to what are called the British or narrow seas, where its domain would be abandoned by the general stipulation required. Thirdly, of the use which would be made of such a sanctuary as that of American vessels, for desertions, and traitorous communications to her enemies, especially across the channel to France.

1st. With respect to the British seamen serving in our trade, it may be remarked, first, that the number, though considerable, is probably less than may be supposed. Secondly, that what is wrong in itself cannot be made right by considerations of expediency or advantage. Thirdly, that it is proved by the fact, that the number of real British subjects gained by the practice in question, is of inconsiderable importance even in the scale of advantage. The annexed report to Congress on the subject of impressments, with the addition of such cases as may be in the hands of Mr. Erving, will verify the remark in its application to the present war. The statement made by his predecessor during the last war, and which is also annexed, is in the same view still more conclusive. The statement comprehends not only all the applications made by him in the first instance, for the liberation of impressed seamen, between the month of June, 1797, and September, 1801, but many also which had been made previous to this agency, by Mr. Pinkney and Mr. King, and which it was necessary for him to renew. These applications, therefore, may fairly be considered as embracing the greater part of the period of the war; and as applications are known to be pretty indiscriminately made, they may further be considered as embracing, if not the whole the far greater part of the impressments, those of British subjects as well as others. Yet the result exhibits two thousand and fifty-nine cases only, and of this number one hundred and two seamen only detained as being British subjects, which is less than one-twentieth of the number impressed, and one thousand one hundred and forty-two discharged, or ordered to be so, as not being British subjects, which is more than half of the whole number, leaving eight hundred and five for further proof, with the strongest presumption that the greater part, if not the whole, were Americans or other aliens, whose proof of citizenship had been lost or destroyed, or whose situation would account for the difficulties and delays in producing it. So that it is certain, that for all the British seamen gained by this violent proceeding, more than an equal number who were not so were the victims; it is highly probable that for every British seaman so gained, a number of others, not less than ten for one, must have been the victims, and it is even possible that this number may have exceeded the proportion of twenty to one.

It cannot, therefore, be doubted, that the acquisition of British seamen, by these impressments, whatever may be its advantage, is lost in the wrong done to Americans ignorantly or wilfully mistaken for British subjects, in the jealousy and ill-will excited among all maritime nations by an adherence to such a practice, and in the particular provocation to measures of redress on the part of the United States, not less disagreeable to them than embarrassing to Great Britain, and which may threaten the good understanding which ought to be faithfully cultivated by both. The copy of a bill brought into Congress, under the influence of violations committed on our flag, gives force to this latter consideration. Whether it will pass into a law, and at the present session, is more than can yet be said. As there is every reason to believe that it has been proposed with reluctance, it will probably not be pursued into effect, if any hope can be supported of a remedy, by an amicable arrangement between the two nations. But such is the feeling through this country, produced by the reiterated and atrocious cases of impressments and other insults on our flag, that a remedy of some kind will ere long be called for in a tone not to be disregarded. A copy of the bill referred to is herewith enclosed.

There is a further consideration which ought to have weight in this question. Although the British seamen employed in carrying on American commerce be, in some respects, lost to their own nation, yet such is the intimate and extensive connexion of this commerce, direct and circuitous, with the commerce, the manufactures, the revenue, and the general resources of the British nation, that in other respects its mariners, on board American vessels, may truly be said to be rendering it the most valuable services. It would not be extravagant to make it a question, whether Great Britain would not suffer more by withdrawing her seamen from the merchant vessels of the United States, than her enemies would suffer from the addition of them to the crews of her ships of war and cruisers.

Should any difficulty be started concerning seamen born within the British dominions, and naturalized by the United States since the treaty of 1783, you may remove it by observing: First, that very few, if any, such naturalizations can take place, the law here requiring a preparatory residence of five years, with notice of the intention to become a citizen, entered of record two years before the last necessary formality, besides a regular proof of good moral character, conditions but little likely to be complied with by ordinary seafaring persons. Secondly, that a discontinuance of impressments on the high seas will preclude an actual collision between the interfering claims. Within the jurisdiction of each nation, and in their respective vessels on the high seas, each will enforce the alle-

giance which it claims. In other situations, the individuals doubly claimed will be within a jurisdiction independent of both nations.

2d. The British pretensions to domain over the narrow seas are so obsolete, and so indefensible, that they never would have occurred as a probable objection in this case, if they had not actually frustrated an arrangement settled by Mr. King, with the British ministry, on the subject of impressments from American vessels on the high seas. At the moment when the articles were expected to be signed, an exception of the "narrow seas" was urged and insisted on by Lord St. Vincent; and being utterly inadmissible, on our part, the negotiation was abandoned. Mr. King seems to be of opinion, however, that, with more time than was left him for the experiment, the objection might have been overcome. This is not improbable, if the objection was not merely an expedient for evading a relinquishment of a favorite practice.

The objection, in itself, has certainly not the slightest foundation. The time has been, indeed, when England not only claimed but exercised pretensions scarcely inferior to full sovereignty over the seas surrounding the British Isles, and even as far as Cape Finisterre to the south, and Vanstaten, in Norway, to the north. It was a time, however, when reason had but little share in determining the law and the intercourse of nations; when power alone decided questions of right, and when the ignorance and want of concert among other maritime countries facilitated such an usurpation. The progress of civilization and information has produced a change in all these respects; and no principle in the code of public law is at present better established than the common freedom of the seas beyond a very limited distance from the territories washed by them. This distance is not, indeed, fixed with absolute precision. It is varied in a small degree by written authorities, and perhaps it may be reasonably varied, in some degree, by local peculiarities: but the greatest distance which would now be listened to any where, would make a small proportion of the narrowest part of the narrowest seas in question.

What are, in fact, the prerogatives claimed and exercised by Great Britain over these seas? If they were really a part of her domain, her authority would be the same there as within her other domain. Foreign vessels would be subject to all the laws and regulations framed for them, as much as if they were within the harbors or rivers of the country. Nothing of this sort is pretended. Nothing of this sort would be tolerated. The only instances in which these seas are distinguished from other seas, or in which Great Britain enjoys within them any distinction over other nations, are, first, the compliment paid by other flags to hers; secondly, the extension of her territorial jurisdiction, in certain cases, to the distance of four leagues from the coast. The first is a relic of ancient usurpation, which has thus long escaped the correction which modern and more enlightened times have applied to other usurpations. The prerogative has been often contested, however, even at the expense of bloody wars, and is still borne with ill-will and impatience by her neighbors. At the last treaty of peace at Amiens, the abolition of it was repeatedly and strongly pressed by France; and it is not improbable that, at no remote day, it will follow the fate of the title of "King of France," so long worn by the British monarchs, and at length so properly sacrificed to the lessons of a magnanimous wisdom. As far as this homage to the British flag has any foundation at present, it rests merely on long usage and long acquiescence, which are construed, as in a few other cases of maritime claims, into the effect of a general, though tacit convention. The second instance is the extension of the territorial jurisdiction to four leagues from the shore. This, too, as far as the distance may exceed that which is generally allowed, rests on a like foundation, strengthened, perhaps, by the local facility of smuggling, and the peculiar interest which Great Britain has in preventing a practice affecting so deeply her whole system of revenue, commerce, and manufactures: while the limitation itself to four leagues necessarily implies that beyond that distance no territorial jurisdiction is assumed.

But, whatever may be the origin or the value of these prerogatives over foreign flags in one case, and within a limited portion of these seas in another, it is obvious that neither of them will be violated by the exemption of American vessels from impressments, which are nowise connected with either; having never been made on the pretext either of withholding the wonted homage to the British flag, or of smuggling in defiance of British laws.

This extension of the British law to four leagues from the shore is inferred from an act of Parliament, passed in the year 1736, (9 G. II. c. 35) the terms of which comprehend all vessels, foreign as well as British. It is possible, however, that the former are constructively excepted. Should your inquiries ascertain this to be the case, you will find yourself on better ground than the concession here made.

With respect to the compliment paid to the British flag, it is also possible that more is here conceded than you may find to be necessary. After the peace of 1763 this compliment was peremptorily withheld by France, in spite of the remonstrances of Great Britain; and it remains for your inquiry, whether it did not continue to be refused, notwithstanding the failure at Amiens to obtain from Great Britain a formal renunciation of the claim.

From every view of the subject, it is reasonable to expect that the exception of the narrow seas, from the stipulations against impressments, will not be inflexibly maintained. Should it be so, your negotiation will be at an end. The truth is, that so great a proportion of our trade, direct and circuitous, passes through those channels, and such is its peculiar exposure in them to the wrong practised, that, with such an exception, any remedy would be very partial. And we can never consent to purchase a partial remedy by confirming a general evil, and by subjecting ourselves to our own reproaches as well as to those of other nations.

3d. It appears, as well by a letter from Mr. Thornton, in answer to one from me, of both which copies are enclosed, as from conversations with Mr. Merry, that the facility which would be given, particularly in the British channel, by the immunity claimed for American vessels, to the escape of traitors, and the desertion of others, whose services in time of war may be particularly important to an enemy, forms one of the pleas for the British practice of examining American crews, and will be one of the objections to a formal relinquishment of it.

This plea, like all others, admits a solid and satisfactory reply. In the first place, if it could prevail at all against the neutral claim, it would authorize the seizure of the persons described only, and in vessels bound to a hostile country only, whereas the practice of impressing is applied to persons, few, if any, of whom are alleged to be of either description, and to vessels whithersoever bound, even to Great Britain herself. In the next place, it is not only a preference of a small object on one side to a greater object on the other, but a sacrifice of right on one side to expediency on the other side.

Considering, nevertheless, the possible adherence of the British Government to this last objection, and the extreme importance to our seafaring citizens and commerce, of a stipulation suppressing a practice flagrant in its nature, and still more so in the abuses inseparable from it, you are left at liberty to concur, if necessary, in the modification as it stands in the second column. You will observe that this guards, in all cases, the crews of our vessels from being meddled with, and, in referring for an exception to the immunity on board our vessels to the law of nations, yields no principle maintained by the United States; inasmuch as the reference will be satisfied by the acknowledged exception of enemies in military service. Should persons, therefore, other than such, be taken, under pretext of the law of nations, the United States will be free to contest the proceeding; and there is the less difficulty in leaving the stipulation on this footing, as the case may never happen, and will be pretty sure to happen but rarely. You will observe, also, that, in the passage from one port to another of the respective countries, the

vessels of the neutral parties are to protect all persons without exception. Independently of the general principle asserted by the United States, this respect is due to the peculiar character of the coasting trade, and the utter improbability that it will, at any time, be a vehicle to persons of any obnoxious description.

ON ARTICLE II. The reasonableness of this article is manifest. Citizens or subjects of one country residing in another, though bound by their temporary allegiance to many common duties, can never be rightfully forced into military service, particularly external service, nor be restrained from leaving their residence when they please. The law of nations protects them against both, and the violation of this law by the avowed impressment of American citizens residing in Great Britain may be pressed with the greater force on the British Government, as it is in direct inconsistency with her impressment of her own subjects bound by much stronger ties to the United States, as above explained, as well as with the spirit of her commercial laws and policy, by which foreigners are invited to a residence. The liberation of the persons comprehended by this article, therefore, cannot be justly or honorably refused, and the provision for their recompense and their return home is equally due to the service rendered by, and the wrong done to them.

ON ARTICLE III. This regulation is conformable to the law of nations, and to the tenor of all treaties, which define the belligerent claim of visiting and searching neutral vessels. No treaty can be cited, in which the practice of compelling the neutral vessel to send its boat, its officers, its people or its papers, to the belligerent vessel, is authorized. British treaties, as well as those to which she is not a party, in every instance where a regulation of the claim is undertaken, coincide with the article here proposed. The article is in fact almost a transcript of the ——— article of the treaty of 1786 between Great Britain and France.

The regulation is founded in the best reasons. 1st. It is sufficient for the neutral that he acquiesces in the interruption of his voyage, and the trouble of the examination, imposed by the belligerent commander. To require a positive and active co-operation on his part in behalf of the latter, is more than can be justified on any principle. 2d. The belligerent party can always send more conveniently to the neutral vessel, than this can send to the belligerent vessel, having neither such fit boats for the purpose, especially in a rough sea, nor being so abundantly manned. 3d. This last consideration is enforced by the numerous and cruel abuses committed in the practice of requiring the neutral vessel to send to the belligerent. As an example, you will find in the documents now transmitted a case where neither the smallness and leakiness of the boat, nor the boisterous state of the weather, nor the pathetic remonstrances of the neutral commander, had any effect on the imperious injunctions of the belligerent, and where the task was performed at the manifest peril of the boat, the papers, and the lives of the people. The limitation of the number to be sent on board the neutral vessel is a reasonable and usual precaution against the danger of insults and pillage.

ON ARTICLE IV. This enumeration of contraband articles is copied from the treaty of 1781 between Great Britain and Russia. It is sufficiently limited, and that treaty is an authority more likely than any other to be respected by the British Government. The sequel of the article, which protects the productions of a hostile colony converted into neutral property, is taken from the same model, with the addition of the terms, "in any case or on any pretext." This addition is meant to embrace more explicitly our right to trade freely with the colonies at war with Great Britain, and between them and all parts of the world, in colonial productions, being at the time not enemy's, but neutral property; a trade equally legitimate in itself with that between neutral countries directly, and in their respective vessels, and such colonies, which her regulations do not contest.

In support of this right, in opposition to the British doctrine, that a trade not allowed by a nation in time of peace cannot be opened to neutrals in time of war, it may be urged, that all nations are in the practice of varying more or less, in time of war, their commercial laws, from the state of these laws in time of peace; a practice agreeable to reason, as well as favorable to neutral nations; that the change may be made in time of war, on considerations not incident to a state of war, but on such as are known to have the same effect in time of peace; that Great Britain herself is in the regular practice of changing her navigation and commercial laws, in times of war, particularly in relation to a neutral intercourse with her colonies; that at this time she admits a trade between neutral countries and the colonies of her enemies, when carried on directly between them, or between the former and herself, interrupting only a direct trade between such colonies and their parent State, and between them and countries in Europe, other than those to which the neutral trade may respectively belong; that as she does not contest the right of neutrals to trade with hostile colonies, within these limitations the trade can be, and actually is, carried on indirectly between such colonies and all countries, even those to which the colonies belong; and, consequently, that the effect of her doctrine and her practice is not to deprive her enemy of their colonial trade, but merely to lessen the value of it in proportion to the charges incident to the circuitous course into which it is forced, an advantage to her which, if just in itself, would not be sufficient to balance the impolitic vexations accruing to neutral and friendly nations.

These views of the subject have entered into my conversations with Mr. Merry. He expresses, notwithstanding, a belief that Great Britain will turn an unfavorable ear to any proposition calculated to give her enemies the resources of their colonial trade, beyond the degree in which her present regulations permit. This is doubtless to be apprehended, but considering the proposition as an article which may find a balance in the general bargain, it may not be inadmissible; or if inadmissible in the extent proposed, a middle ground may perhaps be accepted. The colonial trade in question consists of four branches; first, between the colonies and Great Britain herself; secondly, between the colonies and the neutral countries carrying on the trade; thirdly, between the colonies and neutral countries not themselves carrying on the trade; fourthly, between the colonies and the countries to which they belong, or which are parties to the war with Great Britain.

The first and second branches are those with which her own regulations accord. The last is that to which her aversion will of course be the strongest. Should this aversion be unconquerable, let it be tried then, and then only, whether, on our yielding, or rather omitting that point, she will not yield to us, in return, the direct trade between hostile colonies and neutral countries generally. You will be careful, however, so to modify the compromise as will mark as little as may be a positive relinquishment of the direct trade between the belligerent nations and their colonies.

Should such a compromise be altogether rejected, you will limit the article to the simple enumeration of contraband, it being desirable that, without a very valuable consideration, no precedent should be given by the United States of a stipulated acknowledgment that free ships do not make free goods. And you will omit the article altogether, if a proper list of contraband cannot be agreed on, particularly one that excludes money, provisions, and naval stores.

ON ARTICLE V. This article, taken from the convention of 1800 between the United States and France, is conformable to the general practice of the prize courts in the latter, and is the more worthy of adoption every where, as it would contribute so much to the consistency and stability of the rules of admiralty proceedings. Without a single objection justly lying against it, it will have the important advantages of being a check on the inferior tribunals, of enabling the superior tribunal, where a faulty reason appears on the face of the sentence, to correct

the wrong without delay or expense, and of being a check moreover on the decision of the superior tribunal itself. As prize causes also are tried by courts not of a third party, but of one of the parties interested, it is but reasonable that the ground should be known to the other, on which judgment has passed against its citizens or subjects, in order, if deemed proper, that negotiation may be employed for redressing past, or guarding against future, injustice.

ON ARTICLE VI. The fictitious blockades proclaimed by Great Britain, and made the pretext for violating the commerce of neutral nations, has been one of the greatest abuses ever committed on the high seas. During the late war they were carried to an extravagance, which would have been ridiculous, if in their effects they had not inflicted such serious and extensive injuries on neutral nations. Ports were proclaimed in a state of blockade, previous to the arrival of any force at them, were considered, in that state without regard to intermissions in the presence of the blockading force, and the proclamations left in operation after its final departure, the British cruisers during the whole time seizing every vessel bound to such ports, at whatever distance from them, and the British prize courts pronouncing condemnations wherever a knowledge of the proclamation at the time of sailing could be presumed, although it might afterwards be known that no real blockade existed. The whole scene was a perfect mockery, in which fact was sacrificed to form, and right to power and plunder. The United States were among the greatest sufferers; and would have been still more so, if redress for some of the spoiliations proceeding from this source had not fallen within the provisions of an article in the treaty of 1794.

From the effect of this and other arbitrary practices of Great Britain on the temper and policy of neutral nations towards her; from the spirit of her treaty made near the close of the late war with Russia; from the general disposition manifested at the beginning of the present towards the United States, and the comparative moderation observed in Europe with respect to blockades, (if indeed the two cases of the Weser and Elbe are not to be excepted,) it was hoped that the mockeries and mischiefs practised under the name of blockades would no where be repeated. It is found, however, that the West Indies are again the theatre of them. The three entire and extensive islands of Martinique, Gaudaloupe, and St. Domingo have been published as in a state of blockade, although the whole naval force applied to the purpose is inconsiderable; although it appears that a part of this inconsiderable force is occasionally seen at the distance of many leagues at sea; although it does not appear that more than one or two ports at the most have at any time been actually blockaded; and although complaints are heard, that the British ships of war do not protect their own trade against the numerous cruisers from the islands under this pretended blockade.

Enclosed herewith are three letters on this subject; two from me, the first to Mr. Thornton, the second to Mr. Merry, and the third from Mr. Merry to me. You will observe that he does not pretend to justify the measures pursued in the West Indies; but, on the contrary, wishes them to be regarded as proceeding from an officer who does not pursue the intentions of his Government. Still such measures prove that no general regulations or orders have been yet issued by that Government against the evil, as might reasonably have been expected, and that a stipulated security against it is an object as important as it is just.

In the two letters to Mr. Thornton and Mr. Merry the ground is marked out, on which you will be able to combat the false blockades, and to maintain the definition of a real one, contained in the proposed article which is a literal copy from the fourth article of the Russian treaty above cited. In addition to these letters, you will find enclosed a letter of the _____ of _____ to Mr. Pinkney, in which some views are taken of the subject, which may also be of use in your discussions with the British Government.

ON ARTICLE VII. This article is due, if not to all neutrals, at least to the United States, who are distinguished by the distance of their situation. Decisions of the British Court of Admiralty, have so far respected this peculiarity as to admit a want of information as a plea for going to a blockaded port, where such a plea would be refused to less remote countries. But more than this may fairly be claimed. A vessel knowing that a particular blockade existed two months before, may well conjecture that before her arrival at the port, which will require two months more, the blockade will have ceased; and may accordingly clear and steer for such port with an honest intention, in case of finding, on her approach, the fact otherwise, not to attempt an unlawful entrance. To condemn vessels under such circumstances would be manifestly unjust, and to restrain them from a distant voyage, to a port once in a state of blockade, until information of a change shall have travelled a like distance, must produce a delay and uncertainty little short of an absolute prohibition of the commerce. To require them even to go out of their course to seek at other ports information on the subject would be an unreasonable imposition. The British Government can have little objection to this article, after defining blockades as is agreed with Russia, and as is here proposed; since our distance is of itself a security against any concert with the blockaded for surreptitious entries, which might be attempted by nearer adventurers; and since in the case of blockades, by a force actually present, a preliminary notice may be required without impairing their efficacy, as might be the case with blockades, such as the preceding article guards against.

The only difference between the articles as standing in the different columns, consists in the preamble to that which is to be admitted, if the proposition of the other should not succeed. The article is preferable without the recital of any reason particular to the United States, because as a naked stipulation, it strengthens instead of weakening a general principle friendly to neutral and pacific nations.

ON ARTICLES VII, IX, and X. These are articles which are known to have been long wished and contemplated on the part of Great Britain, and together with the justice and in many views the expediency to Great Britain herself of the articles desired on our part may induce her to accede to the whole. The articles are in substance the same with a project offered to the American administration in the year 1800, by Mr. Liston, who appears to have borrowed it from corresponding stipulations in the convention between the United States and France in the year _____. The project was at that time dropped, owing, perhaps, in part to the change in the head of the Department of State, between whom and Mr. Liston it had been discussed, and principally to the difficulty of combining with it proper stipulations against British impressments on the high seas. Without such an equivalent, the project had little to recommend it to the United States. Considered by itself, it was, too, the less admissible, as one of its articles, under some obscurity of expression, was thought to favor the British pretension to impress British seamen from American vessels on the high seas.

A copy of this document is enclosed, as it may be not without use in showing the ideas of the British Government at that time, so far at least as its minister here was an organ of them.

The terms in which these articles are to be proposed, differ but slightly from those in which they may be admitted. In the former the delivery of deserters is confined to soldiers and seamen, without requiring a delivery of officers, whose desertion will not be from the service of their country, but on account of offences for which it might sometimes be more agreeable to the United States to be unbound to give them up for trial and punishment. At the same time this consideration ought not to be a bar to an arrangement which, in its general character, will be so important to the interests of the United States.

ON ARTICLE XI. This is a stipulation which is not to be yielded but in the event of its being made an indispensable condition. It cannot be essential for the object of it, whilst the British Government is left free to take the precautions allowable within its own jurisdiction for preventing the clandestine departure of its seamen or its soldiers in neutral vessels. And it is very ineligible to the United States, inasmuch as it will be difficult to enforce the prohibition, whether we regard the embarkation of such persons in British ports, or their landing on the American shores; and inasmuch as the inefficacy of regulations for such purposes, though made with due sincerity and care, may become a source of secret jealousy and dissatisfaction, if not of controversy and reproach.

The article is copied from that in the arrangement (of which you have a copy) discussed and brought near to a conclusion between Mr. King and the British ministry, and you are authorized to accede to it, on the supposition that it may again be insisted on. It is to be recollected, however, that the article was then understood to be the only price given for relinquishing the impressment of American seamen. The other offers, now substituted, will justify you in pressing the omission of the original one.

ON ARTICLE XII. The law of nations does not exact of neutral powers the prohibition specified in this article. On the other hand, it does not restrain them from prohibiting a trade which appears on the face of the official papers proceeding from the custom house to be intended to violate the law of nations, and from which legitimate considerations of prudence may also dissuade a Government. All that can be reasonably expected by belligerent from neutral Powers, is, that their regulations on this subject be impartial, and that their stipulations relative to it, when made in time of war, at least, should not preclude an impartiality.

It is not certain what degree of value Great Britain may put on this article, connected as it essentially is with the article which limits the list of contraband. It will at least mitigate her objection to such a limitation. With the range given to contraband by her construction of the law of nations, even as acquiesced in by the United States, a stipulation of this sort would be utterly inadmissible.

The last article, in making this city the place for exchanging the ratifications, consults expedition in putting the treaty into operation, since the British ratification can be forwarded at the same time with the instrument itself. And it is otherwise reasonable, that as the negotiation and formation of the treaty will have taken place at the seat of the British Government, the concluding formality shall be at that of the Government of the United States.

In addition to these articles, which, with the observations thereon, I am charged by the President to communicate to you as his instructions, he leaves you at liberty to insert any others which may do no more than place British armed vessels with their prizes on an equality, within our ports and jurisdiction, with those of France. This would only stipulate what would probably be done by gratuitous regulations there, and as it would no doubt be acceptable to Great Britain, it may not only aid in reconciling her to the principal objects desired by the United States, but may induce her to concur in the further insertion of articles corresponding with those in the convention of 1800 with France, which regulate more precisely and more effectually the treatment of vessels of the neutral party on the high seas.

The occasion will be proper, also, for calling the attention of the British Government to the reasonableness of permitting American consuls to reside in every part of her dominions where and so long as she permits our citizens to trade. It is not denied that she has a natural right to refuse such a residence, and that she is free, by her treaty with us, to refuse it in other than her European dominions. But the exception authorized with respect to the residence of consuls elsewhere having reference to the refusal of our trade elsewhere, the refusal of the one ought manifestly to cease with the refusal of the other. When our vessels and citizens are allowed to trade to ports in the West Indies, there is the same reason for a temporary admission of consuls to take care of it, as there is for their admission in ports where the trade is permanently allowed. There is the just expectation of your success on this point, as some official patronage is due to the rights of our citizens in the prize courts established in the West India Islands. Should the British Government be unwilling to enter into a stipulated provision, you may perhaps obtain an order to the Governors for that purpose. Or if consuls be objected to altogether, it is desirable that agents may be admitted, if nowhere else, at least in the islands where the Vice Admiralty Courts are established.

It has been intimated that the articles, as standing in the different columns, are to be considered, the one as the offer to be made, the other as the ultimatum to be required. This is, however, not to be taken too strictly; it being impossible to foresee the turns and the combinations which may present themselves in the course of the negotiation. The essential objects for the United States are the suppression of impressments, and the definition of blockades. Next to these in importance are the reduction of the list of contraband, and the enlargement of our neutral trade with hostile colonies. Whilst you keep in view, therefore, those objects, the two last as highly important, and the two first as absolutely indispensable, your discretion, in which the President places great confidence, must guide you in all that relates to the inferior ones.

With sentiments of great respect and esteem I remain, sir, your most obedient servant,

JAMES MADISON.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *February 14, 1804.*

SIR:

You will herewith receive the ratification, by the President and Senate, of the convention with the British Government, signed on the 12th of May, 1803, with an exception of the fifth article. Should the British Government accede to this change in the instrument, you will proceed to an exchange of ratifications, and transmit the one received without delay, in order that the proper steps may be taken for carrying the convention into effect. As the same considerations, which led to the arrangements settled by it, urge a prompt execution of them, it may be expected that the steps depending on that Government will be hastened. As far as your exhortations may be requisite, you will of course apply them.

The objection to the fifth article appears to have arisen from the posteriority of the signature, and ratification of this convention to those of the last convention with France, ceding Louisiana to the United States, and from a presumption that the line to be run in pursuance of the fifth article might thence be found, or alleged, to abridge the northern extent of that acquisition.

It may reasonably be expected that the British Government will make no difficulty in concurring in this alteration; because,

First. It would be unreasonable that any advantage against the United States should be constructively authorized by the posteriority of the dates in question; the instructions given to enter into the convention, and the understanding of the parties at the time of signing it, having no reference whatever to any territorial rights of the United States acquired by the previous convention with France, but referring merely to the territorial rights as understood at the date of the instructions for, and signature of, the British convention. The copy of a letter from Mr. King, hereto annexed, is precise and conclusive on this subject.

Secondly. If the fifth article be expunged, the north boundary of Louisiana will, as is reasonable, remain the same in the hands of the United States as it was in the hands of France, and may be adjusted and established according to the principles and authorities which would in that case have been applicable.

Thirdly. There is reason to believe that the boundary between Louisiana and the British territories north of it were actually fixed by commissioners appointed under the treaty of Utrecht, and that this boundary was to run from the Lake of the Woods westwardly in latitude 49; in which case the fifth article would be nugatory, as the line, from the Lake of the Woods to the nearest source of the Mississippi, would run through territory which on both sides of the line would belong to the United States. Annexed is a paper stating the authority on which the decision of the commissioners under the treaty of Utrecht rests, and the reasoning opposed to the construction making the 49th degree of latitude the northern boundary of Louisiana, with marginal notes in support of that construction. This paper will put you more readily into possession of the subject, as it may enter into your discussions with the British Government. But you will perceive the necessity of recurring to the proceedings of the commissioners, as the source of authentic information. These are not within our reach here, and it must consequently be left to your own researches and judgment to determine the proper use to be made of them.

Fourthly. Laying aside, however, all the objections to the fifth article, the proper extension of a dividing line in that quarter will be equally open for friendly negotiation after, as, without agreeing to the other parts of the convention, and considering the remoteness of the time at which such a line will become actually necessary, the postponement of it is of little or no consequence. The truth is, that the British Government seemed at one time to favor this delay, and the instructions given by the United States readily acquiesced in it. The annexed extracts from Mr. King's and Mr. Gore's letters will, with that from the Department of State, explain this observation.

The fourth article of the convention provides that the commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the exchange of ratifications. It has been supposed that the compensation allowed to the commissioners under the treaty of amity, commerce, and navigation, who settled the St. Croix boundary, would be satisfactory to the British Government; and upon this idea the estimate, of which a copy is enclosed, was framed as the basis of an appropriation to be asked from Congress. The President authorizes you, therefore, to agree to the sum mentioned therein, viz. four thousand four hundred and forty-four dollars and forty-four cents, to be paid by each Government to the commissioner appointed by itself, the same sum being allowed the third commissioner, to be paid to him in equal portions by the two Governments. Should, however, the British Government insist upon a variation of the compensation from the sum abovementioned, you may consent to it, provided it does not exceed six thousand six hundred and sixty-six dollars and sixty-six cents, each party contributing equally to the payment, and each commissioner receiving the same sum as his colleagues.

I have the honor to be, &c.

JAMES MADISON.

Extract of a letter from Mr. Madison, Secretary of State, to Mr. Monroe.

DEPARTMENT OF STATE, *March 5, 1804.*

The treaty of 1794, so far as it relates to commerce, having expired on the first day of October last, (that being the date of the preliminary articles,) the commercial intercourse between the two countries is left to the regulations which the parties separately may think fit to establish. It may be expected, however, that the friendship and mutual interest between them will produce a continuance on both sides of such regulations as are just and equal, and an accommodation to those principles of such as, on either side, are otherwise than just and equal. On the side of the United States, their commercial regulations place Great Britain, in every respect, on the footing of the most favored nation. Great Britain cannot say as much with respect to hers. One instance at least is explained in a letter from this Department to Mr. King, of which a copy is enclosed, from which you will see that, although the act of Parliament to which it refers be no longer a breach of stipulation, it is not less a violation of equality than it is of sound policy. With respect to the British West Indies, it is not known that the United States are on a worse footing than other nations, whatever want of reciprocity there may be to the liberal regulations of the United States. With respect to the East India trade, it is understood that the treaty of 1794, by denying to American vessels both the coasting branch of it, and a direct intercourse between India and foreign countries, other than America, the United States were in both instances placed on a worse footing than other nations, and even on a worse footing than they themselves enjoyed prior to the treaty. The expiration of the treaty, and the friendly and favorable equality allowed by the United States to Great Britain in every branch of their trade, ought certainly to restore what the treaty suspended.

These observations are made not with a view to any negotiation whatever, leading at the present moment to a treaty on those or any other commercial points, or to discussions which might be misconstrued into a wish to take unreasonable advantage of a critical moment, but to enable you to present the ideas of your Government with more precision, to vindicate our commercial policy against misconceptions, and to avail yourself the better of fit occasions for obtaining from the British Government such relaxations as may be due to our example, and be calculated to cherish amity and useful intercourse between the two nations.

In my letter of —, I stated the reasonableness of admitting American consuls in the dependencies of Great Britain, whenever and wherever the American commerce should be admitted. The principle urged in this case is applicable to the East as well as to the West Indies. During the last war an American agent was, informally at least, allowed to reside at Calcutta, and take care of the trade of his countrymen. Mr. Jacob Lewis, who was appointed to succeed him, proceeded to London on his way thither, but peace having intervened his application for an exequatur was refused. It is of real importance to our trade with that country, that such a functionary should be permitted to reside in it; the more so, if it be true that the rule forbidding foreign factors to do so be enforced there. Be so good as to sound the British Government on this subject, and communicate its sentiments for the information of the President.

No. 21.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, *March 18, 1804.*

I have lately received from Mr. Baring your letters of the 5th and 16th of January; that of October 24th, with the documents mentioned in it, had reached me at an earlier period.

I rejoice to hear that our Government has obtained complete and quiet possession of Louisiana. Independent of the vast importance of the acquisition, which surely cannot be held in too high estimation, it is very satisfactory

to see the affair concluded in a manner so amicable, and at the same time so honorable to the nations who are parties to it. Both Governments have performed every thing which they had respectively stipulated, and each has therefore much reason to approve the conduct of the other. The transaction has, I trust, established their peace and friendship on a basis which will never be shaken.

I shall pay all the attention to the instructions contained in your letter of the 5th January which is due to their great importance. As soon as I am sufficiently possessed of the subject, I shall ask a conference with Lord Hawkesbury, to propose to his Government a convention between the two nations, for the adjustment of the points and on the principles of the project you have sent me. I hope to be able to commence the business in a week or ten days, and flatter myself that the negotiation will be productive of real advantage to the United States. Should it even not succeed in all its objects, the attempt must nevertheless be considered as a very satisfactory proof of a strong desire in our Government to preserve on just ground the friendship of this country, and is likely, by the explanations to which it may lead alone, to have that tendency. I am, however, far from thinking it improbable that a suitable convention may be formed, especially on some of the points that are deemed interesting.

The indisposition of the King still continues, though it has so much abated as to permit occasionally his attention to certain inferior objects of business. His life is no longer considered in danger. His disorder, a species of mental derangement, with which he was formerly attacked, has been less violent on this occasion; and, having proceeded in a great measure, as is believed, from other infirmities, will probably cease when they are removed, which is said to be nearly the case at present. In the interim, the administration must be considered as having lost much of its strength. The sickness of the King and his probable decline have put in motion all the interests that are connected with the monarchy. Those who had little hope of employment in his lifetime seem to have left the ministry, or rather to have become active against them. The old opposition has acquired greater energy, and become more formidable. Mr. Fox attacks it on all occasions in a manner the most direct and unqualified, and the support which Mr. Pitt sometimes gives it is yielded in a mode to do it more injury than service. It is obvious that he does not mean to connect his fortune with theirs; and I think I have observed, on some occasions, such a degree of attention and spirit of accommodation from him to Mr. Fox as to justify a presumption that he is not averse to a coalition with him, in case the terms are made acceptable. No change has taken place in our concerns since my last; and, as I am now authorized to negotiate a treaty, I shall not call the attention of the Government to them, otherwise than in the latter mode. It is probable that the omission to answer my communications and redress our injuries, with which it is justly chargeable, may furnish a motive for acceding to a more permanent arrangement.

There is no change in the state of the war. The menace of invasion is continued with the same effect here. Of the object and parties to the late conspiracy at Paris you will get more correct information from that quarter than I can give you.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 22.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, April 15, 1804.

Soon after my last, I requested an interview with Lord Hawkesbury, which took place on the 2d instant, in which I informed him that I had received your instructions to propose to his Government the regulation, by convention, of certain points, which I was persuaded both countries would find their advantage in placing on explicit and equitable ground. I stated to his lordship the concerns which it was desirous thus to regulate, in which I complied strictly with your views; and assured him that the object of the President was to fix the friendship of the two nations on the most solid basis, by removing every cause which had a tendency, in their intercourse and other relations, especially in time of war, to disturb it. In the conversation, I entered into detail on every point, in which I was met by his lordship with apparent candor, the sincerity of which I had no reason to doubt, which manifested a disposition equally strong in favor of the professed and indeed real object of the proposed negotiation. He requested me, in the conclusion, to furnish him a project, which he promised to submit to his cabinet, and to communicate to me the result of its deliberations on it as soon as he could. I have since sent him a project, but too recently to admit my obtaining an answer to it. I am inclined to think, from what passed in the conference, that some advantage may be fairly expected from the negotiation. His lordship did not bind himself to any thing, it is true; he even went so far as to express a wish that the principles of our treaty of 1794 might be adopted in the present convention where they applied, and an expectation that, if the accommodation which had been given, in certain cases, to the northern Powers should be stipulated in our favor, we should accord fully what they had yielded in return. Although I was very desirous to do justice to the moderate and friendly views of our Government on the occasion, yet I did not fail to give him to understand that I could not accede to his idea in either case. I shall endeavor to bring the business to a conclusion, and apprise you of the result as soon as possible; when I shall also communicate fully, and in detail, an account of what passes between us in the course of the transaction.

Not many of our vessels have been interrupted in their commerce with France or Holland; not one, that I recollect, has been condemned. Some of them have been brought in, under various pretexts, which have generally been discharged, without a long detention. I send you a copy of my correspondence with Lord Hawkesbury on the subject of the *Brutus*, Captain Haly, in which you find that ample recompense is promised for the injury complained of.

I have the pleasure to enclose you a copy of a communication from Mr. Dethonig, *chargé des affaires* of the King of Sweden at Constantinople, in which he promises his good offices to obtain, by intermediation with the Porte, the liberation of our citizens lately taken prisoners in the Philadelphia frigate, by the Bey of Tripoli. Having known Mr. Dethonig formerly in France, he voluntarily offered his good offices on this occasion, on hearing of the disaster.

I have also the pleasure to transmit you a copy of a letter from Mr. Harris, our consul at Petersburg, with one from the minister of the Emperor, which contains a very strong testimonial of his friendship for the United States. The assurances which he gives of the good offices of His Majesty with the Ottoman Porte, to obtain of the Bey of Tripoli the discharge of the men and restitution of the frigate, induced me to make my acknowledgment to his ambassador here of the sensibility which I felt to an act which was so humane and honorable to the author. I was led to this by the consideration that, as Mr. Harris was only vested with the character of a consul, such an expression from a person in my place might produce an immediate good effect. I flattered myself that the knowledge of the friendly disposition of the Emperor towards us might be even serviceable here.

The King still continues indisposed, though in what degree is uncertain. In other respects, the state of affairs has not varied since my last.

I am, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Project of a convention presented to Lord Hawkesbury, April 7, 1804.

ARTICLE 1. No person shall, upon the high seas, and without the jurisdiction of the other party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the other parties, by the public or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

ART. 2. No person, being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall, in any case, be compelled to serve on board any vessel, whether public or private, belonging to such other party; and all citizens and subjects whatever of the respective parties, at the time compulsively serving on board the vessels of the other, shall be forthwith liberated, and enabled, by adequate recompense, to return to their own country.

A certified list of the crew, or protection from either Government, in such form as they shall respectively prescribe, showing that the person claiming under it is a citizen or subject of either Power, shall be deemed satisfactory evidence of the same; and in all cases where these documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either Power, such other evidence of said claim shall be received and admitted as would be satisfactory in a court of judicature.

ART. 3. If the ships of either of the parties shall be met sailing either along the coasts or on the high seas by any ship of war or other public or private armed ship of the other party, such ships of war or other armed vessels shall, for avoiding all disorder in visiting and examining the same, remain out of cannon shot, unless the state of the sea or place of meeting render a nearer approach necessary; and shall in no case compel or require such vessel to send her boat, or her papers, or any person from on board, to the belligerent vessel; but the belligerent vessel may send her own boat to the other, and may enter her, to the number of two or three men only, who may in an orderly manner examine the same; and it is agreed that effectual provision shall be made for preventing violations of any part of this article.

ART. 4. In order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the Power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

ART. 5. It is agreed that no vessel sailing from the ports of either party shall, although cleared and bound to a blockaded port, be considered as violating, in any manner, the blockade, unless, in her approach towards such port, she shall have been previously warned against entering the same.

ART. 6. It is agreed that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons, not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made, within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and, by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls, or vice-consuls, to the competent authorities, all deserters duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country, at the request and expense of the said consuls, or vice-consuls, until they shall have found an opportunity of sending them back, or removing them as aforesaid; but, if they be not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

ART. 7. This convention shall be in force for the term of five years from the date of the exchange of ratifications. It shall be ratified on both sides within three months from the date of its signature, or sooner, if possible, and the ratifications exchanged, without delay, in the United States, at the city of Washington.

No. 24.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, June 3, 1804.

The late struggle in the Parliament has produced the appointment of Mr. Pitt to the place of Mr. Addington, of Lord Harrowby to that of Lord Hawkesbury, (the latter being removed to the Home Department, from which Mr. Yorke retired,) and Lord Melville to the head of the Admiralty, in the room of Lord St. Vincent. Not many other changes are made, the present ministry being formed principally of Mr. Pitt and some few of his friends, with the other members of the late one. It is understood that the King would not consent to the admission of Mr. Fox into the ministry, in consequence of which the Grenvilles and Mr. Wyndham refused to enter it.

While the late ministry was on the decline, it seemed useless to press it on any concerns of ours. I remained tranquil, in the hope of availing myself with effect of the moment when it should either recover its strength, or, retiring, give place to another, with which I might treat on the important concerns entrusted to me. As soon as Lord Harrowby came into office, he notified it to the foreign ministers, and invited them to an interview at his office on the concerns of their respective countries. As each was introduced separately, I took occasion to mention to him the subjects which were depending with his predecessor, more especially the project of a treaty concerning impressments and other topics, and the interest of the State of Maryland in some bank stock, which I hoped might soon be concluded. I mentioned to him, also, that I had lately received from you the ratification of the treaty respecting boundaries, by the President, with the advice of the Senate, with the exception of the fifth article, which I wished to submit to his consideration. He replied, that he was glad I had turned his attention to those subjects, since he would make them the particular object of his research, but hoped that I would not press any of them, as he had so lately come into office, and had so many concerns before him of the first importance to his country, and of a nature very urgent. I assured him I had no disposition to hurry any point; should wait with pleasure his accommodation, though I hoped it would suit his convenience to conclude soon the affair of the bank stock, which was entrusted to the care of Mr. Pinkney. He promised me to examine the papers immediately, and to write me as soon as he understood them. Near a fortnight afterwards elapsed, and I heard nothing from him. As Mr. Pinkney was extremely impatient, and I really wished to get into communication on the other topics, also, I wrote him a note on the ——— ultimo, requesting an interview on the general subject, with permission to present to him Mr. Pinkney at the same time, which was granted on the 30th. As the particulars which occurred

in this interview appear to me to be of a nature very interesting, I shall endeavor to state them with the utmost accuracy.

Mr. Pinkney opened his subject, the result of which seemed to promise a speedy conclusion of it, in a manner satisfactory to him. As he will doubtless communicate every thing that occurs in that concern, it is useless for me to repeat any thing that you will receive more fully from him. He withdrew as soon as his object was accomplished. I then asked his lordship if he had read the project relative to seamen, &c., which I had given to Lord Hawkesbury some time since, and which I had mentioned to him in our former interview. He replied that he had not; that I would recollect that he had requested me to delay the examination of it for the present, as it did not press; the Congress having adjourned, and the bill concerning it being postponed. I replied that I did recollect it, but that I hoped by this time he had examined it, and, being one which involved no difficulty, that he would be prepared to act on it. He said that he was not, nor did he know that he should be during the session of Parliament. I told him that his mind being thus expressed, I should certainly say nothing more on the subject for the present. I then asked him if he was disposed to examine the ratification of the treaty respecting boundaries, which I had also mentioned to him in our former interview. He said he had not time, but would be glad to know in what manner it had been ratified. I replied, with the exception of the fifth article. He censured, in strong terms, the practice into which we had fallen of ratifying treaties, with exceptions to parts of them, a practice which he termed new, unauthorized, and not to be sanctioned. I replied, that this was not the first example of the kind; that he must recollect one had been given in a transaction between our respective nations in their treaty of 1794; that in that case a proposition for a modification in that mode was well received, and agreed to; that to make such a proposition was a proof of an existing friendship, and a desire to preserve it; that a treaty was not obligatory till it was ratified, and, in fact, was not one till then. He said the doctrine was not so clear as I had stated it to be; that there were other opinions on it, and seemed to imply, though he did not state it, that an omission to ratify did an injury to the other party of a very serious kind. He asked me why the fifth article had been excepted from the ratification? I replied, that a doubt had arisen whether the ratification of it might not lay the foundation for disputes hereafter, from a cause which had no connexion with this transaction. This treaty was signed on the 12th of May, 1803: the late treaty with France, which obtained the cession of Louisiana, bore date on the 30th of April preceding. At the time this treaty was formed, neither our minister nor his had any knowledge of that with France; that the cession of Louisiana was not in the contemplation of either Government or its agent when their instructions were given or acted on, and, in consequence, the rights acquired under it ought not and would not be affected by this treaty. He observed, with some degree of severity in the manner, in substance, as well as I recollect, that, having discovered since this treaty was formed that you had ceded territory which you do not wish to part with, you are not disposed to ratify that article. I replied, that he had misconceived my idea; that we did not admit that the treaty would have any such effect, since it could not operate upon an interest which did not exist when it was made; that we were, however, anxious to prevent any misunderstanding on the subject by previous explanation and arrangement; that, by postponing the subject for the present, the door was left open for amicable negotiation and adjustment, which we wished; that, at present, we were treating upon a subject too remote from our settlements to be well understood, or, in point of interest, pressing; that, by the delay, there was no privation of right; and the amicable disposition which now subsisted between the two nations remaining, the affair could not otherwise than be adjusted hereafter to their mutual satisfaction. He repeated again the idea which he first expressed, implying strongly that we seemed desirous of getting rid of an article on finding that it did not suit us. I could not but feel the injustice of the insinuation, which was made much stronger by the manner which accompanied it; nevertheless, I only added that he ought not to expect to derive an advantage from a treaty, the conditions of which were not known to his or our Government when this treaty was made, in an interest in which we alone had paid the whole consideration. I offered to leave the ratification with him, but he declined taking it, observing that it was useless, as he could not act upon the subject at present.

The conduct of Lord Harrowby through the whole of this conference was calculated to wound and to irritate. Not a friendly sentiment towards the United States or their Government escaped him. In proposing a postponement of the interests in which we were a party, he did not seem to desire my sanction, but to assume a tone which supposed his will had settled the point. By his manner he put it out of my power, in assenting to the delay, to mingle with it any expressions declaratory of the pleasure with which I acceded to an arrangement which accommodated his Government or himself. Such expressions can never be used with propriety, except where they are voluntary, and acknowledged to be founded in generous motives. But no sentiment of that kind seemed to animate him on this occasion. Every thing that he said was uttered in an unfriendly tone, and much more was apparently meant than was said. I was surprised at a deportment of which I had seen no example before since I came into the country, and which was certainly provoked by no act of mine; yet I am persuaded it did not produce an improper effect on my conduct. I did not reciprocate the irritation by any thing that escaped me. I am equally well persuaded that I made no improper concession, and let it be clearly seen that I felt that I represented a respectable and independent nation, whose Government could not be intimidated, or compelled to lose sight of its dignity by an abandonment of its just claims in its transactions with any other.

I now consider these concerns as postponed indefinitely. I do not foresee at what time it will be proper for me to revive the subject. Much is said of the probability of a coalition between Great Britain and the Northern Powers, and the frequent cabinet consultations, at which the ministers of Russia and Sweden assist, give countenance to the report. If that should be the case, it is probable that the policy and tone of this Government towards neutral Powers may be less friendly or accommodating. The new minister may seek to distinguish his career from that of his predecessor by measures which may be deemed more enterprising. His system in the last war, so far as it affected us, was marked by an extraordinary harassment of neutral commerce; by the blockade of France, the islands, &c. Our unexampled prosperity and rapid rise, it is well known, excite their jealousy and alarm their apprehensions. It may be painful for them to look on and see the comforts and blessings which we enjoy, in contrast with the sufferings to which, by the calamities of war, they are doomed. Whether the conduct of Lord Harrowby was produced by any change of policy towards us, or by any other cause, transient or otherwise, it is utterly out of my power to ascertain at present. My most earnest advice, however, is to look to the possibility of such a change. The best security against it will be found in the firmness of our councils, and the ability to resent and punish injuries. It is said, on what authority I know not, that Mr. Merry will be recalled, and some person of the first distinction sent in his stead. If this is the case, although the exterior may be otherwise, yet it ought not to be considered as a measure adopted with a view to harmony, or from motives of respect to our Government, since, if such were the objects, the tone which I have above communicated would not have been assumed by Lord Harrowby, nor should I be among the last to hear of it. These remarks I have deemed it my duty to make, from the circumstances on which they are founded. Being sincerely anxious for peace, from a knowledge—such is the happy condition of our country—that much expense and injury must result from war, while it is impossible for us to derive any advantage from it, you may rest satisfied that I shall cherish our present amicable relations by all

the fair and honorable means in my power; that I shall also be observant of events, and not fail to communicate to you with the greatest despatch possible whatever occurs, which may be deemed worthy your attention.

I am, sir, with great respect and esteem, your obedient servant,

JAMES MONROE.

No. 27.

Mr. Monroe to Mr. Madison.

LONDON, August 7, 1804.

SIR:

I received a note from Lord Harrowby on the 3d instant, requesting me to call on him at his office the next day, which I did. His lordship asked me in what light was our treaty viewed by our Government. I replied that it had been ratified, with the exception of the fifth article, as I had informed him on a former occasion. He observed that he meant the treaty of 1794, which, by one of its stipulations, was to expire two years after the signature of preliminary articles for concluding the then existing war between Great Britain and France. He wished to know whether we considered the treaty as actually expired. I said that I did presume there could be but one opinion on that point, in respect to the commercial part of the treaty, which was, that it had expired; that the first ten articles were made permanent; that other articles had been executed, but that these, being limited to a definite period, which had passed, must be considered as expiring with it. He said it seemed to him doubtful whether the stipulation of the treaty had been satisfied by what had occurred since the peace; that a fair construction of it might possibly require an interval of two years' peace after the war, which had not taken place in point of form, much less so in fact, for the state of things which existed between the countries through that period was far from being a peaceable one. I informed his lordship that the distinction had never occurred to us, though certainly it would receive from our Government all the consideration which it merited, especially if it was relied on, on his part. After some further conversation, he seemed to admit that the construction he had suggested of the stipulation referred to was rather a forced one; that, by the more obvious import of the article, the commercial part of the treaty must be considered as having expired. What, then, said he, is the subsisting relation between the two countries? Are we in the state we were at the close of the American war? By what rule is our intercourse to be governed respecting tonnage, imposts, and the like? I said that the law in each country, as I presumed, regulated these points. He replied that the subject was, nevertheless, under some embarrassment here. He asked how far it would be agreeable to our Government to stipulate that the treaty of 1794 should remain in force until two years should expire after the conclusion of the present war? I told his lordship that I had no power to agree to such a proposal; that the President, animated by a sincere desire to cherish and perpetuate the friendly relations subsisting between the two countries, had been disposed to postpone the regulation of their general commercial system till the period should arrive when each party, enjoying the blessings of peace, might find itself at liberty to pay the subject the attention it merited; that he wished those regulations to be founded in the permanent interests, justly and liberally viewed, of both countries; that he sought for the present only to remove certain topics which produced irritation in the intercourse, such as the impressment of seamen, and in our commerce with other Powers, parties to the present war, according to a project which I had had the honor to present his predecessor some months since, with which I presumed his lordship was acquainted. He seemed desirous to decline any conversation on this latter subject, though it was clearly to be inferred, from what he said, to be his opinion that the policy which our Government seemed disposed to pursue, in respect to the general system, could not otherwise than be agreeable to his. He then added, that his Government might probably, for the present, adopt the treaty of 1794 as the rule in its own concerns, or in respect to duties on importations from our country, and, as I understood him, all other subjects to which it extended; in which case, he said, if the treaty had expired, the ministry would take the responsibility on itself, as there would be no law to sanction the measure; that, in so doing, he presumed that the measure would be well received by our Government, and a similar practice in what concerned Great Britain reciprocated. I observed that, on that particular topic, I had no authority to say any thing specially, the proposal being altogether new and unexpected; that I should communicate it to you, and that I doubted not it would be considered by the President with the attention it merited. Not wishing, however, to authorize an inference that that treaty should ever form a basis of a future one between the two countries, I repeated some remarks which I had made to Lord Hawkesbury in the interview which we had just before he left the department of foreign affairs, by observing, that, in forming a new treaty, we must begin *de novo*; that America was a young and thriving country; that, at the time that treaty was formed, she had had little experience of her relations with foreign Powers; that ten years had since elapsed, a great portion of the term within which she had held the rank of a separate and independent nation, and exercised the powers belonging to it; that our interests were better understood on both sides at this time than they then were; that the treaty was known to contain things that neither liked; that I spoke with confidence on that point on our part; that, in making a new treaty, we might engraft from that into it what suited us, omit what we disliked, and add what the experience of our respective interests might suggest to be proper. And being equally anxious to preclude the inference of any sanction to the maritime pretensions of Great Britain under that treaty, in respect to neutral commerce, I deemed it proper to advert again to the project which I had presented some time since for the regulation of those points, to notice its contents, and express an earnest wish that his lordship would find leisure, and be disposed to act on it. He excused himself again from entering into this subject, from the weight and urgency of other business, the difficulty of the subject, and other general remarks of the kind. I told him that the most urgent part of the subject was that which respected our seamen; that our Government wished to adopt a remedy which would be commensurate with the evils complained of by both countries: his Government complained that deserters from their ships in America were not restored to them; ours, that our seamen were impressed in their ports, (those of Great Britain,) and on the high seas, in our vessels, and sometimes in our bays and rivers; that such injuries ought to be put an end to; and that we were willing to adopt a fair and efficacious remedy for the purpose. He said he was afraid, however well disposed our Government might be to give the aid of the civil authority to restore deserters to their vessels in the United States, that little advantage could be derived from such a stipulation. The bias and spirit of the people would be against it, with us, as it was here, under favor of which deserters would always find means to elude the most active search of the most vigilant peace officers. I replied that I did not think the difficulty would be found so great as he supposed; that our people were very obedient to the law in all cases; that, as soon as the apprehension and restoration of deserting seamen to their vessels was made a law, (as it would be, by becoming the stipulation of a treaty,) the public feeling on that point would change, especially when it was considered as the price of a stipulation which secured from impressment their fellow-citizens who might be at sea or in a foreign country; that sailors never retired far into the interior, or remained where they went long, but soon returned to the seaport towns to embark again in the sea service; that it was not likely they would be able to elude the search of the magistracy, supported, as it would be, by the Govern-

ment itself. I found, on the whole, that his lordship did not wish to encourage the expectation that we should agree in any arrangement on this head, though he was equally cautious not to preclude it. I left him without asking another interview, and the affair, of course, open to further communication.

Mr. Pinkney has fortunately obtained an adjustment of the interest of Maryland in some stock in the Bank of England, by a transfer to him, as agent of the State, of the amount, by the Crown. The Government itself appeared well disposed to the object, but it and the Court of Chancery were so beset by a number of persons having claims on the State after the interest vested in the Crown, that it was very difficult to bring it to a happy conclusion. To quiet the claimants, and enable the Government to act in it with satisfaction to itself, required a spirit of accommodation, perseverance, and ability in the management of the trust, without which it could not have been effected. The terms on which the affair is concluded have appeared to me to be as advantageous to the State as it was possible to obtain. To approve them was the only duty left for me to perform, as the able and laborious attention which Mr. Pinkney paid to the subject rendered it altogether unnecessary for me to take any other part in it. After the expiration of Mr. Pinkney's office as commissioner under the treaty of 1794 with Great Britain, he ceased to have a right to draw his salary in that character: as, however, his continuance here, under the authority of the President, on the other duty, which was indispensable, exposed him to at least equal expense, I thought it proper to request our bankers to advance him five hundred pounds on that head, to be accounted for with you. This sum is rather more than his compensation as a commissioner would have been for an equal term; but as it was necessary to enable him to pursue the object and facilitate his return home, I flatter myself the President will approve the measure. The advance being made on my responsibility, under the circumstances of the case, can, of course, have no influence on the vote of compensation to be allowed him for the service, or in designating the party which ought to make it.

Mr. Lear having obtained a commutation of the tribute which was to have been paid to the Government of Algiers in naval stores into money, and drawn for the amount on our consul at Leghorn, who forwarded bills for the same on our Government to the house of Mr. Hengist Glennie here for sale, and it appearing that they could not be negotiated without considerable loss, I concurred with Mr. Erving in opinion that he had better save the public from so great an injury, by taking them up with some public moneys which he had in his hands. He has done so, as he most probably has already informed you. The money which the commissioners under the British treaty directed, by form, to be returned to me, was paid by my order into the hands of our bankers, by the clerk who brought the order of the commissioners to me.

I propose, in a week or ten days, to ask another interview of Lord Harrowby on the topics depending between our two Governments. By what has passed, you will infer that I have at present but little hope of bringing them to a conclusion. The practice of this Government is, however, on the whole, very favorable to us; our commerce enjoys a protection, which is a proof of the increasing respectability of our Government and country. None of our vessels that I know of have been condemned, but few are brought in under any pretext, and, in one case, compensation has been made for the detention. I hope to be able, after the proposed interview with Lord Harrowby, to fix the time when I shall set out for Spain.

I am, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 28.

(Duplicate.)

Mr. Monroe to Mr. Madison.

LONDON, September 8, 1804.

SIR:

I obtained an interview with Lord Harrowby on the 1st instant, which I had asked, to ascertain the sentiments and disposition of his Government on the subjects which I had long before submitted to it. The conference was free and full on every point, in which I urged every thing which I could draw from the lights in my possession, to induce his Government to adopt the convention which I had proposed in the spirit of my instructions, for the suppression of impressments, &c., and to ratify that respecting our boundaries, with the exception of the fifth article, as the President had done. His lordship heard me with attention and apparent candor; he stated difficulties and received explanations, and finally promised to submit the subject to the cabinet, and give me as early an answer as he could. In examining that part of the project which respects impressments, he expressed some regret that the affair had been taken up with such earnestness in the Congress. I told him that business was conducted there differently from what it was here: that here the ministry in both Houses proposed and carried public measures; but that with us the members of the administration were excluded from the Legislature; that the branches were completely separate and distinct from each other; that although they were a check each on the other, yet that neither was responsible for the acts of the other: that the passage of a bill by both Houses was no evidence of the sense of the Executive on the subject of it until it had its sanction; that, in the present case, the motions which had been made in Congress were only to be considered as a proof of the great sensibility of the nation to the object of them; that the practice of impressing our men, which had been carried to great excess, was a cause of continued and high irritation throughout the Union; that it was very much to be wished that that cause could be removed by satisfactory arrangement between the Governments, which was deemed practicable, and which our Government with great earnestness and sincerity sought, as was shown by the propositions which I had made by its order; that the President certainly preferred a security of our rights by such an arrangement, as the Congress likewise did, as was seen by the failure of the motions alluded to, though made by members of great respectability, and strongly supported by the public feeling. He said much as to the extent of the propositions being of a nature quite hostile; of the time at which they were made being anterior to any proposal to negotiate; though in this idea he seemed to correct himself, as he was aware that Mr. King had endeavored to arrange the affair before his departure, and that I had expressed a similar desire soon after my arrival here. He spoke much of the difficulty attending my arrangement from the similitude of the people; of the great numbers of their seamen which it was known we had in our service. I replied that the arrangement was not proposed to be permanent, but for a short term, and experimental; that it looked to the evils complained of on his side as well as ours, and sought to remedy them; that it was believed the remedy it proposed would be effectual; but if the experiment should throw any light on the subject, so as to enable our Governments hereafter to arrange it better, much would be done. He declined giving any opinion on the articles in the project which respected this interest, though I inferred by his stating no objection to them that he did not deem them unreasonable. In speaking of those articles which defined in certain cases neutral rights, he observed that they only touched the subject in part; that if our Government adopted the proposition which he had made lately, of considering the treaty of 1794 in force until two years after the expiration of the present war, the whole subject would be provided for. I replied, that in touching the subject in the points to which the articles extended,

and in those only our Government sought to put out of the way for the present, and during the war, all temporary or transient causes of irritation which might tend to the injury or to disturb the harmony of the two nations; that in seeking a postponement of a general arrangement of our commerce till peace, it was supposed that his Government would be accommodated by it, which consideration had had much weight with the President, since, as he wished all future arrangements of that kind to be founded in the mutual and permanent interests of both countries, so he was satisfied that those interests could at no time be so well examined or understood as when both parties, being happy in the enjoyment of peace, might have leisure to pay them the attention they merited; that the articles proposed did not stipulate any thing which his Government had not sanctioned by its treaties with other Powers, as well as by its present practice. He observed, however, that they omitted other objects which were included in those treaties, and which his Government deemed very important to its welfare; that these points had been paid for by the Powers to whom the concession had been made by stipulations which secured the interests which the project I had presented had omitted. In this remark he alluded more especially to the doctrine of the "ship's giving protection to the goods," which he called modern and theoretical, and to Russia as furnishing an example of the kind he stated. I told him that *our* Government was not disposed to give *his* trouble on that point, though it could have no motive to enter into any stipulation respecting it; that its whole conduct during the war had been friendly and conciliating; that he had not heard of any measures taken with the neutral Powers which ought to excite a jealousy of our views, or create a suspicion that the President was disposed to embarrass them in such cases; on the contrary, that I could assure him, if the objects to which the articles in the project extended were secured, that none others would be thought of. We then proceeded to examine the convention respecting the boundaries in the light in which the ratification by the President presented it. On that subject also I omitted nothing which the documents in my possession enabled me to say; in aid of which I thought it advisable, a few days afterwards, to send to his lordship a note explanatory of the motives which induced the President and Senate to decline ratifying the fifth article. As the affair had become by that circumstance in some degree a delicate one; and as it was in its nature intricate, I thought it improper to let the explanation which I had given rest on the memory of a single individual. By committing it to paper, it might be better understood by Lord Harrowby and by the cabinet, to whom he will doubtless submit it. As I send you a copy of that paper, it is useless to detail the substance of what passed between us on the subject of it. I sent him at the same time an abstract of the impressions, which Mr. Erving had furnished me, which had taken place since my communication to Lord Hawkesbury. As Mr. Erving gives you regular and correct information on that head, I do not annex it to this communication.

Before I left Lord Harrowby I informed him that, independent of the interesting nature of the subject of our conference, on which I should be happy to be enabled to communicate something that would be satisfactory to our Government, I had another motive for wishing an early answer from him respecting it; that I had lately received instructions from you to repair to Madrid in the character of envoy extraordinary, to join Mr. Pinkney in the adjustment of some points which grew out of the cession of Louisiana by France to the United States. He asked me if these did not respect our boundaries; to which I replied in the affirmative. We had some conversation on that point, in which I communicated a general idea of the ground on which our Government had concluded that West Florida was comprised in the cession. He seemed to have entertained a different one, but to hear with attention and candor the statement which I gave of the question. I told him that my absence would be short; that I should leave Mr. Purviance, the secretary of the legation, in the charge of our affairs in my absence, with which he seemed to be well satisfied, and assured me that an accommodation with the views of the President in the proposed mission would be a motive for giving me an early answer to the subjects depending here; by which, however, I understood only that he would endeavor as much as he could to prevent their proving a cause of my detention. I thought it proper at that time to communicate the fact of my mission to Spain, and of my desire to set out soon in discharge of it, that he and his Government might clearly see that it was a measure ordered by the President, and had relation to the concerns of the United States only. I told him that the President had taken this measure from motives of friendship for Spain, with whom the United States were desirous and expected to preserve that relation forever. I made this remark to preclude the possibility of any improper use being made of what had been said, on the presumption (which might inspire a disposition to make such use of it) that a disagreement between the United States and Spain, much less a rupture, could result from the negotiation, whereby a hope might be fostered by this Government that we should become a party to the present war on its side. If circumstances permitted, it would be agreeable to me, as in that case I should presume on the approbation of the President, to intimate the willingness of our Government to receive, in the proposed negotiation, the good offices of friendly Powers. Such intimation would make it less likely to view with jealousy the aid we may receive, should that be the case, from France. In making the suggestion, I should observe, that I did it from the knowledge I had of the pleasure with which the President would avail himself of opportunities to render good offices to the Powers with whom the United States were in amity. If our business here is closed satisfactorily, I should think myself at liberty to give such an intimation.

While we were conferring on these subjects generally, Lord Harrowby noticed the conduct of Captain Bradley, of the Cambrian, which he said his Government had disapproved and censured by his removal from the command, and ordering him home to account for it. He said that as this step had been taken before any complaint had been received from our Government, it could not be viewed otherwise than as a strong proof of the desire of His Majesty to cultivate the friendship of the United States; to which I readily assented.

Of the prospect of success in the points depending here, it is impossible for me to give any satisfactory opinion. The business has, however, now reached a stage to promise an early conclusion. Still it is of too much importance for me to precipitate it. I shall wait some days longer in patience before I call for an answer, as I deem it important, be the event what it may, to conclude the negotiation so far as respects my department, in a manner equally respectful to the Government as that in which it commenced.

You will receive within a copy of the project as I presented it to Lord Hawkesbury. You will find that I have omitted in it the fourth, fifth, ninth, tenth, eleventh, and twelfth articles of that which you sent me. I omitted the fourth because it brought into view the question of contraband, and exposed us to the revival of the claim of this Government respecting provisions, which I saw, by what had taken place with Sweden, was likely to be insisted on; the fifth, because the present practice of the court conforms with it; the ninth, tenth, eleventh, and twelfth because, being intended as accommodations to them, it would be in time to introduce them when asked for, when it would be more seasonable to seek some equivalent in return; though, indeed, it is not likely that they care much about them, especially at this moment. I was the more confirmed in the idea of omitting the fourth article, from a knowledge that the abandonment by treaty of the principle that free ships make free goods, would produce an ill effect with France. I had this information from authority the most direct, that is, that she would be likely to consider it, being in war, an unfriendly act. By presenting it in the form it bears, to which I was prompted by information recently obtained, and which could not have reached you, I hoped to secure the great objects which you had in view without hazarding any inconvenience whatever. It was also material to know that no case had then occurred

(nor indeed has there since) in which the Admiralty have denied the right to our citizens to acquire merchandise, the growth of an enemy's country, and transport it as their own. There was, of course, no motive for securing it, especially at any expense.

I am, with great respect and esteem, your most obedient and very humble servant,
JAMES MONROE.

P. S. I find that there is a case of the kind adverted to above now depending before the Admiralty. The vessel, the *Missouri*, touched here on its way from Batavia, as is supposed to Holland. I think it best to take this up on its own merits, unconnected with the principle adverted to, for the reasons above mentioned, which I trust will be approved by the President.

Paper respecting the boundary of the United States, delivered to Lord Harrowby, September 5, 1804.

By the tenth article of the treaty of Utrecht, it is agreed "that France shall restore to Great Britain the bay and straits of Hudson, together with all lands, seas, seacoasts, rivers, and places situate in the said bay and straits which belong thereunto," &c.

It is also agreed, "that commissaries shall be forthwith appointed by each Power to determine, within a year, the limits between the said bay of Hudson and the places appertaining to the French; and also to describe and settle, in like manner, the boundaries between the other British and French colonies in those parts."

Commissaries were accordingly appointed by each Power, who executed the stipulations of the treaty in establishing the boundaries proposed by it. They fixed the northern boundary of Canada and Louisiana by a line beginning on the Atlantic, at a cape or promontory in $58^{\circ} 30''$ north latitude; thence, southwestwardly, to the lake Mistasin; thence, further southwest, to the latitude 49° north from the equator, and along that line indefinitely.

At the time this treaty was formed France possessed Canada and Louisiana, which she connected by a chain of forts extended from the mouth of the Mississippi, on all its waters, and on the lakes along the St. Lawrence to Montreal. Her encroachments eastward on the territory of the present United States, then British provinces, extended to the foot of the Alleghany mountain. It is well known that, on the Ohio, at a point formed by the confluence of the Alleghany and Monongahela branches, below which the stream takes the name of Ohio, that the French had built a fort which was called Duquesne; a fort which has been better known since by the name of Pittsburg. The adjustment of the boundary of the territory between the two Powers in this quarter, was the result of another war, and another treaty.

By the fourth article of the treaty of 1763, France ceded to Great Britain Canada, Nova Scotia, &c. in the north; and, by the seventh article, the bay and port of Mobile, and all the territory which she possessed to the left of the Mississippi, except the town and island of New Orleans.

By the seventh article it was also stipulated, that a line to be drawn along the middle of the Mississippi, from its source to the river Iberville, and thence along the middle of that river, and the lakes Maurepas and Pontchartrain, to the sea, should be the boundary between the British territory to the eastward, and Louisiana to the west. At that time it was understood, as it has been ever since, till very lately, that the Mississippi took its source in some mountain at least as high north as the forty-ninth degree of north latitude.

By the treaty of 1783, between the United States and Great Britain, the boundary between these States, and Nova Scotia and Canada, is fixed by a line which is to run along the St. Croix and highlands, bounding the southern waters of the St. Lawrence, the forty-fifth degree of latitude to the water communication between the lakes, and along that communication to the Lake of the Woods, and through that lake to the northwestern point thereof; thence, a due west course, to the Mississippi. The line follows afterwards the course of the Mississippi to the thirty-first degree of north latitude.

By Mitchell's map, by which the treaty of 1783 was formed, it was evident that the northwestern point of the Lake of the Woods was at least as high north as the latitude 49° . By the observations of Mr. Thompson, astronomer to the Northwestern Company, it appears to be in latitude $49^{\circ} 37''$. By joining, then, the western boundary of Canada to its northern in the Lake of the Woods, and closing both there, it follows that it was the obvious intention of the ministers who negotiated the treaty, and of their respective Governments, that the United States should possess all the territory lying between the lakes and the Mississippi, south of the parallel of the forty-ninth degree of north latitude. This is confirmed by the courses which are afterwards pursued by the treaty, since they are precisely those which had been established between Great Britain and France in former treaties. By running due west from the northwestern point of the Lake of the Woods to the Mississippi, it must have been intended, according to the lights before them, to take the parallel of the forty-ninth degree of latitude as established under the treaty of Utrecht; and by pursuing thence the course of the Mississippi to the thirty-first degree of latitude, the whole extent of the western boundary of the United States, the boundary which had been established by the treaty of 1763 was actually adopted. This conclusion is further supported by the liberal spirit which terminated the war of our revolution; it having been manifestly the intention of the parties to heal, as far as could be done, the wounds which it had inflicted. Nor is it essentially weakened by the circumstance, that the Mississippi is called for by the western course from the Lake of the Woods, or that its navigation is stipulated in favor of both Powers. Westward of the Mississippi, to the south of the forty-ninth degree of north latitude, Great Britain held then no territory; that river was her western boundary. In running west, and ceding the territory to the river, it was impossible not to call for it; and, on the supposition that it took its source within the limits of the Hudson Bay Company, it was natural that it should stipulate the free navigation of the river; but, in so doing, it is presumed that her Government respected more a delicate sense of what it might be supposed to owe to the interest of that company, than any strong motive of policy, founded on the interests of Canada or its other possessions in that quarter. As Great Britain ceded at the same time the Floridas to Spain, the navigation of the Mississippi by her subjects, if it took place, being under a foreign jurisdiction, could not fail to draw from her own territories the resources which properly belonged to them, and therefore could not be viewed in the light of a national advantage. After the treaty of 1783, and at the time the convention in contemplation was entered into, the state of things was as is above stated. The territory which Great Britain held westward of the Lake of the Woods, was bounded south by the forty-ninth degree of north latitude; that which lay between the Lake of the Woods and the Mississippi, southward of that parallel, belonged to the United States; and that which lay to the west of the Mississippi, to Spain. It being, however, understood, by more recent discoveries or observations, that the source of the Mississippi did not extend so high north as had been supposed, and Great Britain having shown a desire to have the boundary of the United States modified in such manner as to strike that river, an article to that effect was inserted in the late convention; but, in so doing, it was not the intention of the American minister, or of the British minister, to do more than simply to define the American boundary. It was not contemplated by either of them, that America should convey

to Great Britain any right to the territory lying westward of that line, since not a foot of it belonged to her; it was intended to leave it to Great Britain to settle the point as to such territory, or such portion of it as she might want, with Spain, or rather with France, to whom it then belonged. At this period, however, certain measures respecting the Mississippi, and movements in that quarter, took place, which seemed to menace the great interests of America that were dependent on that river. These excited a sensibility, acute and universal, of which, in equal degree, her history furnishes but few examples. They led to a discussion which terminated in a treaty with France, by which that Power ceded to the United States the whole of Louisiana, as she had received it of Spain. This treaty took place on the 30th of April, 1803, twelve days only before the convention between Great Britain and the United States was signed, and some days before the adoption of such a treaty was known to the plenipotentiaries who negotiated and signed the convention.

Under such circumstances, it is impossible that any right which the United States derived under that treaty could be conveyed by this convention to Great Britain, or that the ministers who formed the convention could have contemplated such an effect by it. Thus the stipulation which is contained in the fifth article of the convention has become, by the cession made by the treaty, perfectly nugatory; for, as Great Britain holds no territory southward of the forty-ninth degree of north latitude, and the United States the whole of it, the line proposed by that article would run through a country which now belongs exclusively to the latter.

No. 30.

Mr. Monroe to Mr. Madison.

LONDON, October 3, 1804.

SIR:

Some days after Lord Harrowby returned from Weymouth, I received from him a note of the 26th, expressing his regret that he had been so engaged since his return, that he had not been able to see me, and that he could not even then fix a time for the purpose. This note concluded with an invitation to dinner on the 29th at his house in the country. On an attentive consideration of the note, and all preceding circumstances, I was of opinion that his object by it was either to give me to understand, in a conciliating manner, that he could not conclude with me at present the business in which we were engaged, and wished it postponed, or that he sought an opportunity of conferring with me in retirement more freely on the subject of it than he could do at his office. In either view, I thought it incumbent on me to accept the invitation. I had, however, some doubt as to the mode; I hesitated at first whether I ought to meet him in an expression of regret at the delay to which I was subjected, but I could not well connect such a sentiment with an acceptance of the invitation; and there was the less reason so to do, as that was to take effect so soon; I therefore thought it best to let his measure have its course, to see the result of it, and then adopt such a one as might appear most advisable at the time. With this view, I confined my reply altogether to the invitation, which I accepted. The dinner party was small, yet so composed as evidently to preclude the idea of an interesting political conversation with me having been intended by it. Not a word was said on the subject; so that I returned with that material fact only added to the data on which I had to deliberate. In deciding the part it now became me to take, I saw distinctly that the motive first above mentioned had dictated the note to me of the 26th; that Lord Harrowby actually wished me to infer from it, that he could not now proceed in the business in which we were engaged, with the hope of an early conclusion of it, and was also desirous that the intimation should not affect the friendly relations subsisting between the two Powers. I resolved at once not to press the affair further at this time; from a belief that such pressure, instead of promoting the object desired, was more likely to increase the indisposition of this Government to any arrangement by treaty, as it seemed to lead directly from the safe ground on which I stood, to a vexatious and irritating controversy. I resolved also to hasten my departure for Spain, with as much despatch as the explanations incident to such a measure, under existing circumstances, would permit. There seemed, however, to be some considerable degree of delicacy and importance attached to the manner in which this decision should be communicated to his lordship. Two modes occurred, essentially different in character. The first supposed the negotiation at an end; the second as suspended only. To the first were opposed several strong objections, which were counterbalanced by no single advantage that could reasonably be hoped from it. 1st. A declaration by me to Lord Harrowby, that I considered the negotiation at an end, thereby implying that it had failed in its object, might appear to form a species of rupture between the two countries, especially when taken in connexion with my immediate departure from this, with intention to pass through France. 2d. A measure of such tone was not invited by, nor did it necessarily result from, his lordship's note of the 26th, which sought only delay, and in a conciliating manner. The circumstances of the country might induce him to expect an accommodation in that respect from a friendly Power; and to fail in giving it, create a deep impression of resentment in the mind of the ministry, and perhaps of the nation, against our Government and country. 3d. Such a measure, with the implication incident to it, was not justified by fact, or the true interest of the United States. The negotiation had not failed in its great objects, our commerce was never so much favored in time of war, nor was there ever less cause of complaint furnished by impressment. The state of Europe is unsettled; the events of war are uncertain; the United States are prosperous beyond the example of any other nation, and more might be lost at home and abroad by an appearance of hostility with any Power than could be expected from a formal concession of the points contended for. 4th. Such a declaration would also be contrary to the spirit in which the negotiation had been commenced, and carried to the present stage. It would lose the credit which our moderation had merited; expose to hazard fortunes that were secure; and even with less hope of advantage, in any view, than might be entertained from a continuance of the same system of moderation. 5th. My instructions did not authorize a measure so hazardous; they seemed to require only that I should make a fair experiment of the disposition of this Government, to arrange these points amicably, and submit the result to the wisdom of our Government, to act afterwards, on a view of all circumstances, as it might deem most advisable, unfettered by any commitment of mine. 6th. By keeping the negotiation open, it was in our power to renew it at pleasure; and it was probable, by preserving our neutrality, and profiting of the credit attached to it, that our attitude in it would every day become more imposing. Under these considerations, I resolved to pursue the latter course; to meet the friendly sentiments expressed in Lord Harrowby's letter of the 26th, with a like one on our part; to regret the delay, but to admit that the state of things might impose it on him; to state the necessity of my departure for Spain, but to declare the pleasure with which I should return to resume the negotiation. His lordship's reply, which is also enclosed, breathed the same sentiments; so that the affair rests precisely on that ground. The negotiation is suspended by mutual consent, to be revived on my return from Spain, or whenever the President shall otherwise provide for the same.

I took occasion, in my letter to Lord Harrowby, to state the route I should pursue to Madrid, through Holland and France, to scout the degrading suspicions which too often attach to such movements in such times—suspicions

which are generally created by the artifices which are used to hide the movements, since they are considered, and perhaps properly, as proofs of guilt.

I thought proper to notify to Lord Harrowby, at the same time, that Mr. Purviance would be left in charge of our affairs here, and that I should be happy in having an opportunity to present him to his lordship in that character; which was arranged and done on the following day. I have committed this trust to Mr. Purviance, in full confidence that he will discharge it with perfect integrity, and a diligence and capacity to merit the approbation of the President. His compensation, which has proved totally inadequate to his station as secretary, becomes, of course, much more so to his present one, which will unavoidably expose him to many heavy additional expenses. I have taken the liberty to instruct our bankers to advance him the sum of one thousand dollars, which is necessary for his immediate accommodation, and trust that the President will make him such an allowance as may be suitable to his situation.

In the interview which I had with Lord Harrowby, we had much general conversation on the topics depending between us, which, as it corresponded with what has passed before, and communicated to you, it is unnecessary to repeat. He appeared to agree with me, with great sincerity, in the advantage to be derived to both countries from the preservation of their present amicable relations, and to be quite satisfied with the state in which the negotiation was left, assuring me that he would not fail to take it up on my return, with an earnest desire to conclude it to the satisfaction of both parties, though he intimated that there was great difficulty attending certain branches of it. He suggested that, as I was forced to go to Spain, he hoped that the suspension would prove equally convenient to us both; to which I assented. He thought it unnecessary for me to go to Weymouth to take leave of the King, as he kept no regular court there, and my absence would be short. He promised, however, to communicate to His Majesty my request to be presented to him there, as of his undertaking to prevent it; with which view, he desired me to address him a special note to that effect, to be submitted to the King; a copy of which is enclosed.

In the course of this conversation, Lord Harrowby expressed concern to find the United States opposed to Great Britain on certain great neutral questions in favor of the doctrines of the modern law, which he termed novelties. I replied that, in adhering to our principles, the President had endeavored to arrange them in a friendly manner with his Government; that he had taken no step of an opposite character; that he had sought no concert with the neutral Powers in support of them, as he had supposed that a satisfactory arrangement to both Governments might be made by direct communication between them, which he preferred. He observed, that although while the negotiation was suspended his Government would adhere to its principles, yet that it would act in what concerned us with moderation in the practice of them.

I informed you, in my letter of the 8th of September, that a case had occurred of an American vessel, engaged in commerce between Batavia and Holland, as was inferred by her having a European destination, being brought into port and subjected to trial. The case is not yet decided, though, in his remarks, while the cause was in hearing before the court, the judge maintained the British doctrine; it was postponed, to give time to ascertain what the regulations of the Government of Holland were, in peace, respecting our commerce with that colony. He did not say if they prohibited the trade, that he would condemn the vessel. It is probable she may be acquitted on some other point in the cause, without impugning that principle. It is understood that several other vessels engaged in the same trade, which were stopped and examined at the Texel by the British cruisers, were permitted to prosecute their voyage; hence, it is presumable that orders were given to that effect by the Government. It is certain that, on no principle or pretext whatever, has more than one of our vessels been condemned, on which judgment there is an appeal.

The whole subject is now before the President; on which I have to remark, that, in discharging this trust, I have endeavored, in every stage, to give full effect to the feelings and sentiments of my country in respect to the objects in question, especially the unwarrantable practice of impressment, without taking any step which should compromise our Government in the part it should take when the result was submitted to it. In that state the affair now is: for, after the expiration of a few months, it is perfectly consistent with it to revive the negotiation in such form as the President may deem advisable. The proceeding here lays a foundation for any course which the public honor and interest may dictate. If it is deemed expedient, in pursuing our just rights, to profit of time and circumstances, and, in the interim, unless they be secured by a fair and equal treaty, to act with moderation till the occasion invites to a more decisive and hazardous policy, the state of things permits it; or, if it should be deemed more advisable to adopt the latter course at present, the opportunity is fair for such a measure. The situation in which our Government will find itself on receiving this communication is a very different one from that in which I have stood throughout. If the latter course is preferred, it cannot be doubted that the moderation which has been so far observed will strengthen the Government in any the most vigorous measures which may be thought necessary. A virtuous and free people will be more united in support of such measures, however strong they may be, when they see, by the clearest evidence, that the cause is not only just, but that their Government has done every thing in its power which the national honor and interest would permit, to avoid such an extremity.

I shall apprise our consuls that Mr. Purviance is left in charge of our affairs during my absence; and have only to add that I expect to sail to-morrow or next day, in a vessel bound to Rotterdam, (my baggage being already on board,) on my way to Madrid, whither I shall proceed with all the despatch that may be practicable.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Extract.—Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, March 6, 1805.

SIR:

The experience of every day shows more and more the obligation on both sides to enter seriously on the means of guarding the harmony of the two countries against the dangers with which it is threatened, by a perseverance of Great Britain in her irregularities on the high seas, and particularly in the impressments from American vessels. The extent in which these have taken place since the commencement of the war will be seen by the enclosed report, required from this Department by a vote of the House of Representatives; and the call for it, whilst negotiations on the subject were understood to be in train, is itself a proof of the public sensibility to those aggressions on the security of our citizens and the rights of our flag. A further proof will be seen in the motion, also enclosed, which was made by Mr. Crowninshield, and which will probably be revived at the next session. This motion, with his remarks upon it, appear very generally in the newspapers, with comments proceeding from a coincidence of the sensibility out of doors with that within. A still stronger proof of impatience under this evil will be found in the proceedings authorized by an act of Congress just passed, and which is likewise enclosed, against British officers committing on the high seas trespasses or torts on board American vessels, offences manifestly including cases of impressment.

In communicating these circumstances, it will occur to you, that whilst they may be allowed to proclaim the growing sensibility of the United States on the subject of impressments, they ought, by proper explanations and assurances, to be guarded against a misconstruction into marks of illiberal or hostile sentiments towards Great Britain. The truth is, and it may be so stated by you, that this practice of impressments, aggravated by so many provoking incidents, has been so long continued, and so often in vain remonstrated against, that, without more encouragement than yet appears, to expect speedy redress from the British Government, the United States are, in a manner, driven to the necessity of seeking for some remedy dependent on themselves alone. But it is no less true that they are warmly disposed to cherish all the friendly relations subsisting with Great Britain; that they wish to see that necessity banished by just and prudent arrangements between the two Governments; and that, with this view, you were instructed to open the negotiations which are now depending. It is impossible for the British Government to doubt the sincerity of these sentiments. The forbearance of the United States, year after year, and war after war, to avail themselves of those obvious means, which, without violating their national obligations of any sort, would appeal in the strongest manner to the interest of Great Britain, is of itself a sufficient demonstration of the amicable spirit which has directed their public councils. This spirit is sufficiently manifested also by the propositions which have been lately made through you, and by the patience and cordiality with which you have conducted the negotiation. I might add, as a further proof to the same effect, that, notwithstanding the refusal, of which we have official information, from Glasgow and Liverpool particularly, to restore American seamen deserting their ships in British ports, the laws of many of the States have been left, without interruption, to restore British deserters. One of the States (Virginia) has, even at the last session of its Legislature, passed an act for the express purpose of restoring such deserters, which deserves the more attention as it was done in the midst of irritations resulting from the multiplied irregularities committed by British ships in the American seas.

Mr. Merry has expressed some inquietude with respect to the clause in the act above referred to which animadvert on British trespasses on board American vessels, and his language, on several late occasions, has strongly opposed the expectation that Great Britain will ever relinquish her practice of taking her own subjects out of neutral vessels. I did not conceal from him my opinion that the terms "trespass," &c. would be applicable to the impressment of British subjects as well as others, or that the United States would never accede to that practice. I observed to him, that every preceding administration had maintained the same doctrine with the present on that point, and, such were the ideas and feelings of the nation on it, that no administration would dare so far to surrender the rights of the American flag. He expressed dissatisfaction also at the section which requires certain compliances, on the part of British ships of war entering our harbors, with arrangements to be prescribed by the collectors. He did not deny the right of the nation to make what rules it might please in such cases, but apprehended that some of them were such as the commanders might deem incompatible with their just pretensions, especially when subjecting them to the discretion of so subaltern an authority as that of the collectors, and, consequently, that the law would have the unfriendly effect of excluding British ships of war altogether from American ports. He was reminded, in reply, that the collectors were, according to the terms of the section, to be guided in the exercise of their power by the directions of the President; and it was not only to be presumed, but he might be particularly assured, that the directions given would be consistent with the usages due to public ships, and with the respect entertained for nations in amity with the United States. He asked whether, in transmitting the act to his Government, as his duty would require, he might add the explanation and assurances he had heard from me. I answered, that, without having received any particular authority for that purpose from the President, I could safely undertake that what I had stated was conformable to his sentiments.

Enclosed is another act of Congress, restraining and regulating the arming of private vessels by American citizens. This act was occasioned by the abuse made of such armaments in forcing a trade, even in contraband of war, with the island of St. Domingo, and by the representations made on the subject of that trade by the French chargé des affaires and minister here, and by the British minister, with respect to abuses which had resulted, or might result, from such armaments, in cases injurious to Great Britain. A report of these representations, as made to the President, is herewith enclosed. The act, in substituting a security against the unlawful use of the armaments in place of an absolute prohibition of them, is not only consistent with the obligations of a neutral nation, but conformable to the laws* and ordinances of Great Britain and France themselves, and is consequently free from objections by either. The interposition of the Government, though claimed in behalf both of Great Britain and of France, was most pressed in behalf of the latter. Yet the measure, particularly as it relates to the shipment of contraband articles for the West Indies, is likely to operate much more conveniently for Great Britain than for France, who cannot, like Great Britain, otherwise ensure a supply of these articles for the defence of their colonies.

In the project which you have offered to the British Government, I observe you have subjoined a clause for securing respect to certificates of citizenship. The effect of this clause, taken as it ought to be, and as was doubtless intended, in context with the preceding clause, is limited to the case provided for in that clause. Still it may be well, in order to guard against the possibility of its being turned into a pretext for requiring such certificates in other cases, that a proviso for the purpose be added, or that words of equivalent restriction be inserted.

Another subject requiring your attention is pointed at by the resolutions of the Senate, moved by Gen. Smith, on the subject of a British tax on exports, under the name of a convoy duty. A copy of the resolution is enclosed. A duty under that name was first laid in the year 1798; it then amounted to half of one per cent. on exports to Europe, and one per cent. on exports to other places, and consequently to the United States. The discrimination, being evidently contrary to the treaty then in force, became a subject of discussion between Mr. King and the British ministry. His letters to the Secretary of State and to Lord Grenville explain the objections urged by him, and the pretexts in support of the measure alleged by them. The subject was resumed in my letter of the 5th of March, 1804, to Mr. King, with a copy of which you have been already furnished. It was received by Mr. Gore, during the absence of Mr. King on the continent; and if any occasion was found proper by either for repeating the remonstrance against the duty, it appears to have been without effect. Whilst the treaty was in force, the discrimination was unquestionably a violation of its faith. When the war ceased, it lost the pretext that it was the price of the convoy, which, giving a longer protection to the American than to the European trade, justified a higher price for the former than for the latter. Even during war the exports are generally made as American property, and in American vessels; and, therefore, with a few exceptions only, a convoy, which would subject them to condemnation, from which they would otherwise be free, would be not a benefit, but an injury. Since the expiration of the treaty, the discrimination, as well as the duty itself, can be combated by no other arguments than those which, in the document referred to, are drawn from justice, friendship, and sound policy; including the tendency of the measure to produce a discontinuance of the liberal but unavailing example given to Great Britain by the regulations of commerce on our side, and a recurrence to such counteracting measures as are probably contemplated by the mover of the resolutions of the Senate. All these arguments gain strength, in proportion to the augmenta-

* See act of Parliament, 35 George III. c. 22, § 37, 38; and Valin's Commentaries, liv. 1, tit. 10, art. 1.

tions which the evil has latterly received; it being now stated that the duty amounts to four per cent. on the exports to the United States. These, according to Coxe's answer to Sheffield, amounted, in the year 1801, to about seven and a half millions sterling, and therefore levy a tax on the United States of about one million three hundred thousand dollars. From this is, indeed, to be deducted a sum proportioned to the amount of re-exportations from the United States; but, on the other hand, is to be added the increase of the exports since the year 1801, which probably exceed the re-exportations.

With the aid of these communications and remarks, you will be at no loss for the views of the subject most proper to be presented to the British Government, in order to promote the object of the resolutions; and the resolutions themselves ought powerfully to second your efforts, if the British Government feels the same desire, as actuates the United States, to confirm the friendship and confidence on both sides, by a greater conformity on that side to the spirit of the commercial regulations on this.

I have referred above to the enclosed copy of the motion made by Mr. Crowninshield, in the House of Representatives. The part of it which has relation to the trade with the West Indies was suggested, as appears in his introductory observations, by the late proclamations of the British West India Governors, excluding from that trade vessels of the United States, and certain articles of our exportations, particularly fish, even in British vessels. These regulations are to be ascribed partly to the attachment of the present administration in Great Britain to the colonial and navigation system; partly to the interested representations of certain merchants and others, residing in the British provinces on the continent. Without entering at large into the policy on which the colonial restrictions are founded, it may be observed that no crisis could be more ineligible for enforcing them than the present, because at none more than the present have the West Indies been absolutely dependent on the United States for the supplies essential to their existence. It is evident, in fact, that the United States, by asserting the principle of a reasonable reciprocity, such as is admitted in the trade with the European ports of Great Britain, and as is admitted even in the colonial trade of other European nations, so far at least as respects the vessels employed in the trade, might reduce the British Government at once to the dilemma of relaxing her regulations, or of sacrificing her colonies; and with respect to the interdict of supplies from the United States, of articles necessary to the subsistence and prosperity of the West Indies, in order to force the growth and prosperity of the continental provinces of Nova Scotia, &c., what can be more unjust than thus to impoverish one part of the foreign dominions, which is considered as a source of wealth and power to the parent country, not with a view to favor the parent country, but to favor another part of its foreign dominions, which is rather expensive than profitable to it? What can be more preposterous than thus, at the expense of islands which not only contribute to the revenue, commerce, and navigation, of the parent State, but can be secured in their dependence by that naval ascendancy which they aid, to foster unproductive establishments?

Considerations, such as these, ought to have weight with the British Government, and may very properly enter into frank conversations with its ministry on favorable occasions. However repugnant that Government may be to a departure from its system, in the extent contemplated by Mr. Crowninshield's motion, it may at least be expected that the trade, as opened in former wars, will not be refused under circumstances which, in the present, particularly demand it. It may be hoped that the way will be prepared for some permanent arrangement on this subject between the two nations, which will be conformable to equity, to reciprocity, and to their mutual advantage.

I have the honor to be, &c.

JAMES MADISON.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, April 12, 1805.

SIR:

The papers herewith enclosed explain particularly the case of the brig *Aurora*.

The sum of the case is, that while Spain was at war with Great Britain, this vessel, owned by a citizen of the United States, brought a cargo of Spanish produce, purchased at the Havana, from that place to Charleston, where the cargo was landed, except an insignificant portion of it, and the duties paid, or secured, according to law, in like manner as they are required to be paid, or secured, on a like cargo, from whatever port, meant for home consumption; that the cargo remained on land about three weeks, when it was re-shipped for Barcelona, in Old Spain, and the duties drawn back, with a deduction of three and a half per cent., as is permitted to imported articles in all cases, at any time within one year, under certain regulations, which were pursued in this case; that the vessel was taken on her voyage by a British cruiser, and sent for trial to Newfoundland, where the cargo was condemned by the court of Vice-admiralty; and that the cause was carried thence, by appeal, to Great Britain, where it was apprehended that the sentence below would not be reversed.

The ground of this sentence was, and that of its confirmation, if such be the result, must be, that the trade in which the vessel was engaged was unlawful; and this unlawfulness must rest, first, on the general principle assumed by Great Britain, that a trade from a colony to its parent country, being a trade not permitted to other nations in time of peace, cannot be made lawful to them in time of war; secondly, on the allegation that the continuity of the voyage from the Havana to Barcelona was not broken by landing the cargo in the United States, paying the duties thereon, and thus fulfilling the legal pre-requisites to a home consumption; and, therefore, that the cargo was subject to condemnation, even under the British regulation of January, 1798, which so far relaxes the general principle as to allow a direct trade between a belligerent colony and a neutral country carrying on such a trade.

With respect to the general principle which disallows to neutral nations, in time of war, a trade not allowed to them in time of peace, it may be observed,

First. That the principle is of modern date; that it is maintained, as is believed, by no other nation but Great Britain, and that it was assumed by her under the auspices of a maritime ascendancy, which rendered such a principle subservient to her particular interest. The history of her regulations on this subject shows that they have been constantly modified under the influence of that consideration. The course of these modifications will be seen in an appendix to the fourth volume of Robinson's Admiralty Reports.

Secondly. That the principle is manifestly contrary to the general interest of commercial nations, as well as to the laws of nations, settled by the most approved authorities, which recognizes no restraints on the trade of nations not at war, with nations at war, other than that it shall be impartial between the latter; that it shall not extend to certain military articles, nor to the transportation of persons in military service, nor to places actually blockaded or besieged.

Thirdly. That the principle is the more contrary to reason and to right, inasmuch as the admission of neutrals into a colonial trade shut against them in times of peace, may, and often does, result from considerations which open to neutrals direct channels of trade with the parent state, shut to them in times of peace, the legality of which

latter relaxation is not known to have been contested; and inasmuch as a commerce may be, and frequently is, opened in time of war, between a colony and other countries, from considerations which are not incident to the war, and which would produce the same effect in a time of peace; such, for example, as a failure or diminution of the ordinary sources of necessary supplies, or new turns in the course of profitable interchanges.

Fourthly. That it is not only contrary to the principles and practice of other nations, but to the practice of Great Britain herself. It is well known to be her invariable practice in time of war, by relaxations in her navigation laws, to admit neutrals to trade in channels forbidden to them in times of peace, and particularly to open her colonial trade, both to neutral vessels and supplies, to which it is shut in times of peace; and that one at least of her objects in these relaxations, is to give to her trade an immunity from capture, to which, in her own hands, it would be subjected by the war.

Fifthly. The practice which has prevailed in the British dominions, sanctioned by orders of council and an act of parliament, (39 Geo. III. c. 98.) authorizing for British subjects a direct trade with the enemy, still further diminishes the force of her pretensions for depriving us of the colonial trade. Thus we see in Robinson's Admiralty Reports, passim, that during the last war a licensed commercial intercourse prevailed between Great Britain and her enemies, France, Spain, and Holland, because it comprehended articles necessary for her manufactures and agriculture, notwithstanding the effect it had in opening a vent to the surplus productions of the others. In this manner she assumes to suspend the war itself, as to particular objects of trade beneficial to herself, whilst she denies the right of the other belligerents to suspend their accustomed commercial restrictions in favor of neutrals. But the injustice and inconsistency of her attempt to press a strict rule on neutrals, is more forcibly displayed by the nature of the trade which is openly carried on between the colonies of Great Britain and Spain, in the West Indies. The mode of it is detailed in the enclosed copy of a letter from ———, wherein it will be seen that American vessels and cargoes, after being condemned in British courts, under pretence of illicit commerce, are sent on British account to the enemies of Great Britain, if not to the very port of the destination interrupted when they were American property. What respect can be claimed from others to a doctrine, not only of so recent an origin, and enforced with so little uniformity, but which is so conspicuously disregarded in practice by the nation itself, which stands alone in contending for it?

Sixthly. It is particularly worthy of attention, that the Board of Commissioners, jointly constituted by the British and American Governments, under the seventh article of the treaty of 1794, by reversing condemnations of the British courts, founded on the British instructions of November, 1793, condemned the principle, that a trade forbidden to neutrals in time of peace could not be opened to them in time of war; on which precise principle these instructions were founded. And, as the reversal could be justified by no other authority than the law of nations, by which they were guided, the law of nations, according to that joint tribunal, condemns the principle here combated. Whether the British commissioners concurred in these reversals, does not appear; but whether they did or did not, the decision was equally binding, and affords a precedent which could not be disrespected by a like succeeding tribunal, and ought not to be without great weight with both nations, in like questions recurring between them.

On these grounds the United States may justly regard the British captures and condemnations of neutral trade, with colonies of the enemies of Great Britain, as violations of right; and if reason, consistency, or that sound policy which cannot be at variance with either, be allowed the weight which they ought to have, the British Government will feel sufficient motives to repair the wrongs done in such cases by its cruisers and courts.

But, apart from this general view of the subject, a refusal to indemnify the sufferers, in the particular case of the *Aurora*, is destitute of every pretext; because, in the second place, the continuity of her voyage was clearly and palpably broken, and the trade converted into a new character.

It has been already noted, that the British regulation of 1798 admits a direct trade, in time of war, between a belligerent colony and a neutral country carrying on the trade; and admits, consequently, the legality of the importation by the *Aurora*, from the Havana to Charleston. Nor has it ever been pretended that a neutral nation has not a right to re-export to any belligerent country whatever foreign productions, not contraband of war, which may have been duly incorporated and naturalized, as a part of the commercial stock of the country re-exporting it.

The question then to be decided under the British regulation itself, is, whether in landing the cargo, paying the duties, and thus as effectually qualifying the articles for the legal consumption of the country as if they had been its native productions, they were not, at the same time, equally qualified with native productions for exportation to a foreign market. That such ought to be the decision results irresistibly from the following considerations:

1. From the respect which is due to the internal regulations of every country, where they cannot be charged with a temporizing partiality towards particular belligerent parties, or with fraudulent views towards all of them. The regulations of the United States, on this subject, must be free from every possible imputation; being not only fair in their appearance, but just in their principles, and having continued the same during the periods of war as they were in those of peace. It may be added, that they probably correspond, in every essential feature relating to re-exportations, with the laws of other commercial countries, and particularly with those of Great Britain. The annexed outline of them, by the Secretary of the Treasury, will at once explain their character, and show that, in the case of the *Aurora*, every legal requisite was duly complied with.

2. From the impossibility of substituting any other admissible criterion than that of landing the articles, and otherwise qualifying them for the use of the country. If this regular and customary proceeding be not a barrier against further inquiries, where, it may be asked, are the inquiries to stop? By what evidence are particular articles to be identified on the high seas or before a foreign tribunal? If identified, how is it to be ascertained whether they were imported with a view to the market at home or to a foreign market, or, as ought always to be presumed, to the one or the other, as it should happen to invite? Or, if to a foreign market, whether to one forbidden or permitted by the British regulations? For it is to be recollected, that among the modifications which her policy has given to the general principle asserted by her, a direct trade is permitted to a neutral carrier from a belligerent colony to her ports, as well as to those of his own country. If, again, the landing of the goods, and the payment of the duties, be not sufficient to break the continuity of the voyage, what, it may be asked, is the degree of internal change or alienation which shall have that effect? May not a claim be set up to trace the articles from hand to hand, from ship to ship, in the same port, and even from one port to another port, as long as they remain in the country? In a word, in departing from the simple criterion provided by the country itself, for its own legitimate and permanent objects, it is obvious that, besides the defalcations which might be committed on our carrying trade, pretexts will be given to cruisers for endless vexations on our commerce at large, and that a latitude and delays will accrue in the distant proceedings of admiralty courts still more ruinous and intolerable.

3. From the decision in the British High Court of Admiralty itself, given in the case of the *Polly*, Lasky, master, by a judge deservedly celebrated for a profound judgment, which cannot be suspected of leaning towards doctrines unjust or injurious to the rights of his own country. On that occasion he expressly declares: "It is not my business to say what is universally the test of a *bona fide* importation. It is argued that it would be sufficient

that the duties should be paid, and that the cargo should be landed. If these criteria are not to be resorted to, I should be at a loss to know what should be the test; and I am strongly disposed to hold that it would be sufficient that the goods should be landed and the duties paid."—2 Robinson's Reports, p. 368-9.

The President has thought it proper that you should be furnished with such a view of the subject as is here sketched, that you may make the use of it best suited to the occasion. If the trial of the *Aurora* should not be over, it is questionable whether the Government will interfere with its courts. Should the trial be over, and the sentence of the Vice-admiralty court at St. John's have been confirmed, you are to lose no time in presenting to the British Government a representation corresponding with the scope of these observations; and, in urging that redress in the case, which is equally due to private justice, to the reasonable expectations of the United States, and to that confidence and harmony which ought to be cherished between the two nations.

The effect of the doctrine involved in the sentence of the court in Newfoundland on our carrying trade will at once be seen by you. The average amount of our re-exportations for three years, ending 30th September, 1803, has been thirty-two million three thousand nine hundred and twenty-one dollars. Besides the mercantile and navigation profits, the average revenue from drawbacks on goods re-exported for three years, ending 31st December, 1803, is one hundred and eighty-four thousand two hundred and seventy-one dollars, to which is to be added an uncertain but considerable sum, consisting of duties paid on articles re-exported, after having lost, through neglect or lapse of time, the privilege of drawback. A very considerable portion of this branch of trade, with all its advantages, will be cut off if the formalities heretofore respected are not to protect our re-exportations. Indeed, it is difficult to see the extent to which the apprehended innovation may be carried in theory, or to estimate the mischief which it may produce in practice. If Great Britain, disregarding the precepts of justice, suffers herself to calculate the interest she has in spoliating or abridging our commerce by the value of it to the United States, she ought certainly not to forget that the United States must, in that case, calculate by the same standard the measures which the stake will afford for counteracting her unjust and unfriendly policy.

I have the honor to be, &c.

JAMES MADISON.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, August 16, 1805.

I enclose you a copy of my letters to Lord Mulgrave, relative to the late seizures of our vessels by His Majesty's cruisers in the Channel and North Sea, and of his replies. I had yesterday an interview with him on the subject, in which he gave me a report from each of the King's law-officers in the Admiralty respecting the late decisions, and promised me another interview on that and the other topics depending between our Governments, as soon as I should desire it, after having perused the reports. By my note to him of this date, you will find that I consider these documents unsatisfactory on the great question, and have asked another interview. It appears, however, by them, that no recent order has been issued by the Government; hence it is probable that the late decisions on the point of continuity of voyage, which have carried the restraints on that commerce to a greater extent than heretofore, may have furnished to the parties interested a motive for these seizures. It is equally probable that the decision of the court of appeals in the case of the "*Essex*," as several of its members are also members of the cabinet, may have been dictated by policy, to promote the navigation of this country at the expense of that of the United States. In the late interview with Lord Mulgrave much general conversation took place on the subject, in which he assured me, in the most explicit terms, that nothing was more remote from the views of his Government than to take an unfriendly attitude towards the United States; he assured me also, that no new orders had been issued, and that his Government was disposed to do every thing in its power to arrange this and the other points to our satisfaction; by which, however, I did not understand that the principle in this case would be abandoned, though I think it probable that in other respects much accommodation may be obtained relative to that commerce.

Affairs here seem to be approaching a crisis. It is said that the combined fleets, having been previously joined by the Rochefort squadron, have entered Ferrol, and that the force now there is thirty-seven sail of the line. Sir Robert Calder has joined Admiral Cornwallis before Brest. The French fleet there consists of about twenty-six sail of the line. This force, so nearly united, is a very imposing one. The menace of invasion is kept up and increased. Every thing seems to indicate that an attempt will soon be made.

I have the honor to be, with great respect and regard, sir, your very obedient servant,

JAMES MONROE.

No. 1.

To Lord Mulgrave.

DOVER STREET, July 31, 1805.

Mr. Monroe presents his compliments to Lord Mulgrave, and requests the honor of an interview with his lordship, on the subjects that were depending between their Governments at the time of Mr. Monroe's departure last autumn for Spain, and postponed at the instance of Lord Harrowby until his return. These subjects will be found in a communication to Lord Harrowby of the 5th of September last, which contains a project of a convention to define certain neutral rights, to discriminate between American and British seamen, and protect the former from impressment; and also to establish, by a modification of the convention entered into by Lord Hawkesbury and Mr. King, on the 12th of May, 1803, in the manner proposed, and for the reasons stated in that communication, the boundary between the territories of His Majesty and those of the United States on their northwestern frontier. The two first mentioned of these topics have been the cause of much irritation and complaint on the part of the United States, which cannot otherwise than be increased by the principles which appear to have been adopted in some late decisions of the court of admiralty, relative to the commerce of the United States with the colonies of the enemies of Great Britain, and with the parent country in the productions of such colonies. Mr. Monroe is persuaded that it is of great importance to both countries to arrange these points between them, and he flatters himself that it will be easy to do it on terms that will be equally safe and satisfactory to both parties.

No. 2.

From Lord Mulgrave.

DOWNING STREET, August 5, 1805.

Lord Mulgrave presents his compliments to Mr. Monroe, and will have the honor of appointing a day for receiving him at the Foreign Office early next week. Lord Mulgrave wishes to inform himself of the state of the business opened to Lord Harrowby, previous to his conference with Mr. Monroe.

No. 3.

To Lord Mulgrave.

DOVER STREET, August 8, 1805.

MY LORD:

The late seizures of the vessels of the United States by His Majesty's cruisers is so important an event as to make it my duty to invite your lordship's attention to it. My Government will naturally expect of me immediately the best information I can obtain of the nature and character of the measure, the extent to which it has been and will be carried, and of the policy which dictates it. Being in a state of profound peace with His Britannic Majesty and his dominions, conscious of having cherished that relation, and performed all its duties with the most perfect good faith, it will be surprized at a measure which will be understood to breathe a contrary spirit. From the view which I have of the subject I can only state, that many of our vessels have been brought in under orders that were equally unknown to the parties that were affected by them, and to the representative of the United States accredited with His Majesty; that the principles on which some of them have been condemned are denied by our Government, and, as it is contended, upon the soundest principles of the law of nations. I wish to possess, and to give correct information on the whole subject, and shall be happy that your lordship will enable me to do it.

It would have been agreeable to me to have postponed this inquiry until I should be honored with the interview which I requested of your lordship on the 31st ultimo, and which you have been so good as to promise me next week; but the importance of the subject, the impression which the measure has made on the parties interested, and doubtless will make in the United States, together with the propriety of giving to my Government such information as is official and authentic only, will, I flatter myself, satisfy your lordship that I could not justify a longer delay.

I have the honor to be, my lord, your lordship's most obedient humble servant,

JAMES MONROE.

No. 4.

From Lord Mulgrave.

DOWNING STREET, August 9, 1805.

SIR:

I have just received the honor of your letter of yesterday's date, stating the existence of some measures relative to the vessels of the United States, of which you have cause to complain. As you have not mentioned either the nature or the period of the transaction to which you allude, I am not enabled to give you a satisfactory answer; and I am not aware of any recent occurrence of so pressing a nature as to require an explanation previous to the day on which I shall have the honor of seeing you in the course of the next week. If you will inform me more particularly of the ground of complaint, I shall, without delay, give the subject every attention in my power.

I have the honor to be, sir, your most obedient humble servant,

MULGRAVE.

No. 5.

To Lord Mulgrave.

DOVER STREET, August 12, 1805.

MY LORD:

I have been honored with your lordship's letter of the 9th instant, and shall willingly comply with your request in stating more fully the nature of the complaint to which I alluded in mine of the 8th, and the period within which it has occurred. By a report of the consul of the United States for this port and district, of which I have the honor to enclose you a copy, it appears that, in the course of a few weeks past, about twenty American vessels have been seized in the Channel and North Sea, by His Majesty's ships of war and privateers, and brought into his ports for trial: the officers who seized them stated (according to the report of some of the masters) that they had acted by order, as is to be presumed, of the Government. As this proceeding was sudden, without notice, and without example in the conduct of the present war, as it has embraced a considerable number of vessels, and may be extended to many others, it was impossible for me to reconcile it with the friendly relations subsisting between the two Powers. It is therefore my duty to request of your lordship such information respecting it, as I may transmit without delay to my Government. Of a measure so highly important to the rights and interests of the United States, no erroneous opinion should be formed, no incorrect idea entertained.

It is proper here to observe, that the decisions of the courts to which I alluded in mine of the 8th, the principles of which are considered by my Government as subversive of the established law of nations, were given in the case of the "Essex" a few weeks since, and in those of the "Enoch" and "Mars" on the 23d and 24th ultimo. These decisions impose restraints on the commerce of neutral nations with the enemies of Great Britain, which it is contended derive no sanction from that authority. The principle on which they are founded asserts a right in Great Britain to restrain neutral nations from any commerce with the colonies of an enemy in time of war which they do not enjoy in time of peace; or, in other words, denies, in respect to neutrals, the sovereignty of an enemy in time of war over its own colonies, which remain in other respects subject to its authority, and governed by its laws. It cannot well be conceived how there should be a difference on principle, in the rights of neutral Powers, to a commerce between any two ports of an enemy, not regularly blockaded, and any other two of its ports: how it should be lawful to carry on such commerce from one port to another of the parent country, and not from its colonies to the parent country. As the board of commissioners under the seventh article of the treaty of 1794, in revising the decisions of the British courts founded on the instructions of November 6, 1793, condemned this doctrine, there was just cause to expect that it would never have been revived. It is understood that no other Power admits it, and that it is also repugnant to the practice of Great Britain herself, with respect to her own colonies in time of war. It is easy to show that the doctrine is of modern date even in England; that the decisions of her courts have not been uniform, and that those in the cases referred to have carried the pretension to an extent which, by assuming cognizance, if not jurisdiction, in the interior concerns of the United States, is utterly incompatible with the rights of sovereignty, and the self-respect which, as an independent nation, they can never lose sight of. I forbear, however, to enter further into this subject at present, in the expectation that I shall be honored with such information from your lordship of the views of His Majesty's Government as will be satisfactory to that which I have the honor to represent.

I have the honor to be, my lord, &c.

JAMES MONROE.

No. 6.

From Lord Mulgrave.

DOWNING STREET, August 12, 1805.

Lord Mulgrave presents his compliments to Mr. Monroe, and will be very happy to see him at his office on Thursday next, at two o'clock.

No. 7.

To Lord Mulgrave.

DOVER STREET, August 12, 1805.

Mr. Monroe presents his compliments to Lord Mulgrave, and will do himself the honor to wait on him at his office on Thursday next, at two o'clock. He has the pleasure to send his lordship a reply to his letter of the 9th instant.

No. 8.

To Lord Mulgrave.

DOVER STREET, August 16, 1805.

Mr. Monroe presents his compliments to Lord Mulgrave, and has the honor to return his lordship the papers which he was so good as to deliver him yesterday. Mr. Monroe is sorry to find that those documents furnish no satisfactory explanation on the real ground of complaint on the part of the United States, as stated in his letter of the 12th; he will, therefore, be happy to see Lord Mulgrave again on the subject, as soon as it may be convenient for his lordship to receive him.

Mr. Monroe to Mr. Madison.

LONDON, August 20, 1805.

Sir:

I had an interview with Lord Mulgrave yesterday, on the late seizure of our vessels, which, I am sorry to observe, presented the prospect of a less favorable result than I had anticipated from the preceding one. He asserted the principle, in the fullest extent, that a neutral Power had no right to a commerce with the colonies of an enemy in time of war which it had not in time of peace, and that every extension of it in the former state, beyond the limit of the latter, was due to the concession of Great Britain, not to the right of the neutral Power. I denied the principle in equal extent, and insisted that Great Britain had no more right in war to interpose with or control the commerce of a neutral Power with the colonies of an enemy, than she had in peace. As we could not agree on the principle, I asked on what footing his Government was willing to place the trade? His reply showed that it was not disposed to relax in the slightest degree from the doctrine of the late decrees of the Courts of Admiralty and Appeals, which go to cut up by the roots the commerce of the United States in the produce of the colonies of its enemies, other than for the home consumption of their citizens. I urged, in as strong terms as I could, the objections which occurred to me to this pretension, but he showed no disposition to accommodate, so that we parted as remote from an accord as possibly could be. I asked Lord Mulgrave whether I should consider the sentiments which he expressed as those of his Government? He said he had in the commencement expressed a desire that our conversations should be considered rather as informal than official, as entered into more in the hope of producing an accord than in the expectation that we should ultimately disagree; that he was sorry to find that we could not agree; that, however, he should report the result to the Cabinet, and give me such an answer to my letters for my Government, of the views of his own, as it might wish to be taken of its conduct and policy in this business. I do not state the arguments that were used in the conference on each side, because those of Lord Mulgrave will probably be furnished by himself, and you will readily conceive those to which I resorted. What the ultimate decision of his Government may be, I cannot pretend to say. It is possible that he held the tone mentioned above, in the late conference, to see whether I could be prevailed on to accommodate with his views. It is difficult to believe that it will yield no accommodation on its part to our just claims, in the present state of public affairs.

In my former interview with Lord Mulgrave, he said that I should find by the reports which he gave me, that most of the vessels had been dismissed; and it appeared by the reports that some of them had been, one or two on the opinion of Dr. Lawrence, counsel for the captured, which had been taken in the absence of the King's proctor. I returned to him the reports, to obtain copies for you. General Lyman has informed me that others have been since dismissed, and, as he thought, some that had been seized on the new doctrine of continuity of voyage, though nothing to countenance such an expectation escaped Lord Mulgrave in the last conference.

It is decided, on consideration of all circumstances, that Mr. Bowdoin will repair to Paris, where he will probably remain until he receives the orders of the President, and that Mr. Erving will proceed immediately to Madrid, to relieve Mr. Pinckney. Mr. Bowdoin, by being on that ground, will be more in the way of obeying such orders as he may receive, than here; and both he and Mr. Erving, respectively, may perhaps take their ground with greater propriety in this stage, while it is known that our Government has not acted, than afterwards.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 34.

Mr. Monroe to Mr. Madison.

LONDON, September 25, 1805.

(Duplicate.)

Sir:

I have already forwarded you copies of two letters to Lord Mulgrave, respecting the late seizure of American vessels, and you will receive with this a copy of a third one. His lordship has endeavored to manage this business without writing, from a desire, which has been very apparent, to get rid of it without any compromitment. With that view he gave me, in an early interview, a report of the King's advocate general and proctor on my first letter, which had been referred to them, which gave some explanation on the subject, which he might suppose

would be satisfactory. I soon, however, assured him that it was not, and pressed an answer to my letters, which was promised, but which has not yet been given. A few days before Mr. Erving left this for the continent, I requested him to ask Mr. Hammond when I should be favored with one. I send you a note of the conversation between them. Having waited some time longer, I thought it my duty to press the point again, and, in so doing, to expose as fully as I could the fallacy and injustice of the principle on which Great Britain asserts the right to interdict our commerce with the colonies of her enemies, and elsewhere in the productions of those colonies. I do not know that I shall be able to obtain an answer to this or the other letters. The presumption is against it, because she does not wish to tie up her hands from doing what her interest may dictate, in case the new combination with Russia and Austria should be successful against France. In the mean time she seeks to tranquillize us by dismissing our vessels in every case that she possibly can. It is evident to those who attend the trials, that the tone of the judge has become more moderate; that he acquits whenever he can acquit our vessels, and, keeping within the precedent of the *Essex*, seizes every fact that the papers or other evidence furnish, in the cases which occur, to bring them within that limit. If any thing can be done in our affairs, it may be in a week or ten days; and if not done in that time, it most probably will not be during the present winter. I shall do every thing in my power to bring them to a satisfactory conclusion.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

P. S. I enclose you a copy of my letter to General Armstrong, by Mr. Erving.

[The remonstrance of Mr. Monroe, which was inserted here, may be found among the documents communicated by the Message of January 17, 1806, vol. ii. page 734.]

No. 35.

Mr. Monroe to Mr. Madison.

LONDON, October 18, 1805.

SIR:

I sent you lately, by Colonel Mercer, my note to Lord Mulgrave of the 23d ultimo, relative to the late seizures of our vessels, in which I thought proper to advert, at the conclusion, to the other topics that were depending when I left this country for Spain. I endeavored to touch those topics, especially the insults in our ports and impressment of our seamen, in a manner to show a due sensibility to such outrages, and, if possible, to conciliate this Government to concur in a suitable arrangement to prevent the like in future. It seemed to be improper, and it was certainly useless, to touch them without expressing the sense which the President entertained of the injury and indignity to which the United States had thereby been exposed. The acts were of a nature to require it, and the conduct of this Government since had increased the obligation to do it. It appeared, also, by your letters, which were received by Mr. Purviance in my absence, that the President expected that this Government would make such an example of the officers who had most signalized themselves by their misconduct, as would serve as a warning to the commanders of other vessels who may hereafter seek shelter or hospitality in our ports. This had not been done. On the contrary, I was informed, by the best authority, that Captain Bradley, of the *Cambrian*, whose conduct had been most offensive, had been promoted, immediately on his return, to the command of a ship of the line. By that measure, which prejudged the case, this Government seemed to have adopted those acts of its officers as its own, and even to announce to all others that the commission of like aggressions within our jurisdiction would pave the way to their preferment. It is said, it is true, that the translation of an officer from a frigate to a ship of the line is not considered in all cases a promotion, or, more correctly speaking, is not such a one as is solicited by the officers of the navy. The command of a frigate on a separate station, especially one which affords an opportunity to make prizes, is often preferred by them to that of a ship of the line in a fleet, and may perhaps be deemed a more important trust by the Government. Ostensibly, however, and in effect, it is a promotion; the least, therefore, that could be said of the disposition which this Government has shown respecting the misconduct of that officer, was, that if it had not been the cause, it certainly formed no obstacle to his. Under such circumstances, it seemed to be impossible to separate the officer from the Government in these outrages, and quite useless to demand the censure of him. I thought it, therefore, most advisable in the present stage, at least, to treat the affair in a general way, rather than in reference to a particular occurrence; and in looking to the offensive object, and paying any regard to what was due to the United States, the manner was as conciliating as I could make it.

Having waited near three weeks after my letter of the 23d ultimo to Lord Mulgrave, without hearing from him, I wrote him again on the 10th instant, and stated that, by the permission of the President, I proposed to sail to the United States this autumn, and, as the favorable season was far advanced, wished to depart with the least possible delay; that I should be happy to see the interesting concerns depending between our Governments satisfactorily arranged before I sailed; that I had been, and should continue to be, prepared to enter on them while I remained in England; and that the time of my departure would be made subservient to that very important object. To this note I received, some days afterwards, a short answer, which promised as early a reply to my communication as the additional matter contained in that of the 23d ultimo would permit. Having taken the liberty to inform you from Madrid that I should sail for the United States soon after my arrival here, it was my intention, after making a fair experiment to arrange the concerns with this Government, to have departed forthwith, be the success of it what it might. I considered myself as having the permission of the President to return home after such an experiment, and it was very much my wish, and that of my family, to avail ourselves of it. But, unfortunately, at that period, the seizures, which had just before commenced, began to assume a serious aspect. It became my duty, in my first letter to Lord Mulgrave, to notice them, and they soon claimed the principal attention. On the 10th, however, I thought myself perfectly at liberty to give notice of my intention to depart, in a guarded manner. I had already said every thing, in my several communications on the subjects that were depending, that I intended to say, unless it should be made necessary to add more by a reply to them; I had also waited in vain a sufficient time for a reply; I could not depart without giving timely notice of it, especially after the late correspondence; and the season was so far advanced, that, if I withheld it longer, I should be exposed to a winter passage, or compelled to remain until the spring. It was on these considerations that I wrote the above mentioned note to Lord Mulgrave, in the hope of promoting, without longer delay, a satisfactory arrangement of the points alluded to. But so vague is his answer, that it is quite out of my power to determine at this time whether it will be proper for me to sail or not in the course of the present season. Indeed, there is but one vessel now in port, destined to the United States, in which I should wish to embark with my family at so late a period. She will be commanded by Captain Tompkins, for Norfolk, who, I understand, proposes to set out in the beginning of next month. By that time I shall probably see more fully into the ultimate intentions and policy of this

Government towards the United States; and I think I may venture to say, that, if I sail during the present autumn, it will be in that vessel.

I have no doubt that the seizures of our vessels was a deliberate act of this Government. I do not know that the measure was regularly submitted to and decided in the cabinet, but I am satisfied that that department of it, having cognizance of and control over the business, dictated the measure. The circumstances attending the transaction justify this opinion. Before the coalition with Russia and Sweden, the commerce was free. The blow was given when that coalition was formed. Great Britain has shown much political management in the whole of this affair. By the emendatory article of her treaty with Russia, in 1801, the latter abandons the right to the direct trade between the colonies of an enemy and the parent country, and agrees to rest on the ground which the United States may hold in that respect. It is to be presumed that she declined the seizure before the coalition was formed with the northern Powers, lest it might alarm them and endanger the coalition; and that she made the seizure afterwards, on the idea, that, as they were embarked in the war with her, they would become indifferent to the object, and leave her free to push her pretensions against us. The manner in which the pressure is made, being through the Admiralty Court, on a pretext that the trade is direct, although the articles were landed in our ports and the duties paid on them, is equally a proof of management on her part. It was obviously intended to urge, (indeed, Lord Mulgrave in our first interview began by urging,) that there had been no new measure, that the Government had not acted in the business, while the court, by considering every species of that commerce direct, and every accommodation on the part of our citizens with previous regulations fraudulent and evasive, should push the pretensions of the Government to such an extent as to annihilate it altogether. Lord Mulgrave insisted in express terms, in the second interview, that we ought not to carry it on at all with the parent country; that the importation into our country ought to be confined strictly to supplies necessary for the home consumption. I am equally confident that if Great Britain should succeed in establishing her pretensions against us, she would avail herself hereafter of the example with the northern Powers. It is, therefore, a question of great importance to them also.

With respect to our other concerns with Great Britain, I am sorry to say that I do not see any prospect of arranging them on just and reasonable terms at the present time. No disposition has been shown to prescribe, by treaty, any restraint on the impressment of our seamen whenever the Government may be so disposed, or even when any of its officers in the West Indies or elsewhere may think fit. On the subject of boundary nothing has been lately said, nor does there appear to be any inclination to enter on it. I have also reason to think that this Government is equally disposed to postpone an arrangement of our commerce in general, by treaty, for any number of years. On this point, however, I cannot speak with so much confidence as on the others, having never made any proposition that was calculated to obtain an explicit declaration of its sentiments. The conversations which I had with Lords Hawkesbury and Harrowby before I went to Spain, on the other subjects, naturally brought this into view; but being incidentally, it was only slightly touched. The proposition which was made by the latter, to consider the treaty of 1794 in force, was as a temporary expedient, not a permanent regulation. From that circumstance, and the manner in which they both spoke of that treaty, I concluded that their Government would be willing to revive it for an equal term. It might, however, have been made only to obtain delay. You will observe that in my note of the 23d ultimo I have taken the liberty to mention the subject in a manner to show that it is not one to which the United States are indifferent, or which the President wishes to postpone. Although I have no power to form a treaty of so comprehensive a nature, yet I thought I might with propriety open the subject, so far at least as to ascertain the views of this Government on it for your information.

On a review of the conduct of this Government towards the United States, from the commencement of the war, I am inclined to think that the delay which has been so studiously sought, in all these concerns, is the part of a system, and that it is intended, as circumstances favor, to subject our commerce at present and hereafter to every restraint in their power. It is certain that the greatest jealousy is entertained of our present and increasing prosperity, and I am satisfied that nothing which is likely to succeed will be left untried to impair it. That this sentiment has taken a deep hold of the public councils here was sufficiently proved by the late seizures, being at a time when the state of our affairs with Spain menaced a rupture, from which Great Britain could not fail to derive the most solid advantages. It was natural to expect, especially when we advert to the then critical situation of this country, that the Government would have seized the opportunity to promote that object by a more just and enlightened policy. The part, however, which it acted was calculated, so far as depended on it, to prevent one. It proves satisfactorily that no event is deemed more unfavorable to Great Britain than the growing importance of the United States, and that it is a primary object of her Government to check, if not to crush it. It is possible that this Government may be influenced in its conduct by a belief that the United States will not revive the treaty of 1794, unless they be driven to it by such means. It may also be attributable to a policy still more unfriendly. There is cause to believe that many prejudices are still fostered here in certain circles at least, which the experience of multiplied and striking facts ought long since to have swept away. Among these it is proper to mention an opinion, which many do not hesitate to avow, that the United States are, by the nature of their Government, being popular, incapable of any great, vigorous, or persevering exertion: that they cannot, for example, resist a system of commercial hostility from this country, but must yield to the pressure. It is useless to mention other prejudices still more idle, which had influence on past measures and certainly still exist with many of great consideration. With such a view of their interest, of the means of promoting it, and the confidence which is entertained of success, it cannot be doubted that it is their intention to push their fortune in every practicable line at our expense. The late seizure is probably an experiment on this principle of what the United States will bear, and the delay which is observed in answering my letters, only an expedient to give the Government time to see its effect. If it succeeds they will, I presume, pursue the advantage gained to the greatest extent, in all the relations subsisting between the two countries, more especially in the impressment of our seamen, the prostration and pillage of our commerce through the war, and in the more elevated tone of the Government in a future negotiation. If it fails, I am equally confident that their whole system of conduct towards the United States will change, and that it would then be easy to adjust our affairs with this country, and place them on an equal and a reciprocally advantageous footing. Perhaps no time was ever more favorable for resisting these unjust encroachments than the present one. The conduct of our Government is universally known to have been just, friendly, and conciliating towards Great Britain, while the attack by her Government on the United States is as universally known to be unjust, wanton, and unprovoked. The measure has wounded deeply the interests of many of her own people, and is not a popular one. The United States furnish them at all times one of the best markets for their manufactures, and at present almost the only one. Her colonies are dependent on us. Harassed as they are already with war, and the menaces of a powerful adversary, a state of hostility with us would probably go far to throw this country into confusion. It is an event which the ministry would find it difficult to resist, and therefore cannot, I presume, be willing to encounter.

But is it safe for the United States to attempt a vindication of their rights and interests in a decisive manner with Spain and Britain at the same time? Will it not unite them against us, and otherwise do us most essential

injury? This is certainly a very important consideration, and will of course be maturely weighed by our Government. In my view of the subject the cases do not interfere. We probably shall never be able to settle our concerns with either power without pushing our just claims on each with the greatest decision. At present, though at war with each other, they harmonize in a system of aggression against us, as far as it is possible in such a state. Is it not presumable, then, that at peace their harmony will be greater and its effects more injurious? It seems to be a question, simply, whether we will resist their unjust pressure at this time or defer it to some other opportunity, and surely none can be more favorable for us or less so for them. They are now respectively much in our power. We can wound both essentially should it be necessary to push things to that extremity, without receiving much comparative injury in return. I am strong in the opinion that a pressure on each at the same time would produce a good effect with the other. Success with either could not well fail to produce it with the other. I am far from thinking that the incident with Britain should change our conduct towards Spain, or that the necessity we may be under to push our pretensions with Spain should relax our exertions against Great Britain. Some considerations indeed occur which make it probable that the latter incident was a fortunate one. By pressing both at the same time France may find herself relieved from a dilemma, in which a pressure on Spain alone might place her, in consideration of her conduct in the late negotiation; and being desirous to encourage our misunderstanding with England, she may be prompted to promote an adjustment of our differences with Spain, to leave us free to push the object with England. As these subjects have been practically much under my view, in the trusts with which I have been honored by the President, and have entirely engrossed my attention, I have thought that it would be agreeable to you to receive the result of my reflections on them.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

P. S. October 25, I have just had an interview with Mr. Hammond, in which I asked him when I should obtain an answer from Lord Mulgrave. He assured me that the subject was under the consideration of the cabinet, and that it was intended to give me as early an answer as its own importance and the other very important concerns of the Government would permit: that I knew they were contending for their existence, &c. I told him that I was detained here by that business alone and should have sailed long since for the United States had his Government placed our affairs on such a footing as to have enabled me: that we wanted nothing but what was just and reasonable. Nothing else material passed in the interview; Mr. Bowdoin sailed for the continent about ten days since. I have not heard of his arrival in Holland, and fear, as the winds have been unfavorable, that he has had a bad passage. Captain Tompkins will not sail until February, so that there is no prospect of an immediate passage in his vessel.

No. 37.

Mr. Monroe to Mr. Madison.

LONDON, November 26, 1805.

SIR:

I hasten to transmit to you a copy of a letter which I received yesterday from Lord Mulgrave, in reply to mine of August 12 and September 23. From the length of time which had elapsed, and other circumstances, I had almost concluded that his Government had resolved not to enter on the subject, but to leave me to get its determination as I could from the decisions of the Admiralty. I find, however, with much satisfaction, that it is intended to take it up; whence there is some cause to presume that the business may yet be placed on a satisfactory footing. I shall not fail to cherish a disposition to such an adjustment by all the means in my power, or to inform you without delay of whatever may occur in it.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Lord Mulgrave to Mr. Monroe.

DOWNING STREET, November 25, 1805.

SIR:

Upon a deliberate consideration of the nature and importance of the question which you have opened in the two official notes which I had the honor to receive from you, and adverting to the grounds of reasoning upon which you have principally rested your representations, I deemed it indispensably necessary to a due discussion of the subject, that a reference should be made by me to those who are best acquainted with all the circumstances respecting the decisions which have taken place, and the rules which have been established in our courts of admiralty and appeal, as well as with the principles and practice according to which the law is therein administered. I have not yet received any report in consequence of the reference which I have made, but I hope at no distant period to be enabled to give a full and, I trust, conclusive answer upon this most important point. I trust that you will not consider the interval of time which is necessary for due investigation of so considerable a question, as a delay either inexpedient or misplaced.

I have the honor to be, with great consideration, sir, your most obedient and humble servant,

MULGRAVE.

JAMES MONROE, Esq., &c.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, January 15, 1806.

SIR:

The letters received from you since my last are down to No. 36, inclusive. The perseverance of the British Government in the principle which licenses the depredations on our commerce in colonial productions, with the losses already sustained, and still apprehended by our merchants, has produced a very general indignation throughout this country, and makes it necessary that you should renew and extend your remonstrances on the subject. In aid of the means for this purpose, furnished by the information and instructions given you from time to time, I forward you an examination of it just published, in which you will find a variety of facts and views of the British principle and proceedings that may be made to bear against them. I will forward also, in a few days, copies of sundry memorials from the merchants of our maritime cities, explaining the wrongs done them, and the disgust with which they are filled. They, with other documents accompanying them, will assist your endeavors to make on the Government impressions which the occasion calls for.

I shall only add at present, that, notwithstanding the conviction of the illegality of the British principle, which becomes more and more evident the more it is investigated, the President so far yields to a spirit of conciliation as to be still willing to concur in the adjustment on the point authorized in your instructions of January 5, 1804; but expects and enjoins that you will be particularly careful to use such forms of expression as will furnish no pretext for considering an exception of the direct trade between a belligerent nation and its colonies, as declaratory of a limitation of the neutral right, and not a positive stipulation, founded on considerations of expediency.

I have the honor to be, &c.

JAMES MADISON.

No. 38.

Mr. Monroe to Mr. Madison.

CHELTENHAM, December 11, 1805.

SIR:

The delicate state of health which my family has enjoyed of late, attributable, as is supposed, in a great measure, to the atmosphere of London, induced me to come here last week. A letter from Lord Mulgrave, which I received just before I left town, having revived the expectation that I should hear from him on the subject of my former ones, I thought it proper to apprise him of my proposed absence; as that it would be short; that Mr. Purviance would remain behind to receive and forward me his letters; and that I would repair to London to wait on him whenever it might be necessary.

By late accounts from the continent, it appears that the French have entered Vienna almost without opposition, the Austrian and Russian armies having left it open to them. It was a while reported, and believed, that the Emperor of Austria had made a separate peace, the conditions of which had been dictated to him by his adversary in the spirit of conquest; but this is now contradicted and disbelieved. The Emperor, it seems, plays a bolder game, and is willing to hazard all rather than make the sacrifices which it is supposed were insisted on. Thus the campaign seems to be hastening to its crisis, which will unfold the policy of some movements in the field and cabinet which may not have been heretofore well understood. It will soon be seen whether the Emperor of France has been drawn on, without system, by the brilliancy of his success against General Mack, to hazard more than an able and prudent commander ought to have done, or, having in view the accomplishment of a vast object, his movements, combined with those of General Massena in Italy, were judicious, and conformable to a plan wisely laid down in the commencement. It will soon be seen whether Prussia, who cannot be an indifferent spectator, and has much in her power, intends to act a part in the adventure, and performs it well; or, governed by circumstances, makes and breaks her resolutions as they change, and finally becomes a victim to unsteady and feeble councils. Whatever may have been the motive of the Emperor of France to take his present position, it is certainly a daring and hazardous one. It gives, in plain terms, the defiance to Europe; and, if Prussia takes part against him, he may be considered as fairly pitted against Europe; for the Powers that are on his side are not volunteers in the cause. If he experiences a serious reverse of fortune, they will, I think, quickly fall off. He must either succeed, that is, make at least a good and safe retreat in case of necessity, or he is utterly undone. It remains to be seen whether, in case he succeeds by completely vanquishing the armies opposed to him, he will be able to make a prudent use of his victories, for the purpose of consolidating and securing his own power; and of course whether his victories are to prove of any solid and permanent advantage to him. It may, perhaps, require greater talents in the present state of the world, in respect to that object, to turn such victories to the best account, than, at the head of the veteran armies of France, to gain them.

The situation of the United States, in respect to all these Powers, is, in every view, a very favorable one. So circumstanced are they, respectively, that while we have the means of doing each irreparable injury, all are interested in preserving the relations of peace and friendship with us; and none have it in their power to do us comparatively equal harm. As things now stand, each of the parties forms a complete counterpoise to the other, in a way best adapted to its own safety, and to our interest. Victorious by land, France has scarcely a ship at sea, and is, therefore, interested in the prosperity of our commerce. Victorious at sea, Great Britain finds herself compelled to concentrate her force so much in this quarter, with a view to her own security, that she would not only be unable to annoy us essentially in case of war, but even to protect her commerce and possessions elsewhere which would be exposed to our attacks. As to Spain, she ought not, perhaps, to be considered as a party to this controversy. If she were asked in which scale her interest lay, which party she wished to prevail, her friends or her enemies, she would most probably be at a loss to decide. I think it must be her interest that neither should succeed; but that the scales should stand suspended as they now are. If her enemies succeeded completely, she would be undone; and the same thing would happen if her friends did. Thus it appears that from none of these Powers have we any serious danger or injury to apprehend in the present state of affairs; nor, from what I can see, is it likely that we soon shall have. While the Powers of Europe are contending against each other, none of them can venture to break with us, in consideration of such motives as the just pretensions and claims of our Government may furnish; and by many causes they seemed to be destined to remain in that state some years longer, or at least in one of great jealousy and rivalry of interest, which may produce the same effect.

I have just received your letter of September 20th, respecting the ship *Huntress*, which has been given up to General Lyman, as I understand, by the order of the Admiralty. The cargo, consisting in provisions, having been much injured by the detention, was, at his suggestion, and by my direction, to have been lately disposed of. I shall communicate with him on the subject, and transmit you shortly a correct account of the business.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 39.

Mr. Monroe to Mr. Madison.

LONDON, December 23, 1805.

SIR:

I came to town on the 20th, in consequence of a letter from General Lyman, of which a copy is enclosed. Although the suggestion which it communicated as proceeding from Dr. Lawrence, a proctor in the Admiralty, who has no connexion with the ministry, that the Government would suspend, on my application, the seizure of our vessels till the principle could be adjusted, might be founded on mere conjecture, yet I did not feel myself at liberty altogether to disregard it. After what had passed, it did not seem probable that the Government would expect any new application from me before it had answered those I had already made, or that it would adopt such an expedient to obtain one. If it was disposed to accommodate, the invitation already given was surely sufficiently

strong. Still, it was not an impossible case. Dr. Lawrence's standing in the court is a very respectable one, and I knew that reference had been made to him in some of the cases that were depending, although he was employed by our citizens on the receipt of my first letters, and that on his opinion the vessels were discharged. But what gave more countenance to the presumption was certain extraneous circumstances which were likely to be felt by the Government. A strong paper, extracted from the National Intelligencer, which reprehended in decisive terms the conduct of this Government towards our commerce, had appeared in the Morning Chronicle, and produced some sensation in the city. In addition to which, the character of events on the continent, under the most favorable aspect in which they might be viewed, still wore an equivocal face. My experience here, without going further back in our history, has satisfied me that nothing inspires those in power with such friendly sentiments towards us, or brings to their recollection, with such glowing feelings and expressions, the circumstances of our common origin, language, &c. as adversity. Before I went to Spain, when this country stood alone pitted against its adversary, and I pressed a decision on the propositions I had presented, I heard some eloquent discourses on that topic, to which I was not insensible. But as soon as the prospect improves, the relationship is forgotten and scouted; nothing is thought of then but their maritime rights, which, by their pretensions, comprise a complete monopoly of the ocean sovereignty over all islands belonging to their enemies, &c. This change has been very visible of late, and is to be traced to the period of the organization of the new coalition. What the disposition of this Government is at this moment on these subjects I shall endeavor to ascertain. It is my intention to sound it thoroughly, in some suitable mode, and to profit of the opportunity, if one is offered, to arrange them on satisfactory terms.

The latest accounts from the scene of action state, with some degree of credibility, that the conflict was continued between the contending parties, near Austerlitz, on the 3d, 4th, and even the 5th; and that fortunately proved favorable to the allies; in what degree, however, is variously represented. Some accounts state that the French army was completely broken and put to rout, while others represent it only as a handsome check. In truth, less confidence is now due to official statements than they used to obtain. Since they have begun, under the pretext of *ruses de guerre*, to mistake simple facts, people at a distance do not well know what to believe. From every thing I can collect, it does not seem probable that any event has taken place to decide the fate of the campaign, much less of the war; nor is there any certainty that Prussia has taken a more decisive attitude towards France, as yet, though it is often reported to be the case. On this point you will doubtless receive better information from the continent than I can give you.

It is probable that negotiations for peace will be opened in the course of the winter, as it may be that most of the parties seriously wish it. The mission of Count Haugwitz was supposed to present to the Emperor of France a species of ultimatum, which, if adopted, would put an end to the war, or, being rejected, bring Prussia into it on the side of the allies. The following are said to be its conditions: that he should separate the crown of Italy from that of France, and withdraw his troops from Naples, Holland, and Switzerland, and leave those countries to the enjoyment of their independence. It is reported that the conditions, be they what they may, were known to and approved by the Emperor Alexander, whence it is inferred that they are such as Austria and Great Britain also would accede to. It is likewise reported that a provisional treaty was formed between Russia and Prussia, when Alexander was at Berlin, which stipulated that Prussia should join the allies in case France rejected the propositions of the latter. But I should not be surprised if it should ultimately appear that this mission was adopted by the King of Prussia to get rid, at the time, in a handsome manner, of the pressure of the Emperor Alexander; or, being adopted in good faith for the ostensible purpose, should nevertheless produce no immediate effect, either with respect to a general peace, or the union of Prussia with the allies in the war against France. It is not probable that the King of Prussia sent to the Emperor of France a positive, unqualified ultimatum, which should admit of no modification. A measure so bold and hazardous is not consistent with the character of the Prussian cabinet, which is more remarkable for its hesitation, and deliberation than the promptitude of its action; for its desire to preserve what it has by peace, than to risk every thing in an attempt to gain more by war. And, if the propositions which were to be made by the Prussian envoy were liable to modification, I cannot well discern how his mission is to be distinguished from ordinary ones, which commence in negotiation, and have a regular course and termination. In this view, it is not unlikely that the business may be referred to conferences or a congress to be held elsewhere, which, by management, may be prolonged for a considerable time, and whose result may finally depend on the fortune of other battles between the existing parties; unless, indeed, by the successes of France over her present opponents, and the high pretensions of her chief, Prussia should hereafter have no alternative, but be forced into the war in her own defence. Be the fact, however, as it may, with respect to Prussia, that is, whether she abstains from the war or becomes a party to it, and at an earlier or later period, I do not think that there is much prospect of a general peace in the course of this winter. I rather think that the war will go on till it produces some great change in the condition of one of the parties. The contest is, in truth, between France and her dependencies and the rest of Europe, and seems to be now so deeply laid that I cannot well perceive how a solid and permanent peace can be established between them till one or other gains so far the ascendancy as to be able to dictate the terms. The gigantic struggle of the French revolution had so far extended the bounds and contributed to the aggrandizement of France, at the expense of other Powers, that it seemed to be impossible for them to reconcile their safety with her existing state. The new dynasty, too, which grew out of the revolution, did not diminish, if it did not increase, the difficulty. It seems to have made up its mind that it was impossible for it to incorporate itself with the ancient ones, even by alliances, if such were to be formed in such a manner as to establish confidence, friendship, and an opinion of security between them. The French Emperor has not been able to attach to him the ancient nobility of France. He has taken many into his service, but even these are not the persons in whom he reposes his chief confidence. Thus, while he possesses powers utterly incompatible with the principles of the revolution, he finds himself under the necessity to rely principally for his support on the revolutionary party in the public councils, in the armies, and among the people. It cannot be doubted that he draws to his aid every species of support from every quarter, and by means which he deems best adapted to the end; still, the revolutionary party are his chief counsellors, his generals, and body guard. Where that business will end is a problem to be solved, which time alone can solve. Perhaps the result is connected with other causes in embryo, which may hereafter unfold themselves. From what I can see, he appears to think that foreign war tends to consolidate his power at home, and thus that consideration increases much the interval between him and foreign Powers, and also gives an additional impulse to the revolutionary movement, though directed to a different end. Should the issue be fairly made between France and the other Powers, it is by no means certain, provided the parties live, in whose favor the scale will preponderate. On one side there is a vast superiority of population; on the other an extraordinary concentration of talents, with proportional activity and enterprise, in the leaders of a great and powerful people. On both, the regular force is nearly equal; but the character of the troops, as well as of the people, is essentially different. On the side of France, they feel the impulse of the revolutionary movement; while, on that of Austria, there seems to be a consciousness of imbecility,

an entire want of enterprise, and an evident indisposition to the conflict, which cannot be attributed to the want of courage, for there are no braver troops. Under such circumstances, the superiority of population promises to be of little avail. We have already seen, by the incursion into Germany, that no part of it, or but a very inconsiderable one, has been brought into action; that it is a lifeless mass, subject to the command of the victorious army in the field, though perhaps inferior to the force to be found in the smallest provinces. It seems probable, if the Emperor of France beats the armies opposed to him, that he may demolish the dynasties; but then would arise a question, whether, in case those events happened, the nations were subdued. The world has seen with astonishment, that Austria, who has among her people several millions of fighting men, has not been able to call into the field, at this great crisis, above two hundred thousand. Surely, it cannot be said that the defeat of that force is the subduction of Austria. Does it not, on the contrary, give good cause to presume that her Government has lost its influence, that the people have withdrawn their confidence from it, that it is tottering, and that every thing is ripe for a change, which the slightest external pressure may produce? If I may judge of Austria by what I saw of Spain, and I am told that in many respects the lines are parallel, there is much ground for these suggestions. I did not believe that there existed in Europe, if there did on the earth, a Government so completely worn out and exhausted, in all its institutions and functions as I found that to be; or that it was possible for any Government to produce such an impoverishing and destructive effect on the moral character of the people, which is naturally a manly one, and on the face of the country, its cultivation, and even on the soil itself, as is evident there. These considerations afford sufficient cause, at least, to doubt that, although the armies be defeated and the dynasties overthrown, the nations ought not to be considered as subdued, or liable to be disposed of as a conquered people, by arrangements that are likely to be durable. This is, however, in some measure a digression from the subject. In stating that I did not think it probable the existing strife between the Powers at war would be soon settled, I have thought that it might not be improper to explain the reasons of that opinion.

I will conclude these with a few additional remarks. Under existing circumstances, I think our attitude with all these Powers is a very imposing one; that, although with their loose system of political morality, inordinate pride, and extravagant pretensions, they will respectively commit all kinds of injustice and outrage against us, if permitted, it is nevertheless in our power, and will be while the present state lasts; to obtain of either, by a suitable pressure, any just and reasonable demand we may have against it. That nothing will be obtained without some kind of pressure, such a one as excites an apprehension that it will be increased in case of necessity, and that to produce that effect, and protect ourselves against unexpected and unfavorable results, which are always to be supposed and provided for, it will be proper to put our country, by invigorating the militia system, and increasing the naval force, in a better state of defence.

I am, with great respect and esteem, your very obedient servant,

JAMES MONROE.

P. S. Since I came to town I have endeavored to ascertain whether any thing had lately occurred, to invite from me a new application to the ministry respecting the proceedings against our commerce; and the result has been to satisfy me that there had not. I called on my arrival at Downing street to see Lord Mulgrave; who, as I was informed, was at Bath with Mr. Pitt, as he had been more than a fortnight. I asked the young man in the office who is charged, in the absence of Mr. Hammond, with the American business, if Lord Mulgrave had prepared an answer for me; to which he replied in the negative. In conversation he gave me reason to infer that no decision had been made upon the subject. I requested him to inform his lordship that I had come to town to see him on that business, and should remain some time in the hope of hearing from him; which I was desirous of doing at this time, as the Congress was sitting, and several opportunities offered to bear my despatches to our Government. He promised to do so immediately, and assured me, that if he received his lordship's instructions to make any communications to me, that I should hear from him without delay. Four days were more than sufficient for the correspondence between them, whereas twice that term has now elapsed without my hearing any thing on the subject; so that I conclude that no change has taken place in the disposition of the cabinet on it. The business is in the regular train between the Government and myself. It appears to me that I have done every thing that it was proper to do, and must attend an answer, which, if much longer withheld, cannot be considered otherwise than as a decision of the Government to support present measures till some stronger motive presents itself.

It is unnecessary to add that, in giving my sentiments on these important subjects, I am far from being wedded to them; that being founded on a partial view only, that which is presented here, of those facts and circumstances which ought to be taken into consideration in making a decision, I have always given them with diffidence; and, as I well know that a combined view of all the great interests and concerns which merit attention will be taken by our Government in making the decision, by whom alone it can be taken with advantage, I shall, from that and many other considerations, have much greater confidence in its judgment than my own.

No. 40.

Mr. Monroe to Mr. Madison.

LONDON, January 28, 1806.

SIR:

I informed you lately, in a short note by Mr. Clark, who sailed in the Remittance, of the death of Mr. Pitt, which took place last week. The King hath since resolved to commit the administration to the opposition, as we are informed by all the gazettes of this day. It is said that he announced this to Lord Grenville yesterday, and authorised him, in conjunction with Mr. Fox, to form a new ministry from among their friends. It is expected that this will be done in a day or two, as they are now engaged in the business. This change has an aspect towards peace, and fully persuaded I am that it will be the serious object of those who may be thus brought into power to endeavor to make one. Mr. Fox, it is understood, will have the Department of Foreign Affairs. I shall see if it is possible, as soon as he is inaugurated, to obtain a change in the policy of this Government towards the United States; of which, I think, there is great probability. About a fortnight before Mr. Pitt's death, an order was sent to the suitable department to report the number of American vessels which had been seized, and condemned, or dismissed, with the damages incident thereto, which looked as if a change was contemplated even under him. The disasters on the continent tended to show the folly of the measure, to which the eyes of the new ministry will doubtless be more open. The present is a very important epoch in our concerns with this country and Spain, as to the commerce which we are to enjoy with the West Indies after a peace. There would be cause of regret if that event took place before they were adjusted. I have heard nothing from General Armstrong, or Mr. Bowdoin, for more than two months past. I shall do every thing in my power to avail myself of the favorable opportunity which is thus presented, by a concurrence of extraordinary events, to place our affairs with this country on an

advantageous footing, and I hope not without effect. The considerations which made it improper for me to sail to the United States at any time since my return to England, seem now to operate with peculiar force. As the seizure of our vessels had then commenced, I could not withdraw without great compromise of our Government and myself, without remonstrating against it. And, after taking that step, I could not withdraw and leave the business unfinished, especially after the strong opposition which I made to it; which I thought the nature of the transaction merited, and the state of public affairs in Europe justified. Thus engaged, I have felt it imperiously my duty to pursue the business in all its windings. I shall, therefore, neither abandon the ground, nor relax in my exertions to accomplish the object till something conclusive is done, unless the President may think proper to consign the trust to some other person. I fear that the expectation of my return to the United States, which was authorised by my first letters after my return here, as by those of an earlier date, has prevented your communicating to me your sentiments on these important topics, as you otherwise might have done. I flatter myself, however, that you will have concluded from those which followed, as from the nature and course which this business has taken, that I should be detained through the winter; and, in consequence, that I shall soon have the pleasure to receive such communications from you. As the health of my family has been improved by the late excursion into the country, I expect them in town in a few days; since now that the ministry is about to change, and there is a fair prospect of accomplishing something to advantage, I do not wish to be absent a moment.

The President's message to Congress has produced a very good effect here. I have reason to think that it was not ill-received by the Government, as, at the levee and drawing room, I was shown rather more than usual attention by the King and Queen soon after it appeared, and have experienced from Lord Mulgrave, in an interview of ceremony at his own house since, as I had before at the court, much civility. By his deportment I was also convinced that the manner in which I had opposed the measure of his Government, had produced no improper effect. The message is considered by the public in general as furnishing satisfactory proof that our Government will vindicate its rights with firmness, in case this Government imposes on it the necessity. There seems to be no difference of opinion that, in case a misunderstanding took place between the two countries, it was attributable to this Government, and not to ours. In consideration of the effect which the extent of our commerce, as heretofore enjoyed, had on the fortunes of this country in impairing its own resources, or rather was supposed to have, and in supplying the wants of its enemies, the party in favor of the sentiments of the ministry was a strong one, as a measure of policy. But there did not appear to be any one, or at most very few, who approved the manner in which that measure was introduced, being without notice to our Government, and of course a surprise on our people; under the circumstance, too, of an existing negotiation, which made it more highly reprehensible. I expect in a day or two to give you more full information respecting the arrangement of the new ministry, and of the consequences likely to result from the change.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 41.

Mr. Monroe to Mr. Madison.

LONDON, February 12, 1806.

SIR:

The arrangement of the new ministry was completed, and its members installed in their respective offices, in the course of the last week. It makes, as you will find by the list, a thorough change of character, as I hope it will of principle, in its measures, at least in respect to us. It is well known that the King yielded to this change with extreme reluctance; that he offered to supply the chief place, which had become vacant by the death of Mr. Pitt, by Lord Hawkesbury, who did not seem unwilling to accept it, and in other respects to preserve the power in the same hands, with a view, as is to be inferred, of pursuing the same system of measures; but the other members of the late ministry seemed disposed to retire, and as the opposition was not to be broken, and external causes pressed with great force, the change could no longer be resisted. The measure itself being resolved on, the King had the prudence not to embarrass it with conditions that were sure to be ill received, or not accepted. He assented at once to commit the administration to the opposition, and authorized Lord Grenville and Mr. Fox to form and present to him an arrangement for the purpose. The only obstacle which was understood to have arisen afterwards, respected the continuance of the Duke of York in the chief command of the forces, which was objected to by these gentlemen. That obstacle, however, was finally removed, by the King's assenting that the Duke might be assisted, or perhaps controlled, by a military council. The new ministry is composed of characters who have, till of late, been opposed to each other; from which circumstance, as from a knowledge that the King must retain a strong prejudice against some of them, it is believed by many, that it will not remain long in power. The presumption is not an unreasonable one, though there are many considerations to authorize a different conclusion. It is not likely that the causes which formed the union will soon be done away. It is more probable that they will acquire greater force. From present appearances, those which are external cannot well fail to do it, and they must tend of course to produce a correspondent effect internally. If the war continues between this country and France, or the present rivalry in peace, this Government will be compelled to preserve its independence, to arm the whole nation, whence the people must unavoidably have more influence in its measures. Such a course of things would be apt not only to preserve the union which already exists between many who have been hitherto opposed to each other, but to strengthen it, and even to increase the weight and consideration of those who were viewed for many years past with most jealousy, and now admitted into a participation of power with the greatest reluctance, in the direction of public affairs.

As soon as Mr. Fox took possession of his office, he requested an interview with the foreign ministers, which took place yesterday. We were introduced separately. As soon as the ceremony of the interview had passed, I observed that I presumed he had been too short a term in office to have made himself acquainted with what had occurred between his predecessors and myself, more especially the last one. He said he had not had time to read the papers, though he presumed he had a general idea on some of the topics. In respect to the immediate question, he asked whether I had made to them, or they to me, any proposition? I gave a short sketch of the part which our respective Governments had acted since the commencement of the present war towards each other. I told him that my Government had been ready to form a commercial treaty with his on the expiration of the late one; that it had agreed to postpone it to accommodate his, and with a desire that the arrangements which might be formed, being entered into at a time when each had sufficient leisure to attend to the object, and founded on a liberal view of their respective interests, might place their relations on such a footing as to secure their friendship from interruption, at least at an early day; that in the same spirit it had sought to put out of the way certain causes of a transient nature which might possibly create misunderstanding in the course of the war, such as the impressment of our seamen, blockades by proclamation, &c., according to a project which had been presented to Lord

Hawkesbury, and to both his successors; that those gentlemen never gave any definitive answer to that project, and urged, as a cause of their delay, the other and pressing engagements of their Government, with which I was well acquainted, as also that its conduct towards the United States in the course of the present war was as consonant to their principles and wishes in the most important points as they could desire it to be; that on that ground I left the business, when I went to Spain, in the expectation that no change in the existing relations between the countries would be made in my absence. I assured him that I was astonished to find, on my return, that on the contrary those relations had experienced a most essential change; that an attack had been made on our commerce on a principle which had heretofore been so completely settled between our Governments, and abandoned by his, as to have been a case for which no provision was proposed in the project referred to. I explained to him the ground of this remark, and informed him that I had written several notes to Lord Mulgrave on the subject, to which I had not been able to obtain an answer, on the main question, though he seemed desirous, by keeping it open, in his short replies, that I should not consider it as decided against the United States. I could not avoid intimating to him that the friendly disposition which our Government had shown had been most ungenerously requited by his; that it seemed as if it had pursued a just and friendly conduct towards the United States till the moment that the new coalition was formed, gave the present blow when the prospect was favorable to success, and kept the business in suspense to see the result of affairs on the continent and in the United States. He heard me with much attention and apparent interest; intimated that he had been accused of being too friendly to America, and when I spoke of the treaty with Russia, he observed that he had thought that the arrangement made by it was a good one, though I did not understand him as pledging himself by the remark to its conditions. I requested that he would make himself master, as soon as in his power, of the correspondence between Lord Mulgrave and myself, and give me an interview, which he promised. I am happy to add, on a view of all circumstances, that I think the prospect of arranging our affairs with this Government, especially that one which respects our trade with the colonies of its enemies, on satisfactory terms, a very favorable one. It is certain that nothing more favorable was, or could reasonably have been expected from the first interview with the present minister.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

No. 42.

Mr. Monroe to Mr. Madison.

LONDON, *February 28, 1806.*

SIR:

Presuming that it may be satisfactory to the President and useful, to be made acquainted without delay with every incident that occurs, I have the pleasure to send you a copy of a late note to Mr. Fox, on our concerns in his hands. In our first interview he promised to examine the papers, and give me another at an early day; but as I did not hear from him within the time I had expected I called again, when he informed me that he had not yet been able to take up the American papers, but should soon do it. He asked in what shape the most interesting topic presented itself, alluding, as I understood, to the late seizures? I replied by a complaint on the part of the United States of a violation by Great Britain of the relations subsisting between the countries; and I illustrated the remark by a sketch of the conduct of his Government in the most material circumstances. To the merits of the case he said but little. What he did say, however, was conciliating; and he repeated, what he had said in the former interview, his earnest desire to see the affairs of the two countries placed on the most friendly footing. He assured me that I should hear from him as soon as he had read the papers, which he would do without delay. I intimated that, by giving him a summary of the whole, I might perhaps facilitate his research, to which he assented. It was on that ground that I addressed him the enclosed note.

I have since received your letter of January 13, in which you promise to send me an examination of the British principle lately published, the memorials of the merchants of our principal towns, and other documents illustrative of the subject. I shall be happy to receive these, and shall certainly endeavor to draw from them all the aid which they can furnish. The letter referred to in the commencement of that of the 13th has not come to hand, nor has any of a later date than December 4. I shall be attentive to the injunction contained in the last paragraph of that of the 13th.

As the subject is now fairly before the new ministry, who seem to be well disposed in the business, permit me to submit it to consideration whether it may not be better that no measure should be definitively adopted, or if already adopted, be executed, till a fair experiment be made of what may be expected of it. By suspending what might have been contemplated in another view, and even necessary, it may tend to conciliate those now in power, and be productive of good.

I have the honor to be, with great respect and consideration, your obedient servant,

JAMES MONROE.

PRINCE'S STREET, *February 25, 1806.*

SIR:

I have the honor to transmit you a note of the papers which are material in my correspondence with your predecessors on certain interesting topics, which have been for some time depending between our Governments, and are still unsettled. These are, 1st. The rights of neutral powers in certain specified cases; 2d. The impressment of American and desertion of British seamen; and 3d. The boundary between the United States and the British possessions in America. The papers referred to will, I presume, sufficiently illustrate these topics. I shall, however, be permitted to accompany them with some remarks, to explain the course which the business has taken, and the state in which you receive it.

Aware of the abuses which had been practised, in respect to neutral rights and seamen in the last war, and of their injurious effect on the interest of both countries, my Government was very desirous to prevent a repetition of them in the present one. With that view, and by its order, I had the honor to propose to Lord Hawkesbury, soon after the commencement of the war, an arrangement by convention of these interests, on such just and fair conditions as was presumed would have been readily acceded to. You will see by the project which I then presented to his lordship at his request, that the object was strictly to prevent abuses and the ill consequences incident to them, not to acquire any advantage to the United States by the establishment of controverted principles in the one, or unreasonable pretensions in the other case. In respect to neutral rights, it was proposed to adopt between the Governments, in such cases as were more liable to abuse, certain principles or rules of conduct which Great Britain had already assented to in her treaty with Russia in 1801. As those Powers had entered into that treaty

for the express purpose of defining the law of nations in the cases to which it applied, and Great Britain had adopted its conditions afterwards in separate conventions with Denmark and Sweden, with the same view, it was concluded that her Government would not hesitate to admit its doctrine, or to observe its injunctions with other Powers. The same motive was felt and respected in the proposition which I had the honor to make in respect to seamen. The sensibility of the Government, and indeed of the whole nation, had been subjected to great and almost continual excitement by the abuses which had been committed in that line, on the high seas, in the islands, and sometimes in the ports, of the United States. The sons of respectable citizens had been snatched from them, many of whom were doomed never to return, to be slain in wars to which their country was not a party, or otherwise perish in a foreign service. No rule had been established by the Government to discriminate between American and British seamen, a thing not easily done by the most impartial, and the commanders of many of His Majesty's ships of war and privateers, especially the latter, acknowledged none but their own judgments in making the discrimination. The highest American documents were often either not looked at, or utterly disregarded. It was evidently improper that an interest of a nature so delicate and important, one which is so intimately connected with the sovereignty and independence of the nation should be left longer in such a state of oppression. My Government felt that it would be wanting in what it owed to its character as in its duty, if, it did not endeavor to put an end to a practice so injurious, and at the same time so degrading. It was therefore one of the objects of the project referred to, to provide a remedy for that evil. But it was understood that Great Britain complained likewise of an injury in respect to her seamen, though of a different kind; for that also, it was proposed to provide an adequate remedy. In protecting American citizens from impressment, my Government was far from desiring to extend its protection to any one who had not a just claim to it. It was ready to meet the injury complained of by Great Britain, and to suppress it by the most effectual means in its power. These propositions were neither accepted nor rejected by Lord Hawkesbury, though I think myself perfectly correct in stating that nothing occurred in our conferences, to justify an inference that he thought them unreasonable. They were postponed from time to time at his instance, and finally transferred to Lord Harrowby, his successor. I revived the subject immediately with Lord Harrowby, to whom I also submitted, at the same time, a proposition relative to boundaries. It happened that Lord Hawkesbury and Mr. King had made a convention on this latter subject within a few days of the time, when one was also concluded between the United States and France, whereby the province of Louisiana was ceded to those States. As it was not known to Lord Hawkesbury or Mr. King, when they formed their treaty, that one had been concluded with France, it was impossible that the conditions of the French treaty should be in any degree affected by that with Great Britain. It was, however, apprehended that, if the British treaty should be ratified by the President and Senate, after the conditions of the other were known, without providing against it, it might lay the foundation for such a pretension. It was therefore proposed to modify the convention in such a manner as to preclude a claim which would be equally unjust and unauthorized. As this subject is fully explained in my note to Lord Harrowby, of the 5th September, 1804, it is unnecessary to enter further into it at present. The conduct of Lord Harrowby in this business was essentially the same with that of his predecessor. It was postponed from time to time for the consideration of the cabinet, whose decision I was taught to expect, but never received. I had been ordered by my Government, before Lord Harrowby came into office, to repair to Spain on a special mission, as soon as the business with his lordship should be concluded. Of that fact, after waiting some time, I gave his lordship information, in the hope of promoting despatch. Still, however, the business was delayed, the cabinet, as I was informed, having come to no decision on any point, till finally it was agreed between us, to postpone the whole until my return from Spain, when it should be resumed and concluded. I left Great Britain on that mission in October, 1804, and returned in July, 1805.

At the epoch referred to, the relations between the two countries were of a character the most friendly. Not an American vessel had been condemned on any principle which was relied on by my Government, and only one that I knew of on any principle whatever. Their commerce with each other was, as it always will be when left to its natural course, most flourishing; and that which the United States claimed, as a neutral Power, with other nations on a footing which was perfectly satisfactory to their Government. At my return, however, the scene was completely changed. A system of seizure and condemnation of American vessels had been commenced on a principle respecting which, it was presumed, that no new discussion could ever arise; one which was considered as having been so completely settled between the Governments, that, in the project above referred to, it was not contemplated to make a provision for it: a principle which had been renounced by Great Britain in her treaty with the United States in 1794; which had been condemned by the commissioners who sat under that treaty; which had been renounced by the Court of Admiralty in a subsequent decision; by Lord Hawkesbury in a formal communication with my predecessor in 1801; by the treaty with Russia in the same year; and, what is perhaps still more conclusive, by the Government, in the sanction which had been given to that commerce for the two preceding years of the war. I could not otherwise than be much surprised at a proceeding which I considered objectionable in so many views, and hastened to remonstrate against it to Lord Mulgrave in several notes whose dates are annexed. To these his lordship never honored me with a conclusive answer, with one which acknowledged the measure an act of the Government, or disclaimed it on its part. The proceeding has been highly injurious to the United States, about one hundred and twenty of their vessels have been seized, several of which were condemned, all taken from their course, detained, and otherwise subjected to heavy losses and damages. To the immediate sufferers it has been very disastrous; but the ill effect has not been confined to them only. It has been severely felt in the general commerce of the country.

I have thought it my duty to give you above a sketch of the several topics depending between our Governments, which are submitted to your consideration. They are all of a nature very interesting, as I am persuaded you will find by a perusal of the documents referred to. But the late seizure and condemnation of American vessels, are acts which have proved so highly injurious to the United States, and have so essentially changed the relations which subsisted between the countries, that they will, I flatter myself, obtain from you a more immediate and particular attention. I beg you to be assured that I shall be happy to have it in my power to transmit to my Government, without delay, such communications on your part, which may serve not only to heal the wound which has been thus unexpectedly received, but to promote in other respects, by suitable arrangements, the reciprocal and permanent interests of both nations and the best understanding between their Governments.

I beg you to accept the assurance of the high consideration with which
I have the honor to be, sir, your most obedient and most humble servant,

JAMES MONROE.

The Right Honorable C. J. Fox, &c.

No. 43.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, *March 31, 1806.*

Your letter of the 13th January is the last that I have received. The pamphlet enclosed with it has been republished here, and I have this day transmitted a copy of it to Mr. Fox, with whom I had an interview on the 28th. I had expected, from what passed between us on the 11th, that before this much progress would have been made in the adjustment of our affairs; I am, however, sorry to add that this has not been the case. In the late interview I complained of the delay which had taken place, more especially as the court continued to condemn our vessels on the principle it had heretofore done. Mr. Fox said that, till the business was arranged, he presumed the court would be consistent, but gave reason to expect that the condemnations would be suspended. He assured me explicitly that the late decision was not to be considered as an evidence of the disposition of the present ministry. I endeavored to fix with him the conditions of our adjustment of that question, but found that he was not prepared to conclude any thing. The tenor of his conversation, however, was perfectly consistent with what he had said before on it, as heretofore communicated to you. The interview terminated in his assuring me that he should devote the Easter holidays to a full examination of the whole subject, after which he would be prepared to meet me on it, and that he was persuaded we might conclude it in a month or six weeks from that time; that he would certainly give it all the despatch in his power. He intimated that if, indeed, a peace should take place, of which there was at present but little prospect, he was, nevertheless, desirous of settling this business amicably with the United States, with a view to preserve future harmony. I told him that we expected payment for the spoliations. He said that that was a very serious and difficult point, but gave no opinion on it. Finding that nothing could be done conclusively, I had only to assure him that I should be ready to meet him whenever he might be prepared, which I hoped would be immediately after the holidays. From what I can discern, I think that there is much reason to believe that Mr. Fox has the best disposition to settle our differences on just principles; but it must be recollected that some other of the members of the cabinet have not always thought with him on such topics. On the most deliberate reflection I am convinced that too much reliance ought not to be placed on these favorable appearances, and that there is cause to fear that if the Congress should separate without adopting a system of coercive policy, calculated to meet the most unfavorable result, their forbearance may contribute to the disappointment of our reasonable expectations. By this, however, I do not wish to imply that measures of the kind alluded to should be carried into prompt execution. I mean only that the attitude should be taken, but its operation be suspended, by suitable powers to the President, till he shall be duly notified that the negotiation has failed. Such a suspension will be deemed a sufficient mark of respect to those in the ministry who are disposed to a fair accommodation, and the attitude will, in my opinion, tend to aid their councils in producing that effect.

I am, sir, with great respect and esteem, your very obedient servant,
 JAMES MONROE.

No. 44.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, *April 3, 1806.*

As it appeared by what occurred in my interview with Mr. Fox on the 28th ultimo, that some weeks at least would elapse before I could hope to bring our business to any conclusion, I thought it proper to make a formal application to him on the 31st, for an order to suspend the seizure and condemnation of our vessels on the principle of the late decrees. I had not requested this in explicit terms before, because I hoped from what passed in our first interview, that the whole affair would have been concluded much sooner. I was fearful, too, that if the demand should be granted, it would become a reason why nothing more should be done. This latter reason, it is true, still remains in some degree in force, if, indeed, it had any weight at first. It was, however, outweighed by the consideration that the seizures were continued, and that I ought not, on a mere speculative point of expedience, as to the effect which such an application might have on the general question, to delay any longer my utmost exertion to put an end to the practice.

There were also some other considerations which prevented my making the application sooner, which had ceased, if they did not furnish motives, for making it in the present stage. The new ministry had a just claim to sufficient time to become acquainted with the merits of the question, and even to sound the Parliament on it, before it could be expected to take any step in the business. Had I made the demand at an earlier period I thought I should incur the imputation of a want of candor, without a reasonable prospect of hastening a decision, unless, indeed, by urging it unseasonably, I might promote an improper one. To Mr. Fox, especially, much attention was due in the mode of proceeding, on account of his character and principles in reference to our country, which are known to be just and liberal. It seemed probable that, by respecting that sentiment towards him in the measures taken, his feelings would be gratified and his mind conciliated, which could not otherwise than produce a good effect. His exertions on topics in which the United States were interested form an important trait in his political life, and it was evident, in our first and subsequent interviews, that he looked back on them with interest and satisfaction. This, therefore, formed a special motive for giving time and acting with delicacy in the business. At this period, however, the application seemed to be free from all these objections, while it had become obviously my duty to make it by the considerations stated in my note.

How the cabinet is disposed in this question it is not in my power to state. Some of its members are known to have differed with Mr. Fox, in respect to the policy of Great Britain towards the United States, on former occasions and in similar cases. It is possible that the spirit of conciliation on which the ministry is formed may be felt in the present one. Every view, however, which I have been able to take of the subject confirms me in the justice of the remarks which were communicated to you in my last of the 31st ultimo.

I enclose you a copy of a letter from Mr. Guillemard, claiming his compensation as fifth commissioner under the treaty of 1794, to the period of the dissolution of the Board, to which I promised to obtain him your answer. I have the pleasure also to send you a copy of my correspondence with the house of Baring & Co., at the instance of General Lafayette, on a subject interesting to him. As they have furnished him the accommodation which he desired, from considerations which cannot fail to be satisfactory to our Government, I hope the President will be disposed to secure, so far as depends on him, their ultimate reimbursement out of the land which has been granted to him by the Congress.

The house of Baring & Co. having lately presented to me a statement of my drafts from the continent, for my support and that of my family there, I have, after deducting a portion of what was on no principle chargeable to the United States, certified a sum which I wished to be allowed in their account with the Government. Other

deductions are still to be made on the same principle, which will diminish the charge to the public, in any view incident to that business. These I propose to make on my return home, and, in the interim, I must stand in the account indebted to the public. You will observe that the salary of the Secretary, his travelling expenses, those of the messenger to Paris, and other charges, are comprised in the statement. I have flattered myself that the same principle, which was applied to Mr. Pinckney ten years past, when the expense of living was much less, would be extended to me. It is far from my intention, however, to make any difficulty on this point, having in truth no right to do it, and, from many considerations very interesting to me, most certainly not the disposition.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

[Enclosure.]

Mr. Monroe to Mr. Fox.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to send him a copy of an American essay containing an examination of the principle on which the Admiralty has lately condemned the vessels of the United States. As this work is written with great ability and candor, Mr. Monroe flatters himself that Mr. Fox will take the trouble to give it an attentive perusal.

Mr. Monroe has been much gratified by the assurances which Mr. Fox has given him in their several interviews of his disposition to adjust the differences between their Governments on the most just and liberal principles. He has high confidence in these assurances and in the prospect they afford of an early accomplishment of their object. In consideration, however, of the great length of time which has elapsed since the commencement of the seizures, and of that which will be required to complete the business, he deems it his duty to submit to Mr. Fox whether it will not be proper that his Majesty's Government should suspend the seizure and condemnation of American vessels on the principle in question. Mr. Monroe presumes that such a suspension, in any case where one of the parties to an amicable negotiation was suffering very extensive injuries under the operation of a principle which they were desirous to adjust, would be proper. In the present one, however, it seems to him to be made peculiarly so by a late decision of the Lords Commissioners of Appeals, in the case of William Trefrey, which confirms the principles of the former decisions, which have been, as Mr. Monroe presumes, so justly complained of by his Government. He apprehends that this decision, unless followed by the suspension proposed, will be considered by the United States and his Majesty's cruisers, as a sanction by the present Government to the policy which has been heretofore pursued. In case His Majesty's Government thinks proper to adopt the measure which is requested, Mr. Monroe hopes that Mr. Fox will be so good as to give him early notice of it, that he may transmit it to his Government without delay.

No. 45.

Mr. Monroe to Mr. Madison.

LONDON, April 18, 1806.

SIR:

I received yesterday a note from Mr. Fox appointing to-morrow (Saturday 19th,) for an interview, with which I shall of course comply. I met him afterwards and had a conversation with him in the Queen's drawing room, which, being of an interesting nature, I hasten to communicate to you. He took me aside, and observed that we must now soon settle our business. I replied, that I hoped he was ready to do it. He intimated that he was so essentially; that we would begin it on Saturday and pursue it without delay until it was concluded. Some remarks of his having led the conversation to the merits of the principal topic, I told him that he must leave us in the enjoyment of the trade in question, and pay us for the property taken. To the first proposition he immediately assented. To the second he said there would be objections. He added that he had taken steps to prohibit the further condemnation of our vessels and cargoes, as I had desired, of which he intended to have informed me by note, but had been prevented by other business; he had no objection, however, still to do it. I cannot be positive whether he said that the prohibition extended also to the seizure of our vessels, though I rather think it did. When I see him to-morrow I shall easily ascertain this. He observed that we must make some arrangements to accommodate them in return; that the practice of buying, or pretending to buy, enemy's vessels, as was done in the north, ought to be suppressed, and he hoped that I would join him in it. I said that we would do all we could to prevent fraudulent practices; that such purchases were rarely made by our citizens, as we were rather sellers than purchasers of ships. He considered it in that light, and I found wished some precedent from us, which might avail him in the north, and make more acceptable at home the accommodation given us in other respects. I left this topic open, having said nothing to compromit myself on it. As the whole of this conversation, though apart, was, nevertheless, in a public room, full of company, it was impossible to make it more precise. I could not therefore attempt to ascertain to what length he was willing to leave the commerce with enemies' colonies free. I shall doubtless collect his idea on that point to-morrow, since it seems best to hear his proposition before I say any thing on it, and I shall not fail in any case to attend to your instruction of January 13th.

I have sent you two copies of a pamphlet, entitled "An Inquiry into the State of the Nation," &c. which is attributed to Lord Holland, and as I presume with reason. It breathes very liberal sentiments towards the United States, and in regard to them, as to other objects, is probably intended to prepare the public mind for the system of policy adopted by the present ministry. It looks towards a general peace and may be written to promote it. Communications have taken place between this Government and that of France lately, which are supposed to touch that subject; but as I know nothing on it which the papers do not contain, it is useless for me to hazard conjectures on facts which are of a general character and equally well known to you.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

P. S. I have also sent you a work of Lord Sheffield's, which treats much on our subject. He appears to have worked himself up to a pitch of great passion, and to misstate facts so obvious to detection, as to allow that apology for it.

The 13th January is the date of the last letter I have from you.

No. 46.

Mr. Monroe to Mr. Madison.

LONDON, April 20, 1806.

SIR:

I have the pleasure to inform you that I had an interview with Mr. Fox yesterday, in which we conferred on all the interesting topics depending between our Governments. The result was as satisfactory in respect to his own views as his more early communications had promised, and gave a prospect more favorable of the disposition of the cabinet generally than I had anticipated. The substance of what passed in our conference of the 17th was fully confirmed in this, and his sentiments on some points on which I had not then clearly understood them were made more explicit. The prohibition mentioned in my letter of the 18th is to be extended to the seizure as well as the condemnation of our vessels, of which he is to give me official notice in a day or two. On the principle, there seems to be no question between us but in respect to the direct trade between the colony and the parent country. To the justice of our claim of indemnity he said little, but I see that it is a point which the ministry will find it difficult to concede, from a variety of considerations. I am, however, not without the hope that it may be placed on a satisfactory footing. He expressed a desire to take up the subject of commerce generally, more especially in respect to the West Indies, the intercourse between which and the United States he thought it important to both countries to arrange at this time. I showed a willingness to meet him on the general subject or any part of it, on which we could agree. The sentiments which he expressed on this and every other subject to which our conversation extended, were of a very liberal kind, and communicated with frankness and candor. He admitted that it ought not to be expected that the United States would allow their productions and resources which were necessary to the existence of the West India colonies, to be drawn from them otherwise than on fair principles of reciprocity. It was finally agreed that he should write me a second letter, which would be in reply to those I had written to Lord Mulgrave, in which he would explain the views of his Government on the subject of them. He promised to write this letter in a week or ten days if not prevented by unexpected events. This letter will of course lay the foundation, on the part of his Government, of the negotiation.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, April 23, 1806.

SIR:

Your last letter bears date on the 12th of February. Those of the 18th October, 11th, 26th November, 11th and 23d December, and 28th January, had been previously received.

Congress adjourned the evening before the last. The gazettes before and herewith sent will give you a general view of the proceedings of the session. As soon as the laws passed shall be ready, a complete copy of them will be forwarded. For the present I enclose only a copy of the act shutting our market, after the 15th November next, against certain articles of British manufacture. Notwithstanding the hope that the new ministers of Great Britain bring into the cabinet dispositions more just and favorable to the United States than their predecessors, it was thought most consistent both with self-respect and with sound policy not to allow a change of persons, without an actual or promised change of measures, to arrest the meditated course of remedial provisions. You will not fail, however, by due explanations, to guard the act against the imputation of motives and views of a nature to excite feelings on the other side, unfriendly to a fair estimate of their true interests. You may with confidence affirm, that a resort to such a manifestation of the sensibility of this country to wrongs so long continued, and of late so grievously extended, has been had with the most sincere reluctance; and that nothing is necessary on the part of Great Britain, to smooth the way to perfect cordiality, and to all the beneficial intercourses of commerce, but a redress, which the United States are willing to limit to the clearest demands of justice and right. As a proof of their solicitude to bring about a final and amicable adjustment of all points in question between the two countries, and of their readiness to establish the principles of navigation and commerce in a form that will extend the latter, and render the former no longer a source of discord, the measure has been adopted of appointing yourself, and Mr. Pinkney, of Baltimore, commissioners extraordinary and plenipotentiary for those purposes. The objects of the appointment, as described in the terms of it, are "to settle all matters of difference between the United States and the united kingdom of Great Britain and Ireland, relative to wrongs committed between the parties on the high seas, or other waters, and for establishing the principles of navigation and commerce between them."

No time will be lost in preparing the instructions for your joint negotiation; and Mr. Pinkney will doubtless not fail to be ready to embark with as little delay as possible.

With great respect, &c.

JAMES MADISON.

No. 47.

Mr. Monroe to Mr. Madison.

LONDON, April 28, 1806.

SIR:

Having waited a week after my interview with Mr. Fox, on the 19th, without receiving either of the communications which he then promised me, I called on him on the 25th to know the cause, and to confer freely again on our affairs, if he should be so disposed. As he anticipated the object of the visit, we soon entered on it. After some introductory remarks on other topics, he began by asking what was the minimum of our demands respecting the seizures? Could we not agree in some modification of our respective pretensions, some compromise? For example, to adopt some plan which might answer our object without compromising his Government. As I perceived that he alluded principally to our claim to an indemnity, I observed, that if the principle was admitted to be with us, the indemnity followed of course. But, says he, cannot we agree to suspend our rights, and leave you, in a satisfactory mode, the enjoyment of the trade? In that case, nothing would be said about the principle, and there would be no claim to an indemnity. I told him that I could not agree to such an adjustment; that the right was unquestionably with us; the injury had been severe and unprovoked, and that we could not abandon our claim in either case. He entered into such a view of the subject as showed a disposition to yield what accommodation he could, in a manner the least objectionable on his part. He did not seem desirous of dis-

curring the question of right, nor did he deny that an indemnity was fairly incident to it. He then asked, how the fact stood relative to the continuity of the voyage? On what ground did the charges rest of the Congress having made regulations to evade the principle insisted on by the Court of Admiralty? I replied, on none whatever; that the question of continuity had never occurred between our Governments; that it was a creature of the Court of Admiralty, who had set it up as doctrine, and supported it by such charges to justify the condemnation; that my Government had never admitted the right in his to impose any restraint on the trade of neutrals with enemies' colonies, other than with the parent country; that his Government had repeatedly admitted and established that claim by the most solemn acts, as had been proved by the documents in his possession; that he must be sensible if my Government was capable, in any case, of passing acts to evade a principle, it would not do it in the present one, where it could only serve to create doubts to the prejudice of the United States, and by giving a new sanction to the former pretensions of his Government, revive a controversy which had been already amicably settled in their favor. I added, that I possessed an official document which fully proved what I had advanced, respecting our regulations, which, with his permission, I would send him; he expressed a desire to receive it. Well, says he, I perceive that your minimum and maximum are the same. I replied, that I did not see how it could be otherwise; that we only sought what was strictly just, and ought not to be desired to relinquish any portion of that. He then proceeded to insist that our vessels which should be engaged in that commerce must enter our ports, their cargoes be landed, and the duties paid on them. I said that such restraints were incompatible with our just rights. He urged, also, that we must unite in a plan to prevent the fraudulent sale and use of enemies' vessels. I was apprehensive that any stipulation on that head might lay the foundation of new disputes. He thought we were interested, as ship-builders, in suppressing such frauds; besides, says he, you must yield something to justify the concessions that are expected from us. I told him that I should be glad to see his project, or that he would answer my letters in such a manner as to lay the foundation of a treaty. He assured me that he would do so as soon as he could, but as he had failed to comply with his former promise, he was afraid to make another as to time, but gave me reason to expect one in a week or ten days. As I had cause to suspect from his remarks on the whole subject, that an order to prohibit the seizure and condemnation of our vessels had not been issued, I asked him explicitly the question. He said that none had been issued; that, in truth, such a step would be to give up the point in negotiation. I inferred, however, that the measures which he informed me, on the 17th and 19th, he had taken for that purpose, were of a nature to produce the desired effect; these are, I suppose, confidential in the cabinet with the Court of Admiralty, &c. The order itself has most probably been withheld for the present, that it might be connected with the general subject, on the principle above adverted to by Mr. Fox. I could not, however, push the inquiry on that point further at the time, from motives of delicacy to him, nor did there appear to be any strong reason for it. I cannot suppose that nothing is done in that respect, and am persuaded that the business is so far advanced, that, if intended, as I presume, the order must soon be issued.

On the day after the interview above mentioned, I sent Mr. Fox a copy of Mr. Gallatin's letter to you, explaining the mode of entering goods and paying the duties on them in the United States, as I had promised. I had not done this to Lord Mulgrave, because the state of the business with him would have given it the air of a concession on my part. I availed myself of the opportunity to state explicitly, that I could not enter into any adjustment which did not provide a reasonable indemnity for injuries. It seemed to me obvious, that that claim formed a principal difficulty in the cabinet; and I was persuaded that it might have a good effect to give him what would be considered the ultimatum on it. I have not heard from Mr. Fox since, though it is presumable that I soon shall, for I do not suspect him of the want of good faith in his communications with me. It is proper, however, to add, that, independent of the real importance of the subject, and the responsibility incident to any concessions which may be made in our favor by the present ministry of the pretensions of the former, circumstances which are likely to inspire caution and create delay in the cabinet, the additional one of his being a member of the House of Commons for the management of the prosecution of Lord Melville, cannot fail to increase it. I shall, nevertheless, do every thing in my power, consistent with propriety, to bring the business to as early a conclusion as possible; and to comprise in the adjustment, in the manner enjoined by my instructions, the important questions respecting our seamen and boundaries.

You will observe, that Mr. Fox insisted, in the late interview, on restricting the trade with enemies' colonies in a greater degree than he had done in the preceding one. I am convinced that this was produced by the cabinet deliberations on the subject; for I am strong in the opinion, that, if left to himself, he would meet in arrangements, which would place the whole business, and, indeed, all our relations, on the most broad and liberal basis; in a firm belief that, by so doing, he would advance the best interests of his country. But he has to consult and accommodate with others, some of whom may, perhaps, not entertain, in all respects, the same sentiments, or be equally prepared to encounter in a new scheme of policy ancient and deep-rooted prejudices. When I get his answer, I may remind him of his former concession in this respect, if it should appear that any advantage was likely to result from it. I shall not fail, however, to pay great attention to this particular object, and will certainly not agree to any restraint on the trade which can be avoided, or is likely to be disapproved by the President.

I am, sir, with great respect and esteem, your very obedient servant,

JAS. MONROE.

[Enclosed in Mr. Monroe's of 28th April, 1805.]

Mr. Monroe to Mr. Fox.

PRINCE'S STREET, April 26, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to enclose him a copy of the official document mentioned in their interview of yesterday, being a letter from the Secretary of the Treasury to the Secretary of State, explaining the manner in which duties are paid on goods imported into and exported from the United States. Mr. Fox will find by this document that the regulations respecting that subject are uniform, and applicable to all articles exported, and that they were not adopted to favor any particular commerce, as has been erroneously supposed. Mr. Fox will be the more sensible of this fact when he recollects that the Government of the United States never admitted the right in Great Britain to inhibit the commerce in question; that, on the contrary, it had concluded, on the highest possible evidence, as is proved by the papers in Mr. Fox's possession, that Great Britain had relinquished the pretension.

Mr. Monroe considers it his duty to observe to Mr. Fox, that as his Government thinks itself entitled to the commerce referred to, and that the citizens of the United States have been injured by the attack which has been made on it by His Majesty's cruisers and privateers, under circumstances, too, that were peculiarly calculated to inspire a confidence in their security, his instructions forbid his entering into any adjustment which does not look to

the object of a reasonable compensation. He makes this communication with candor, in the hope that Mr. Fox will take it into consideration in the answer which he has been so good as to promise him at an early day.

Mr. Monroe flatters himself that His Majesty's Government will be animated by a sincere desire to meet the Government of the United States in such an arrangement as will establish the relations of the two countries on a ground of permanent friendship, and that it will be of opinion, independent of the satisfaction to be derived from rendering justice to a friendly Power which it has injured without provocation, that the recompense due to the sufferers is but a trifling consideration when compared with so great a national object. Mr. Monroe hopes that Mr. Fox will see the propriety of placing this business in his answer on such grounds as may promise a satisfactory adjustment of it, and for the reasons stated in his note of the 31st ultimo, that his Majesty's Government will not hesitate in the present stage to prohibit the further seizure and condemnation of American vessels on the principle in question.

Extract.—Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *May 15, 1806.*

SIR:

Since my last of the 23d of April, I have received your several letters of the 20th February and 11th March.

This will be put into the hands of Mr. Pinkney, whose appointment jointly with you, by a commission extraordinary, has been already communicated, and who proceeds to London with the powers and instructions for carrying the joint commission into effect. This you will find embraces a larger field of negotiation and convention than fell within the instructions heretofore given you in your capacity of minister plenipotentiary alone. The commission extraordinary, therefore, will not be without important objects, even if those previously committed to yourself should fortunately have been obtained. Mr. Pinkney carries with him also a commission and letter of credence as your successor, in case you should persist in your intention of returning after the occasion which suspended it shall be over. A letter of farewell also for yourself goes by him, of the same provisional character.

As the joint commission does not include the subject of the convention of limits not yet acceded to by Great Britain, as varied by the Senate here, it will remain with you alone, or your successor, to continue the endeavors to bring that business to a conclusion. If any repugnance should be shown to the erasure of the fifth article as proposed by the Senate, and thereby leaving unsettled for the present the boundaries in the northwest quarter of the Union, and preference should be given to a proviso against any constructive effect of the Louisiana convention on the intention of the parties at the signature of the depending convention, you may concur in the alteration with a view to bring the subject in that form before the ratifying authority of the United States.

I must observe to you, however, that either another proviso, or a clear understanding to the same effect, or at least an understanding that the question is open for future settlement, will be proper in order to supersede pretensions which the British Government may otherwise found on their possession of the island of Grand Menau, and the silence of the instrument with respect to it. This island is of considerable extent, is clearly within the general limits of the United States as fixed by the treaty of peace, and is understood not to be within the exception made by the treaty of islands appurtenant to Nova Scotia, since all such islands must be either west, east, or north of the coast of that province, and within six leagues thereof; whereas the island of Grand Menau is nearly due south of the nearest part of the coast, and is either in the whole, or with the exception of a mere point, beyond the distance of six leagues. No just title can therefore be alleged on the British side, and care would have been taken to guard against a pretended one, by a clause to that effect, if the facts of British settlement and the exercise of British jurisdiction had been known at the time. The documents now transmitted will sufficiently explain the subject, and enable you to annex a proper clause to the convention. One of these documents will give you a view, at the same time, of a late case in which an American vessel, bringing plaster of Paris from Nova Scotia to the United States, was condemned. In strictness of law the condemnation may have been not objectionable, but considering the continuance of the trade for a length of time, and the official sanction added to the usage, the case makes a very strong appeal to the equity and liberality of the British Government. The dependence of the British settlements in that quarter on supplies from the United States more essential to them than plaster is to us, suggests other considerations not unworthy of attention. These, however, will be brought most advantageously into view in one of the branches of the joint negotiation.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary to the United States in London.

DEPARTMENT OF STATE, *May 17, 1806.*

GENTLEMEN:

I herewith enclose a commission and letters of credence, authorizing you to treat with the British Government concerning the maritime wrongs which have been committed, and the regulation of commerce and navigation between the parties. Your authority is made several as well as joint, as a provision for any contingency depriving either of the co-operation of the other.

The importance of the trust is evinced by its being made the occasion of an extraordinary mission as well as by the subjects which it embraces. And I have great pleasure in expressing the confidence which the President feels in the prudence and talents to which the business is committed.

It is his particular wish that the British Government should be made fully to understand that the United States are sincerely and anxiously disposed to cherish good-will and liberal intercourse between the two nations; that an unwillingness alone to take measures not congenial with that disposition has made them so long patient under violations of their rights and of the rules of a friendly reciprocity; and when forced at length by accumulating wrongs to depart from an absolute forbearance, they have not only selected a mode strictly pacific, but, in demonstration of their friendly policy, have connected with the measure an extraordinary mission, with powers to remove every source of difference, and even to enlarge the foundations of future harmony and mutual interest.

There can be the less ground of umbrage to the British Government in the act, prohibiting the importation of certain articles of British manufacture, 1st. Because there is nothing on the face of the act beyond a mere commercial regulation, tending to foster manufactures in the United States, to lessen our dependence on a single nation by the distribution of our trade, and to substitute for woollens and linens manufactures made from one of principal agricultural staples. 2dly. Because it is far short of a reciprocity, with British exclusions of American articles of export. 3d. Because, as a commercial measure discriminating in time of war between British and other nations, it has examples in British practice. It deserves attention, also, that a discrimination was made, and under another

name still exists, in the amount of convoy-duty imposed on the trade between Great Britain with Europe and with America. 4th. Because the measure cannot be ascribed to a partiality towards the enemies of Great Britain, or to a view of favoring them in the war; having for its sole object the interest of the United States, which it pursues in a mode strictly conformable to the rights and the practice of all nations.

To observations of this kind it may be useful to add that the measure was undertaken before the late change in the British ministry, and does not therefore imply any particular distrust of the views of the new one, but merely a belief that it was most consistent with self-respect not to be diverted by an occurrence of that nature from a ground which had been deliberately and publicly assumed; not to mention that no assurances sufficiently decisive had been received, that a disposition to correct the evil in question predominated in the present cabinet, whilst it was known that some of its most distinguished members have heretofore been among the warmest champions of the maritime doctrines in which those evils have their origin.

In one respect the act may even be favorable to the objects of the present cabinet, if it should be disposed to make unpopular concessions refused by their predecessors, since concessions alone can now regain a lost market for certain important and popular classes of British manufactures.

In fine, the act may truly be represented as so far from derogating from the amicable dispositions of the United States towards Great Britain, that it has resulted solely from the inefficacy of their protracted and reiterated endeavors otherwise to obtain a just redress, and from a hope that an appeal, in this peaceable form, to the reflections and interests of an enlightened nation would be more successful in removing every obstacle to a perfect and permanent cordiality between the two nations.

The instructions given to Mr. Monroe, January 5, 1804, having taken into view, and being still applicable to a great proportion of the matter now committed to your joint negotiations, it will be most convenient to refer you to those instructions as your general guide, and to confine the present to the alterations and additions, which a change of circumstances, or a contemplation of new objects, may require.

The first article of the project comprised in the instructions of 1804 relates to the impressment of seamen. The importance of an effectual remedy for this practice derives urgency from the licentiousness with which it is still pursued, and from the growing impatience of this country under it. So indispensable is some adequate provision for the case, that the President makes it a necessary preliminary to any stipulation requiring a repeal of the act shutting the market of the United States against certain British manufactures. At the same time he authorizes you, in case the ultimatum, as stated in the article above referred to, should not be acceptable to the British Government, to substitute one in the terms following: "No seamen nor seafaring persons shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships or men of war, belonging to or in the service of the other party; and strict orders shall be given for the due observance of this engagement."

An article in these terms was, with the acquiescence of Lord Hawkesbury and Mr. Addington, concerted between Mr. King and Lord St. Vincent, on the approaching renewal of the late war. It was frustrated by an exception of the "narrow seas," inserted by Lord St. Vincent; an exception so evidently inadmissible both in principle and in practice, that it must have been intended as a pretext for evading the stipulation at that time. Perhaps the present ministry may neither be disposed to resort to such a pretext, nor unwilling to avail themselves of the precise sanction as far as it was given by their predecessors.

With respect to contraband, which is the subject of the fourth article, it may be observed, that as it excludes naval stores from the list, and is otherwise limited to articles strictly military, it must, if admissible to Great Britain, leave but feeble objections to an abolition of contraband altogether. In the present state of the arts in Europe, with the intercourse by land, no nation at war with Great Britain can be much embarrassed by leaving those particular articles subject to maritime capture. Whilst belligerent nations, therefore, have little interest in the limited right against contraband, it imposes on neutrals all the evils resulting from suspicious and vexatious searches, and from questions incident to the terms used in the actual enumeration. It is not an unreasonable hope, therefore, that, in place of this article, an entire abolition of contraband may be substituted. Should this be found unattainable, it may be an improvement of the article as it stands to subjoin, for the sake of greater caution, to the positive enumeration a negative specification of certain articles, such as provisions, money, naval stores, &c. as in no case to be deemed within the meaning of the article, with a proviso that the specification shall not be construed to imply in the least that any articles not specified in the exception shall on that account be liable to be drawn into question.

A doctrine has been lately introduced by the British courts, and at length adopted by the instructions of June, 1803, to British cruisers, which regards contraband conveyed in one voyage as affecting a resumed or return voyage, although the contraband shall have been previously deposited at its port of destination. It will be a further improvement of the article to insert a declaratory clause against this innovation and the abuses incident to it.

The fourth article, besides the stipulation on the subject of contraband, relates to two other subjects: 1st, That of free ships free goods; 2d, That of a trade with enemies' colonies.

1st. With respect to the first, the principle that a neutral flag covers the property of an enemy is relinquished, in pursuance of the example of the Russian treaty, on which the article is modelled; the relinquishment, however, being connected with and conditioned on the provision required in favor of the neutral right to the colonial trade. The importance of that principle to the security of neutral commerce and to the freedom of the seas has at all times been felt by the United States; and, although they have not asserted it as the established law of nations, they have ever been anxious to see it made a part of that law. It was with reluctance, of course, that a contrary stipulation was authorized, and merely as a means of obtaining from Great Britain the recognition of a principle now become of more importance to neutral nations possessing mercantile capital than the principle of "free ships free goods." It is to be particularly kept in view, therefore, that such a contrary stipulation is to be avoided, if possible; and if unavoidable, that the stipulation be so modified as to interfere as little as possible with the spirit and policy of any provisions in favor of the principle which may be likely to be introduced into a treaty of peace among the present belligerent Powers of Europe. Should it be known that Russia as well as France mean to insist on such a provision, and that such a stipulation by the United States, however modified, will materially affect her confidence and good-will towards them, the objection to the measure will acquire a force that can yield only to the consideration that, without such a sacrifice, the provisions for the security of our seamen and of our neutral commerce cannot be obtained, and that the sacrifice will effectually answer these purposes.

2d. The vast importance of the colonial trade, with the circumstances and the excitement which have taken place since the date of the original instructions to Mr. Monroe, will require that the neutral right on this subject be provided for in an appropriate article, and in terms more explicit than are used in the article under review. As the right in this case turns on the general principle that neutrals may lawfully trade, with the exceptions of blockades and contraband, to and between all ports of an enemy, and in all articles, although the trade shall not have been open to them in time of peace, particular care is to be taken that no part of the principle be expressly or virtually abandoned, as being no part of the law of nations. On the contrary, it is much to be desired that the gene-

ral principle, in its full extent, be laid down in the stipulation. But as this may not be attainable, and as too much ought not to be risked by an inflexible pursuit of abstract right, especially against the example and the sentiments of great Powers having concurrent interests with the United States, you are left at liberty, if found necessary, to abridge the right in practice, as is done in the supplement of October, 1801, to the treaty of June of that year between Russia and Great Britain; not omitting to provide that, in case Great Britain should, by her treaties or instructions, leave to any other nation the right in a greater extent than it is stipulated to the United States, they may claim the enjoyment of it in an equal extent.

The abuses which have been committed by Great Britain, under the pretext that a neutral trade from enemy colonies, through neutral ports, was a direct trade, render it indispensable to guard against such a pretext by some express declaration on that point. The most that can be conceded on the part of the United States is, that the landing of the goods, the securing the duties, and the change of the ship, or, preferably, the landing of the goods alone, or with the securing the duties, shall be requisite to destroy the identity of the voyage and the directness of the trade; and that the ordinary documents of the customhouse officers shall be sufficient evidence of the facts or fact.

A satisfactory provision on this subject of a trade with enemy colonies is deemed of so much consequence to the rights and interests of the United States, and is so well understood to have been contemplated, along with a like provision against the impressment of seamen, in the late act of Congress prohibiting the importation of certain classes of British manufactures, that, as was enjoined with respect to the provision against impressment, no stipulation is to be entered into not consistent with a continuance of that act, unless the provision with respect to the colonial trade be also obtained.

In remodelling the provision with respect to the colonial trade, you may, with great propriety, urge a distinction between the West India colonies and the very distant ones in the East Indies, and elsewhere, and the reasonableness of limiting to the former the exception of the direct trade with their parent countries out of the general neutral right. The distinction is supported by several considerations, particularly by the greater difficulty in the case of the more distant colonies, of previously knowing, and eventually proving, the regulations as they may have actually stood in time of peace, and by the ruinous delays and expenses attending the judicial investigations. The British courts have, in fact, admitted the distinction so far as to presume the lawfulness of the neutral trade with the East India colonies, as being generally open in peace as well as war, whilst they reverse the presumption with respect to the West Indies.

In addition to what is proposed on the subject of blockades in the sixth and seventh articles, the perseverance of Great Britain in considering a notification of a blockade, and even of an intended blockade, to a foreign Government, or its ministers at London, as a notice to its citizens, and as rendering a vessel, wherever found in a destination to the notified port, liable to capture, calls for a special remedy. The palpable injustice of the practice is aggravated by the auxiliary rule prevailing in the British courts, that the blockade is to be held in legal force until the Governmental notifications be expressly rescinded, however certain the fact may be that the blockade was never formed, or had ceased. You will be at no loss for topics to enforce the inconsistency of these innovations with the law of nations, with the nature of blockades, with the safety of neutral commerce, and particularly with the communication made to this Government by order of the British Government in the year 1804, according to which, the British commanders and Vice-admiralty courts were instructed not to consider any blockade of the islands of Martinique and Gaudaloupe as existing, unless in respect of particular ports which may actually be invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them.

The absurdity of substituting such diplomatic notifications in place of a special warning from the blockading ships, cannot be better illustrated than by the fact, that before the notification of a proposed blockade of Cadiz, in the year 1805, was received here from our minister at London, official information was received from Cadiz that the blockade had actually been raised by an enemy's fleet.

It may be worth your attention that a distinction has been admitted by the British prize courts, in consideration of the distance of the United States from the European blockades, between their citizens and those of States less distant; the notice required for the former, being more positive than is made necessary for the latter. You will be able to avail yourselves in the discussion, and perhaps in the modification of the article, of the reasons on which such a distinction rests.

The instructions in the hands of Mr. Monroe are silent with respect to convoys. If the footing on which the neutral right on that subject is placed by the Russian and British treaty of 1801, can be turned to advantage in your negotiations, and should be understood to coincide with the present way of thinking of Russia, and other maritime Powers, an article corresponding with the regulations in that treaty may be admitted. But as the United States are not in the practice of convoying their trade, nor likely to be so within the period of any stipulation now to be made, and as the progress of opinion is rather favorable than discouraging to the enlargement of neutral rights, it is not, in a general view, desirable that any stipulation, such as Great Britain will probably admit, should, at this time, be entered into. In whatever arrangement on the subject, limiting the protecting right of public ships of war, may be deemed expedient, you will be careful so to express the limitation that it may be applied to the exercise of the right without affecting the abstract right itself.

There remains, as an object of great importance, some adequate provision against the insults and injuries committed by British cruisers in the vicinity of our shores and harbors. These have been heretofore a topic of remonstrance, and have, in a late instance, been repeated with circumstances peculiarly provoking, as they include the murder of an American seaman within the jurisdictional limits of the United States. Mr. Monroe is in full possession of the documents explaining a former instance. Herewith will be received those relating to the late one. They not only support a just demand of an exemplary punishment of the offenders, and of indemnity for the spoiliations, but call for some stipulations guarding against such outrages in future. With this view, it is proper that all armed belligerent ships should be expressly and effectually restrained from making seizures or searches within a certain distance from our coasts, or taking stations near our harbors commodious for those purposes.

In defining the distance protected against belligerent proceedings, it would not, perhaps, be unreasonable, considering the extent of the United States, the shoalness of their coast, and the natural indication furnished by the well defined path of the Gulf stream, to expect an immunity for the space between that limit and the American shore. But at least it may be insisted that the extent of the neutral immunity should correspond with the claims maintained by Great Britain, around her own territory. Without any particular inquiry into the extent of these, it may be observed, 1st. That the British act of Parliament in the year 1736, 9 G. II. c. 35, supposed to be that called the Hovering Act, assumes, for certain purposes of trade, the distance of four leagues from the shores. 2d. That it appears that, both in the reign of James I, and of Charles II,* the security of the commerce with British ports was provided for by express prohibitions, against the roving or hovering of belligerent ships so near the neutral harbors and coasts

* See L. Jenkins, vols. 1 and 2.

of Great Britain, as to disturb or threaten vessels homeward or outward bound, as well as against belligerent proceedings generally, within an inconvenient approach towards British territory.

With this example, and with a view to what is suggested by our own experience, it may be expected that the British Government will not refuse to concur in an article to the following effect:

"It is agreed that all armed vessels belonging to either of the parties engaged in war, shall be effectually restrained by positive orders, and penal provisions, from seizing, searching, or otherwise interrupting or disturbing vessels to whomsoever belonging, whether outward or inward bound, within the harbors or the chambers formed by headlands, or any where at sea, within the distance of four leagues from the shore, or from a right line from one headland to another; it is further agreed, that, by like orders and provisions, all armed vessels shall be effectually restrained by the party to which they respectively belong, from stationing themselves, or from roving or hovering so near the entry of any of the harbors or coasts of the other, as that merchantmen shall apprehend their passage to be unsafe, or in danger of being set upon and surprised; and that in all cases where death shall be occasioned by any proceeding contrary to these stipulations, and the offender cannot conveniently be brought to trial and punishment under the laws of the party offended, he shall, on demand made within ——— months, be delivered up for that purpose."

If the distance of four leagues cannot be obtained, any distance not less than one sea league may be substituted in the article. It will occur to you that the stipulation against the roving and hovering of armed ships on our coasts so as to endanger or alarm trading vessels, will acquire importance as the space entitled to immunity shall be narrowed.

Another object not comprehended in the instructions of 1804 to Mr. Monroe, is rendered important by the number of illegal captures and injuries which have been committed by British cruisers since that date. An indemnity for them is due on every consideration of justice and friendship, and is enforced by the example heretofore given by Great Britain herself, as well as by other nations which have provided by treaty for repairing the spoiliations practised under color of their authority. You will press this as an object too reasonable not to be confidently expected by the United States; many of the claims, indeed, for indemnification, are so obviously just, that a refusal to satisfy them cannot be decently made, and ought not, therefore, to be presumed.

The two modes most readily presenting themselves, for a comprehensive provision for the claims, are, first, the establishment of a board analogous to that provided for in the 7th article of the treaty of 1794; secondly, the substitution of a gross sum to be distributed among the claimants according to a liquidation to be made under the authority of the United States.

The second is the mode most eligible, if the gross sum to be allowed be thought to approach the amount of losses to be indemnified. To assist you in estimating these, the statements addressed to this department by the underwriters and others, are herewith transmitted. These statements, with those furnished by Mr. Lyman, to November 1, will have to be reduced according to the redress which shall have been judicially afforded, and on the other hand to be augmented by the addition of cases not reported here, and to be collected from the sources of information within your own reach.

If the first mode should be adopted, great care will be requisite, in describing the cases, to employ such general terms as will comprehend all that are fairly entitled to redress. It will be well at the same time to secure, by specifying, such of the cases as can be specified, and as are least susceptible of objection. Under this head may be classed, 1st. Cases in which the official communication made by Lord Hawkesbury to Mr. King, of the 11th day of April, 1801, has been violated. 2d. Cases in which the rules of blockade, stated in Mr. Merry's communication to the Department of State, on the 12th day of April, 1804, have been violated. 3d. Cases where the territorial jurisdiction of the United States has been violated.

The list of neutral rights asserted in the report of the Secretary of State to the President, on the 25th day of January, 1806, will suggest other specifications which may be attempted. It may be worth recollecting that the British order of Council, bearing date 24th June, 1803, and subjecting to capture vessels on a return voyage which had carried contraband in the outward voyage, was never promulged, nor was it known that such a rule was to be enforced until the summer of 1805. Could the rule be regarded otherwise than as it certainly is, an innovation on the law of nations? All captures before it was made known, and contrary to antecedent practice, would be marked by an unjust surprise, fairly entitling them to redress.

The business to come before such a Board may be much diminished by the reference of cases, particularly of costs and damages, and such others, whose description, by common consent, entitles them to redress, to the King's advocate, and an advocate to be named on your part, who may be authorized to report the sums due, subject to the approbation, in each case, of Mr. Lyman, our agent. As far as the cases fall within the observation here made, a liquidation of them may be carried on during the period of negotiation.

Although the subject of indemnifications for past wrongs is to be pressed as of great magnitude in a satisfactory adjustment of our differences with Great Britain, yet, as the British Government may be inflexible in refusing an arrangement implying that her maritime principles of capture were contrary to the law of nations, whilst she would not be inflexible in stipulating a future practice conformable to our wishes, it is not thought proper that a provision for indemnities should be an absolute condition of the repeal of the act of Congress concerning British manufactures, provided satisfactory arrangements shall be made relative to impressments, and the trade with enemies' colonies. Still, however, it is to be kept in view, that there are claims founded on acts of British cruisers violating the law of nations, as recognized by Great Britain herself, and others founded on unexpected departures, without notice, from rules of practice deliberately settled, and formally announced. Of these examples have been referred to in the communication of Lord Hawkesbury to Mr. King, and of Mr. Merry to the Department of State.

With respect to claims of these several kinds, it is evident that provision is clearly due for them, and that it may be made without any implication which can alarm the pride, or the caution which may be professed. You will not fail, therefore, to bring, if necessary, these claims into view, as distinguished from others founded on controverted principles, and to let it be understood, that a refusal of them will be a painful ingredient in the negotiations for extinguishing discontents on both sides, and consolidating and perpetuating the friendship between them. In case this distinction should operate in the adjustment, it will furnish an additional reason for preferring a gross sum to the liquidations of a joint Board: First, because it will admit of a liberal sum, if the British Government should be liberally disposed, on presumptions not affecting her maritime principles. Secondly, because it will leave the United States free to apply the gross sum in redressing claims according to our maritime principles. A precedent for such an expedient may be found in the convention of January, 1756, between Great Britain and Prussia, whereby a gross sum of twenty thousand pounds sterling was paid to the latter as an extinguishment of claims on account of illegal captures, without reference to the precise rules by which it was to be applied. The treaty of Pardo, in January 1739, between Great Britain and Spain, is another precedent. In that treaty the sum of ninety-five thousand pounds sterling was stipulated, in the like general manner, to be paid to Great Britain by Spain, as a compromise for all reparations of maritime injuries.

If the United States succeed in making satisfactory arrangements on the principal points of impressments of seamen, colonial trade, and still more, if provision be also made for indemnity for spoliations, it may be naturally expected that Great Britain will require, not only the repeal of the prohibitory act of last session, but also some security that the United States will not, by subsequent acts of the same nature, place her on a worse footing than other nations. She may reasonably urge that demand, on the double plea of having yielded on those points which were the subjects of complaint on the part of the United States, and of her being now, for want of a commercial treaty, placed in that respect at the discretion of the United States; whilst they are precluded by their treaties with the enemies of Great Britain (Holland, France, and Spain) from the power of laying prohibitions or restrictions particularly affecting those nations.

The most natural arrangement in that respect will be simply to agree that the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favored nation. But the article should be framed so as to embrace, first, every privilege, and particularly the exemption from higher duties of every description, either on exports or imports, and including convoy duties, that are paid by the most favored nation. Secondly, all the possessions of Great Britain, in every part of the world; which will secure admission at all times in both the East and West Indies, on the same terms as are now, or may in future be, enjoyed by the most favored nation, whether it be a friend or an enemy.

The same clause of the footing of the most favored nation may be extended, not only to navigation and commercial intercourse between the two nations, but to points which relate to the rights and duties of belligerents and neutrals: an arrangement which would secure to Great Britain the same right in relation to the admission of her armed vessels in our ports, and to the exclusion of her enemies' privateers and of their prizes, which are now enjoyed by Holland, Spain, and other most favored nations; whilst it would place the rights of the United States, as neutrals, on the same footing with Russia, or the most favored nation, in respect to search, convoys, blockades, and contraband.

If it shall be thought eligible to place the reciprocal commercial privileges of the two nations on a more definite basis than they would be placed by the general expression of the most favored nation, (a stipulation which is liable to the difficulty of ascertaining the equivalent to be given in cases where a privilege is granted by one of the contracting parties to another nation, in exchange for some favor which the other contracting party cannot specifically give,) it may be done either by abolishing all alien duties, either on vessel or cargo, or both, and reciprocally placing the vessels of the other nation on the same footing with national vessels, conformably to a provision in which Great Britain concurred by an act of Parliament in the year 1802, or by fixing the maximum of alien duty which each nation shall have the right to impose on the vessels or cargoes of the other nation. But should the last plan be adopted, care must be taken, 1. That, in fixing the maximum of the alien duty to be levied on vessels, all charges whatever, and under whatever name known, whether tonnage, light-house money, port charges, &c. shall be included. 2. That the maximum of the alien duty to be levied on merchandise imported in the vessels of the other nation (beyond the duties levied on similar articles imported in the national vessels) shall be a per centage on the value of the merchandise itself, and not on the original duty. 3. That the right of imposing such maximum duties, either on the vessels or merchandise, shall never be exercised so as to contravene the other stipulation of enjoying the privileges of the most favored nation. 4. That the stipulation shall not embrace vessels and cargoes coming from or going to ports from which the vessels or cargoes of the United States are excluded.

Should the expedient of a maximum be adopted, it must not be overlooked that the productions of the United States exported to Great Britain employ a far greater tonnage than the exports from Great Britain to the United States; that the higher the maximum, therefore, the more favorable to Great Britain, who may avail herself, according to the degree of it, to secure to her vessels the carriage of our bulky productions, of which her duty on tobacco imported in American vessels is an example, leaving to the United States the opportunity only of securing to their vessels the carriage of her unbulky exports; and that, consequently, no maximum ought to be admitted more unfavorable to the United States than the regulations likely to prevail, if uncontrolled by treaty. A mutual abolition of alien duties would probably be favorable to the navigation of the United States, which would then have to contend on equal terms with British navigation, for which it may be expected to be a match at least at all times, and more than a match when Great Britain is at war, which is not less than half the time.

The only great branch of commercial intercourse which would remain unprovided for, is that of intercourse with the British colonies and dependencies; and if nothing can be obtained on that ground, care also must be taken, in framing the article, for reciprocally enjoying the privileges of the most favored nation, not to deprive the United States of the right of making such regulations as they may think proper, in relation to vessels coming from ports from which their own vessels are excluded, or in relation generally to the intercourse with such ports.

As the United States confer no particular benefit on the British possessions in the East Indies by their intercourse with that country, it can hardly be expected that Great Britain will grant any thing more than the general stipulation to be placed on the footing of the most favored nation; or possibly a stipulation to the United States of the privileges heretofore granted to foreigners; which, in relation to the country trade, and the trade from India ports to all foreign countries, as well as that owning the vessel, exceeded the privileges stipulated in the treaty of 1794. But, as relates to the West Indies and North American colonies, it must be a permanent object of the United States to have the intercourse with them made as free as that with Europe. The relative situation of the United States and those colonies, and particularly those wants which we can alone supply, must necessarily produce that effect at some no very distant period. And it should not be voluntarily retarded, either by abandoning by treaty the strong hold which our right of stopping the intercourse gives us, or by accepting any temporary or trifling privilege, the exercise of which would diminish the probability of soon obtaining a perfectly free trade.

It is not probable that Great Britain will be disposed to open the intercourse to our vessels with her North American colonies; nor does it appear that any limitation or restriction can be offered by the United States calculated to quiet the apprehension of Great Britain, that to open the trade to our vessels would destroy their own. It is not perceived that any thing else can be proposed but perfect reciprocity, as is contemplated in relation to the intercourse between the United States and the British dominions in Europe; such reciprocity to consist either of a total abolition of alien duties, or of a fixed maximum as above stated; and the intercourse to be also either general, or confined to articles of the growth, produce, or manufacture of the United States and of the said colonies, respectively. It must not be forgotten, as relates to our commerce with Nova Scotia and New Brunswick, that, however advantageous to both parties, it is more beneficial to the United States than to those colonies. The importance of not less than thirty, perhaps fifty thousand tons of plaster to our agriculture, needs no comment; and, notwithstanding our exclusion from their ports, we have, in fact, as the trade has hitherto been carried on, a greater share of it than themselves. This, however, is the result of a connivance in practice, which may possibly be withdrawn. The produce of their fisheries is brought by them from Halifax to Boston, and by us from Boston carried to the West Indies. Their plaster is brought by them from Fundy Bay to Maine, and by us from Maine to New York,

Philadelphia, and the Chesapeake. A strong jealousy seems to exist between the shipping interest of Massachusetts and that of those colonies. Hence the wish of their legislative assemblies to prohibit the exportation of plaster in their own vessels to our Eastern ports; and hence the law which laid the lighthouse-money tax, and a high duty on their fish, taking away, at the same time, the drawback on the re-exportation of such fish. An enlightened policy, and a mutual wish to promote the real interest and welfare of the inhabitants on both sides, should induce both Governments to throw the trade perfectly open. But it cannot be denied that it will give us a very great share of their carrying trade.

The minimum which should be accepted in relation to the intercourse with the West Indies, will be the admission of our vessels laden solely with articles of our growth, produce, or manufacture, the importation of which in British vessels is not prohibited, on the same terms as British vessels solely laden with the colonial articles shall be admitted in our ports; that is to say, either without alien duties, or with a fixed maximum of such alien duties, with the two following restrictions: 1st. That Great Britain may prohibit our vessels from exporting from the British West India islands, in sugar and coffee, more than one-half of the proceeds of their inward cargoes. 2dly. That such sugar and coffee shall be exported only to the United States, or that the vessels thus admitted in the West Indies shall be obliged to return and land their cargoes in the United States; provided they may, however, on their return, touch at any other West India island, or the Bahamas, to complete their cargo. For it is usual to carry the specie which proceeds from the sale of a cargo in the West Indies to Turk's Island or the Bahamas, and there load with salt for the United States. Although these restrictions, and particularly the first, be inconvenient, yet they may be acquiesced in. As respects the first restriction, the value of our average exportations to the British West India islands being six millions of dollars, and our exportations from thence, in every article, (sugar and coffee excepted,) being three millions of dollars, the privilege of bringing in return, in sugar and coffee, one-half of the value of our exportations, will just complete the return cargoes. But it would be desirable that the restriction should be altogether dispensed with, or that Great Britain should allow the exportation in those two articles to the amount of two-thirds or three-fourths of the value of our cargoes. As relates to Great Britain, if she once yields the point of admission, the restrictions which are proposed seem to be amply sufficient to remove her minor objections. We now import, notwithstanding the nominal prohibitions to some amount in American vessels, about one million and a half dollars, being the whole amount imported from the British islands in both American and British vessels. The value of our average importations from all the world is, in sugar, seven millions eight hundred thousand; in coffee, eight millions four hundred thousand; or more than sixteen millions of dollars. The value of our annual consumption, exclusively of the New Orleans sugar, is, in sugar, four millions; in coffee, one million five hundred thousand, or five and a half millions of dollars.

To permit us, therefore, to import for three millions, cannot enable us to re-export. And three millions of dollars compared with the value of the sugar and coffee exported annually from the British West Indies, which amounts to not less than — millions, cannot in any degree affect their own commerce or navigation.

The second restriction is intended still more effectually to remove any apprehension that our vessels might become carriers of British West India produce to any other country than the United States. And it may even, if insisted on, be further agreed that no drawback shall be allowable on the re-exportation of those articles imported from the British West Indies in American vessels; provided, however, that on that condition the first mentioned restriction limiting the quantity which may be thus imported from the British West Indies in American vessels, shall be dispensed with. The utmost care is to be taken in framing the restriction on re-exporting from the United States the produce of the British West Indies imported in American vessels, so to express it as to leave no possible pretext for applying the restriction to any similar articles, whether produced within the United States or imported from any other than British possessions.

It will be a reasonable stipulation on the part of Great Britain, that, at all times and places at which the trade of the United States is admitted generally or partially, the residence of consuls and factors shall also be admitted.

The duration of the commercial part of the treaty, and of any other parts which do not establish in their full extent the rights of neutral nations, ought not to exceed the term of eight years; and an abridgment even of that term may perhaps be rendered expedient by the tenor of articles not inconsistent with these instructions.

I have the honor to be, gentlemen, &c.

JAMES MADISON.

No. 48.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, May 17, 1806.

After my interview with Mr. Fox, on the 25th ultimo, I waited a fortnight without hearing from him. This new instance of delay surprised me, because he had shown a sensibility to the former one, and did not seem aware of the necessity of adding to it. Independent of the general object, the war with Prussia, and the blockades incident to it, the doctrine and practice respecting which it was necessary to arrange, furnished a new motive for a communication with him. On mature reflection, I thought it best to call informally, which I did on the 11th, with a view to enter on these topics in the familiar manner I had heretofore done. Mr. Fox was at the office, but did not receive me. He sent the expression of his regret at not being able to do it, being, as he said, just going to attend the cabinet, who were waiting for him. I called again on the 13th, and experienced the same result, though I had left word that I should then be there. I was informed, by his desire, that a summons from the King, to attend him at the palace, prevented his receiving me on that day. I met him, on the 15th, at the drawing room, but had no opportunity of speaking to him. Sir Francis Vincent, the First Under Secretary of State, being acquainted with my desire, promised to arrange with him an interview, and to inform me of it. These are the only circumstances worthy of notice which have occurred here since my last, till to-day. I mention them that you may be better enabled to judge correctly, in all respects, of the light in which the incident of this day ought to be viewed. Early this morning I received from Mr. Fox a note, of which a copy is enclosed, which you will perceive embraces explicitly a principal subject depending between our Governments, though in rather a singular mode. A similar communication is, I presume, made to the other ministers, though of that I have no information. The note is couched in terms of restraint, and professes to extend the blockade further than was heretofore done; nevertheless it takes it from many ports already blockaded; indeed, from all east of Ostend, and west of the Seine, except in articles contraband of war and enemy's property, which are seizable without a blockade. And in like form of exception, considering every enemy as one Power, it admits the trade of neutrals within the same limit to be free in the productions of enemies' colonies, in every but the direct route between the colony and the parent country. I have, however, been too short a time in possession of this paper to trace it in all its consequences in regard to this question. It cannot be doubted that the note was drawn by the Government in reference to the question; and, if intended by the cabinet as a foundation on which Mr. Fox is authorized to form a treaty, and obtained by him for

the purpose, it must be viewed in a very favorable light. It seems clearly to put an end to further seizures on the principle which has been heretofore in contestation. I am engaged, by invitation, with Mr. Fox, on the 19th, when it is probable I may have an opportunity of conversing with him, and thereby enabled to form a satisfactory opinion on the subject. I hasten, however, to forward you the enclosed, with the above details, as it is important for you to have them. It is worthy of attention, that, at the drawing-room, on the 15th, it was whispered about that the bill for prohibiting the importation of British goods, &c. had passed the Senate, of which it was said that intelligence had that morning been received. It evidently produced some sensation, which was doubtless the stronger from the idea then entertained that the bill was to commence its operation at an early day. I observe, however, with pleasure, that, on the whole, the measure is considered by the Government papers, on account of the distant period at which it does commence, rather as a pacific than a hostile one. I persuade myself that the present ministry will see, in the circumstance of delay, a strong proof of the disposition of the United States, not only to preserve the relations of peace with Great Britain, but of their confidence that the ministry is animated with the same desire. I cannot help remarking, likewise, the fact that this paper was sent me immediately after the passage of the bill was known. It furnishes a strong presumption that the Government papers judge correctly of the sentiments of the Government on that point. It may be inferred that a knowledge of the passage of the bill hastened the communication to me. But my own opinion is, that the business, having had its regular course, was advanced to such a stage that it would have been made had the intelligence not been received. This opinion, however, is formed on circumstances only, and may be erroneous. I hope soon to be able to give you more certain and satisfactory information respecting it.

I am, sir, with great respect and esteem, your very obedient servant,

JAMES MONROE.

[Referred to and enclosed in the preceding despatch.]

Mr. Fox to Mr. Monroe.

DOWNING STREET, May 16, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe that the King, taking into consideration the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of his subjects, has thought fit to direct that the necessary measures should be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive; and the said coast, rivers, and ports are, and must be considered as blockaded; but that His Majesty is pleased to declare that such blockade shall not extend to prevent neutral ships and vessels, laden with goods not being the property of His Majesty's enemies, and not being contraband of war, from approaching the said coasts, and entering into and sailing from the said rivers and ports, (save and except the coasts, rivers, and ports from Ostend to the river Seine, already in a state of strict and rigorous blockade, and which are to be considered as so continued;) provided the said ships and vessels so approaching and entering (except as aforesaid) shall not have been laden at any port belonging to or in the possession of any of His Majesty's enemies; and that the said ships and vessels so sailing from the said rivers and ports (except as aforesaid) shall not be destined to any port belonging to or in the possession of any of His Majesty's enemies, nor have previously broken the blockade.

Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England that the coast, rivers, and ports above mentioned must be considered as being in a state of blockade; and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe to accept the assurances of his high consideration.

C. J. FOX.

No. 49.

Mr. Monroe to Mr. Madison.

LONDON, May 20, 1806.

Sir:

I had supposed that it might be possible to have some conversation with Mr. Fox last night, at his house, on our affairs, especially on his note of the 16th instant; but in this I was mistaken. The occasion was not a favorable one, being an assemblage of a vast crowd, and he apparently indisposed, as he retired early in the evening. I asked Sir Francis Vincent the cause of the delay to which our affairs were exposed? He said it was not owing to Mr. Fox. As he did not mention the interview which he had promised to arrange for me, I concluded that he had not done it. I made no direct inquiry on that point, but took occasion to remark that I presumed Mr. Fox was not desirous of meeting me till he was prepared to act. He replied that he was not authorized to say so, but would confer freely with him on the subject, and inform me of the result. Alluding to our non-importation bill, and presuming it had passed, he said he thought it a strong measure. I thought otherwise, and flattered myself that the distant period at which it was to commence would be considered by his Government, as I was satisfied it was intended by ours, as a strong proof of its disposition to arrange the business amicably. I told him that I was persuaded that, if it had been known early in the session of Congress that the ministry had changed, no such measure would have been resorted to, as our Government would most probably have deemed it unnecessary with the present ministry, whose disposition was believed by it to be just and friendly towards the United States. But as the subject had been taken up and acted on before the change was known, it seemed to be impossible for the Congress to dismiss it altogether, without incurring the suspicion either that the object was deemed unimportant by it, or that no effort would be made to support our rights; that the strongest proof which our Government could give, under existing circumstances, of its friendly disposition towards Great Britain, and of its confidence in a similar one in the present ministry, had been given by the late period to which the commencement of the act was postponed. He did not consider it as any obstacle to an amicable arrangement. I had much conversation with Lord Holland, who told me frankly that he viewed that proceeding pretty much in the light that I did; that, in fact, there seemed to be no other way of acting than "by letting the affair down easily," after what had been done. I mention these remarks of Lord Holland from the circumstance of his being the near relative and confidential friend of Mr. Fox, and an influential member of Parliament.

From what I could collect, I have been strengthened in the opinion, which I communicated to you in my last, that Mr. Fox's note of the 16th was drawn with a view to a principal question with the United States—I mean that of the trade with enemies' colonies. It embraces, it is true, other objects, particularly the commerce with Prussia,

and the North generally, whose ports it opens to neutral Powers, under whose flag British manufactures will find a market there. In this particular especially the measure promises to be highly satisfactory to the commercial interest, and it may have been the primary object of the Government. You will observe that I have not considered the note as a reply to mine, or as being any way connected with them. It was not communicated to me as such, and it was evidently improper for me to consider it in that light. In directing the publication of it, I have expressed no sentiment of the contents, but left them to the criticism of the public.

With respect to the delay to which I am exposed, it is utterly out of my power to explain to you the cause. I have no reason to change the opinion which I have heretofore expressed of Mr. Fox's disposition on the subject, though I have had no late communication with him. His present reserve is unfavorable, but it may be otherwise accounted for, and on principles which are quite natural, and therefore presumable. He may have experienced more difficulties in the cabinet than he had expected. Many of the members may be indisposed to an arrangement on such terms as can be accepted, and most of them willing to postpone any decision until the result of the proceedings in Congress is known. Under these circumstances, he may find it most eligible to avoid any further communication with me for the present. It becomes, therefore, very difficult, if not altogether improper, for me to press the business at this time. It seems to be my duty to postpone such pressure to the same epoch, that is, till the final proceedings of Congress are known. I shall doubtless receive with them the instructions of the President on the whole subject, which I beg to assure you I shall use my utmost exertions to carry into effect.

I am, with great respect and esteem, sir, your very obedient servant,

JAMES MONROE.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

DEPARTMENT OF STATE, May 30, 1806.

GENTLEMEN:

Under the third article of the treaty of 1794, as it has been expounded, Indian traders on each side have a right to resort to and trade with the tribes within the limits of the other party, with an exception of the country covered by the charter of the Hudson's Bay Company.

This article is found in its operation to be very seriously detrimental to the United States.

1st. It gives to the British traders dealing with the Indians on our side of the boundary opportunities of gaining an influence, which it cannot be doubted that they have frequently employed in stirring up the Indians against the United States.

2dly. The mixture of British traders with the American traders produces collisions and heart-burnings, with mutual efforts to make the Indians their partisans; and sometimes their avengers, against the property and persons of their rivals.

3dly. The animosity of the British traders, in such cases, against their rivals is easily extended against the United States, and the Indian partisans still more readily pass from a vindictive spirit against the American traders to a hostile one against the nation to which they belong.

4thly. The intrusion of these foreign traders among the Indians, by disturbing harmony and good order, and, above all, by clandestinely introducing ardent spirits, counteract the benevolent provisions and steady efforts of the Government of the United States to abolish the savage manners of those tribes, and to substitute the arts of civilized life, not less conducive to their own happiness than to the peace of our neighboring settlements.

5thly. These evils are not even attended with any real reciprocity of advantage to the American traders, it being a fact that they never go among the Indians on the British side for the purpose of traffic; and it being more-over known that such a traffic is rendered unsafe by the sway possessed over the Indians by the Northwest Company of British traders, and by the preventive measures employed by their interested jealousies. It is indeed certain that no British trader not of the company can, with advantage, or, as is said, even with safety, participate in the trade with Indians within the British limits.

These observations, which are strengthened by the unlimited duration of the stipulation, sufficiently explain the importance of amending the article in such a manner as will mutually authorize the parties to confine the Indian trade within their respective limits to their own traders.

The British Government, though vigilant and habitually rigid in maintaining every commercial advantage, may, perhaps, in a moment of liberality and of general adjustment, listen to such an amendment; and it is the wish of the President that the experiment be made. In recommendation of the change, you will be able to remind them, 1st, that it will have the valuable effect of cutting off forever one source of jealousy and ill-will; 2d, that, as the stipulated privilege does not extend to Louisiana, but is limited by the treaty to the small tribes eastward of the Mississippi, and by circumstances still further limited to those northwest of the Ohio, the trade is, in itself, of too little weight to be put into the scale against the advancement of friendship and harmony; 3d, that the value of the privilege to Great Britain is reduced to almost nothing, by the consideration that, whether this scanty portion of Indian trade be carried on by American or British traders, the goods furnished will be of British manufacture; and that, if furnished by the former, the peltries and furs taken in return will be added to the surplus of those articles now exported free of duty from the United States to Great Britain.

I have the honor to be, &c.

JAMES MADISON.

No. 50.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, June 9, 1806.

On the 31st ultimo accounts were received here from the United States that the President and Senate had adopted the measure of a special mission to this country, in which Mr. Pinkney and myself were associated. These accounts, which appeared to be well authenticated at first, have been confirmed since by letters to individuals, so that the fact seems to be unquestionable. I have not received official information of it, but expect it from you daily.

A suspension of further proceeding in the business in which I have been engaged seemed to be the natural consequence of this measure as soon as it was known. It has accordingly already produced that effect, and will probably preserve it in the same state till Mr. Pinkney arrives. I hope, therefore, that I shall soon have the pleasure of seeing him.

My former letters, the last of which was of May 20th, showed how this business stood at that time. I have since seen Mr. Fox twice—on the 4th, and again on the 7th instant. The first interview was at his own house, on the anniversary of the King's birth, in a general rendezvous of the diplomatic corps. In that we touched on some interesting subjects, particularly the outrages lately committed at New York by the British cruisers, our non-importation act, and the affair of General Miranda. But as we could not treat those subjects with advantage in a crowd, it was agreed to postpone the consideration of them to the 6th, when I promised to attend him at his office for the purpose of entering more fully into it. The interview was afterwards deferred by him to the 7th, when it took place.

Although the object of this latter meeting was special, yet it naturally brought into view the other topics in which we had been engaged, and with them that of the appointment above mentioned. Mr. Fox asked me, soon after we met, whether such an appointment was made. I told him that I had no official information of it, but I believed that it was. He said that Mr. Merry had informed him in his last letter that the measure was decided on, but had not been communicated to the Senate. What effect, added he, will it produce in our business? It was evident that he thought it ought to suspend it. It was of course useless for me, had it even been proper, and I of a different opinion, to express it. My answer, therefore, corresponded with his expectation. I availed myself of the opportunity to assure Mr. Fox that Mr. Pinkney was every way well qualified for the trust, and that I was persuaded he would be well satisfied with the appointment.

The general subject being thus disposed of, we proceeded to those which had been touched on in our conversation of the 4th. I told Mr. Fox that the outrage in the case of the unfortunate victim, John Pierce, had been committed, as appeared by the affidavits published, within the jurisdiction of the United States. I stated that the harbor of New York had been blocked up by those frigates as if it were an enemy's port; that they did not appear to have taken their station there for hospitality or shelter, but for invasion. I told him of the outrages which had been committed at the same port in the autumn of 1804, by the same frigates, as of the conduct of his Government in that respect, recalling, in the first instance, the officer who had given most offence, but finally promoting him to the command of a ship of the line. Mr. Fox said that he wanted information respecting the late unfortunate event; should it appear that the officers had acted improperly, due attention should be paid to the subject. He added, that he had already written to Mr. Merry in that sentiment, and would also express it in a letter to me. In speaking of the non-importation act, he expressed his regret that it had passed. He said it had the air of a menace, and that it was not agreeable to do things by compulsion. I reminded him how long we had complained of injuries which his Government had not attempted to justify—injuries which were not imaginary or perspective, but real and sovero, which affected equally the honour and the interest of the United States. I added, that, under such circumstances, his Government had no right to complain of the act referred to. I assured him, however, that I was of opinion, if the ministry had not changed, that a bill of a very different import would have been adopted; that I had reason to believe that the tone of our Government and of the Congress had been essentially moderated by the information which I had given of his assurances that our differences should be settled amicably, and on just principles; that the act which had passed, in consequence of that information, was little more than a declaration to the citizens of the United States that the object would be duly attended to. I observed that he must be sensible, after the subject had been taken up by Congress, as it was before the change of the ministry was known, that it was impossible for that body to dismiss it, without some expression of its sense of the rights of the United States in the question in dispute, without exposing itself to the charge of having abandoned them. He seemed finally to admit that the Congress could not well have avoided doing something in the business, and that the measure which had been adopted ought to be considered as a moderate one. I was glad to hear this sentiment from Mr. Fox, because I had feared that he would urge the passage of the act as a discharge from the obligation which his communications with me had, in a certain degree, imposed on him, in respect to the conditions on which he was disposed to make the settlement, and in which, in some particular and interesting points, he was precise and explicit.

I then observed to Mr. Fox that I should be glad he would state, in the letter which he had promised, his willingness to resume the business when Mr. Pinkney should arrive, and with a view to conciliation and despatch, objects which merited attention at the present time, that he would also advert in it to the several subjects which we had under consideration, in the sentiments which he had expressed in our conferences. He seemed to be aware that the proposition was a reasonable one, and promised without hesitation to comply with it; but, says he, I am afraid that I cannot be very distinct in it. I replied, that I should leave that to himself, but that I presumed he could easily recollect what had passed between us on each point; that, in respect to the trade with enemies' colonies especially, I did suppose that it had been intended by the late order to place it on the ground of the Russian treaty, and that he might go with safety in his letter as far as the order went. He neither admitted nor denied the fact explicitly, though he did not seem willing to give his sanction to the inference I had drawn. I criticised the order as well as I could from memory, to show why I had made the inference, without, however, expressing any approbation of the order. He said it was true that the produce of enemies' colonies might, under the exceptions stated in the order, find admission in neutral vessels into the enemies' ports, but yet he did not seem willing to admit that that was the particular object of the order. I did not press this point further, because I saw no motive for it. I concluded, however, from this conversation, as I had done from what had occurred before, that this measure had been taken to prevent the further seizure and condemnation of our vessels on the principle in discussion between our Governments, and that an acknowledgment of it had been withheld from a consideration mentioned by Mr. Fox in one of our conferences, that such acknowledgment would be to give up the point in negotiation. Several circumstances, independent of those alluded to, support this idea. It is not necessary to state them, because I trust that the business will, ere long, be placed on a much more solid footing.

Of General Miranda's affair, Mr. Fox asked me, on the 4th, what I thought. It appeared to me to acquire some importance by late accounts. He thought so. What, said he, would be the consequence of his success? He presumed that Great Britain and the United States would be the principal gainers. I was of the same opinion. On the 7th, after he had had time to reflect on the subject, I asked him what part his Government intended to take in it. He said that it was a delicate business to interfere in. By engaging in it, the difficulty of making a peace might be increased, if the object was pursued; and it would not be agreeable to abandon the people after promising them support. Of peace, however, he added, that there was not much prospect at present; though, in expressing that idea, I thought he did it with less force than on a former occasion. I inferred, from that circumstance, that there existed some correspondence between this Government and that of France on the subject.

I am, with great respect and esteem, sir, your very obedient servant,

JAMES MONROE.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States, in London.

DEPARTMENT OF STATE, June 11, 1806.

GENTLEMEN:

Since the date of my last, (May 30,) I have obtained from the Secretary of War the enclosed copies of a correspondence between an officer of the United States and an agent of the British Northwest Company for the Indian trade. The correspondence may be of use in explaining the inconveniences resulting from the constructive permission given by the treaty of 1794 to British traders to carry on trade among Indians within the limits of the United States, and the importance of such an amendment of the treaty as has been suggested to you.

I enclose, also, as connected with the subject, copies of two letters from this Department to Mr. Merry; and of the opinion of the Attorney General in answer to a claim of British traders to carry supplies of merchandise to the Indian tribes within the limits of Louisiana, and to certain immunities in their general trade with our Indians.

I have the honor to be, &c.

JAMES MADISON.

No. 1.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

SIR:

LONDON, July 25, 1806.

You will have been surprised at not hearing from us sooner on the business confided to us under the commission with which we are honored by the President. The delay proceeded from a desire to give you some satisfactory information of our progress in it, which it was not in our power to do. It happened, unfortunately, just about the time of Mr. Pinkney's arrival, on the 24th ultimo, that Mr. Fox was taken ill of a dropsical complaint, from which he has not yet recovered, and probably never will. That circumstance opposed to us a serious obstacle, which it was difficult to surmount, even in the first stage. As Mr. Fox was the official organ of the Government, we could not approach it in that mode through any other channel; and as he and his friends are believed to be favorably disposed to the object of our mission, and are strong in the cabinet, it seemed to be hazardous to make any experiment for that purpose which might have a tendency to irritate them. Thus we were kept for some time at a stand. Every necessary step was taken with the Department of Foreign Affairs, without making any advance. At length, through the good offices of Lord Holland, to whom, as the relative of Mr. Fox, we presumed we might apply without giving offence to him or his friends, we obtained our recognition of the King; and we trust, now that the door is open, that we shall soon be able to proceed in the business on which we have to treat with some suitable organ of the Government. We persuade ourselves, if Mr. Fox should continue unable to act, that some other person will be appointed to meet us in his stead. We have the pleasure to enclose you a copy of the several notes which have passed in this introductory stage of the business.

Our audience of the King took place on the 21st instant. The reception was quite a favorable one. To the assurances which we gave of the friendly policy of the United States towards Great Britain, as particularly exemplified by the present mission, His Majesty in return expressed himself to be highly satisfied with the proof which that measure gave of that disposition in their Government, as that Mr. Pinkney had been selected by the President from among their citizens to be employed in it. His other remarks, though not applicable to the topic of existing differences, were, nevertheless, of a conciliatory and friendly character.

We beg you to be assured that we shall continue to exert our best efforts to accomplish the important objects of our mission. Of the actual disposition of this Government on that subject, and of the prospect of a satisfactory adjustment, it is not in our power to speak, from any recent occurrence. The general view, as founded on the sentiments which have been expressed by those about the Government with whom we have conferred, is favorable. We cannot but believe that the delay to which we were subjected in obtaining our recognition by the King ought to be attributed to Mr. Fox's indisposition alone. It is, however, proper to mention, that a negotiation with France is still depending, and that many entertain the expectation that it will terminate in peace. We are not aware that such an event is likely soon to happen, and flatter ourselves, even in case it should, that the motive for preserving a good understanding with the United States, in the present situation of the world, is otherwise sufficiently strong with this Government to induce it to accede to a fair and satisfactory adjustment of differences with them.

We have received your letter of May 30, and shall not fail to pay due attention to the instruction it communicates.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAMES MONROE,
WILLIAM PINKNEY.

To Mr. Fox.

LOW LAYTON, June 21, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to inform him of the arrival of Mr. Pinkney at Liverpool, and to request that he will be so good as to give an order that his baggage and effects may be landed and brought to London. Mr. Monroe presumes that Mr. Pinkney, being in a diplomatic character, will be permitted to proceed on his journey hither without the sanction of a passport; should it be necessary, he requests that Mr. Fox will be so good as to send him one.

From Mr. Fox.

STABLE YARD, June 22, 1806.

Mr. Fox presents his compliments to Mr. Monroe, and will be very glad to see him here to-morrow, at 12 o'clock.

Mr. Fox is very much obliged to Mr. Monroe for his note informing him of Mr. Pinkney's arrival. He imagines that no passport is necessary for that gentleman to proceed to London. The order respecting his baggage and effects shall be immediately expedited.

To Mr. Fox.

LOW LAYTON, June 23, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and regrets that he had not the pleasure of receiving his note of yesterday till so late an hour this day as to render it impossible for him to comply with his obliging invitation. The hour appointed for him to call in Stable Yard had not only passed, but he concluded that, before

he could arrive in Downing street, Mr. Fox would have left it and gone to the House of Commons. Mr. Monroe will be happy to wait on Mr. Fox at any other time which may be convenient to him.

Mr. Monroe expects Mr. Pinkney in town to-night. As soon as he arrives, he will have the pleasure to inform Mr. Fox of it, and to request the appointment of an hour when he may have the honor of presenting him to Mr. Fox.

To Mr. Fox.

LOW LAYTON, June 25, 1806.

Mr. Monroe presents his compliments to Mr. Fox, and has the honor to inform him of the arrival of Mr. Pinkney, in the character of joint commissioner extraordinary and plenipotentiary from the United States to His Britannic Majesty. Mr. Monroe requests that Mr. Fox will be so good as to appoint a time when he may have the honor of presenting Mr. Pinkney to him. He will avail himself of the same opportunity to deliver to Mr. Fox a copy of their joint letters of credence.

From Sir Francis Vincent.

DEAR SIR:

STABLE YARD, June 27, 1806.

Mr. Fox has been, and indeed still continues, so unwell with severe rheumatism, that it is not in his power, as yet, to fix a day to have the honor of seeing you and Mr. Pinkney, which, I assure you, he is very anxious and impatient to do; but as soon as he is able, I shall have the honor of informing you. In the mean time, Mr. Fox hopes that you will have the goodness to excuse this unavoidable delay.

Mr. Fox requests that you will offer Mr. Pinkney his best compliments on his safe arrival. May I request that you would do me the honor to offer mine also?

Believe me, dear sir, your very faithful, humble servant,

F. VINCENT.

To Sir Francis Vincent.

DEAR SIR:

LOW LAYTON, June 27, 1806.

It is with extreme regret that I heard yesterday of the indisposition of Mr. Fox, and I beg you to be assured that I would on no consideration whatever hasten our interview at the expense of his quiet. I shall explain the cause of the delay to Mr. Pinkney, who will, I am satisfied, unite with me in this sentiment. I sincerely hope that his recovery will be rapid, and that I shall soon have the pleasure of seeing him in good health.

Accept my acknowledgment for the very obliging expressions contained in your favor of this date; and believe me to be, with great consideration and esteem, very truly, your most obedient servant,

JAMES MONROE.

From Mr. Fox.

STABLE YARD, July 15.

Mr. Fox presents his compliments to Mr. Monroe, and begs to have the honor of seeing him here, with Mr. Pinkney, at 3 o'clock to-day.

[A similar note to Mr. Pinkney.]

From Sir Francis Vincent.

MY DEAR SIR:

ARLINGTON STREET, Tuesday evening, July 15.

The King does not come to town till Monday, on which day you and Mr. Pinkney may certainly be presented to His Majesty.

Yours ever, and most sincerely,

F. VINCENT.

JAMES MONROE, Esq., &c. &c. &c.

From Lord Holland.

DEAR SIR:

SUNDAY NIGHT, July 20.

Lord Howick, whom I have seen, will be very happy to be of any use to you, but is not the person who can officially present you, on producing your credentials. If you wish to settle the business through him, he will be ready to receive you any time before 12 at the Admiralty. Since I saw him I have written to Lord Spencer, who is the regular person on such an occasion, to supply my uncle's place; and though my letter went late this night, I hope his answer to it will find you as soon as this. I am sure, if time allows, he will be happy to receive Mr. Pinkney and yourself, and present you in form, &c. to the King.

My uncle begged me to express his regret at having disappointed Mr. Pinkney and yourself, and, feeling his health uncertain, was almost afraid of again fixing an hour; but as you will be in that part of the town, and his best hour is from four to five, or thereabouts, perhaps Mr. Pinkney and you will be so good as to call about that time at Stable Yard.

Believe me, dear sir, ever your obliged,

HOLLAND.

P. S. If you settle to go to court with Lord Spencer, have the goodness to inform Lord Howick by a line, as he will otherwise wait for your commands till past 12 o'clock.

JAMES MONROE, Esq., &c. &c. &c.

From Lord Spencer.

ST. JAMES'S PLACE, July 21, 1806.

Lord Spencer presents his compliments to Mr. Monroe, and has the honor to inform him, by desire of Mr. Fox, who is too much indisposed to have it in his power to receive him and Mr. Pinkney this morning, that the King will be at the Queen's house to-day at 2 o'clock, when, if it will be convenient for Mr. Monroe and Mr. Pinkney to attend, Lord Spencer will be very happy to have the honor of introducing Mr. Pinkney to His Majesty, for the purpose of delivering his credentials from the United States; and if Mr. Monroe and Mr. Pinkney are desirous of seeing Lord Spencer before they go to the Queen's house, he will be at his office at Whitehall at 1 o'clock, where, if they would have the goodness to call, he will have the honor of receiving them.

To Lord Spencer.

PORTLAND PLACE, July 21, 1806.

Mr. Monroe presents his compliments to Lord Spencer, and begs to inform his lordship that Mr. Pinkney and himself will have the honor to wait on him at Whitehall at 1 o'clock, at which hour his lordship has been so good as to intimate that he will be prepared to receive them. Mr. Monroe very much regrets the indisposition of Mr. Fox; but Mr. Pinkney and himself will avail themselves with pleasure of his lordship's obliging offer to do them the honor of presenting them to His Majesty to-day at 2 o'clock. Although Mr. Monroe is already an accredited minister at this court, yet as he is invested with a new character, being included in the special mission from the United States, he presumes that it will be proper that he should also have the honor of being presented to His Majesty as a party to it. Mr. Pinkney and Mr. Monroe will have the honor of delivering to Lord Spencer a copy of their joint letter of credence at 1 o'clock.

To Lord Howick.

PORTLAND PLACE, July 21, 1806.

Mr. Monroe presents his compliments to Lord Howick, and begs to assure his lordship that he is very sensible of his obliging attention in offering, as he is just informed by Lord Holland, his good offices to procure Mr. Pinkney and himself the honor of being presented to His Majesty to-day, which has been hitherto delayed by the much lamented indisposition of Mr. Fox. Mr. Monroe has the honor to inform Lord Howick that he has just received a letter from Lord Spencer, intimating that his lordship will do Mr. Pinkney and himself the honor of presenting them to His Majesty to-day. He hastens to give Lord Howick this information, in consequence of a suggestion from Lord Holland that Lord Howick would be so good as to remain at home till 12 o'clock for the purpose of receiving them.

From Sir Francis Vincent.

MY DEAR SIR:

STABLE YARD, July 21, 1806.

I am very sorry to be under the necessity of asking you and Mr. Pinkney whether you should consider it as of great inconvenience to postpone your presentation to the King until his next coming to town, which will be early next week, as it has not yet been in Mr. Fox's power to announce it officially to His Majesty. In the mean time, every communication from you and Mr. Pinkney will meet with the same attention as if this ceremony had been gone through; an attention which it will always be the pride of the Foreign Office to show to the ministers of the United States, our half-countrymen. And from this delay no detriment will arise to the great cause, as I fear some days must yet elapse before Mr. Fox will be well enough to discuss business; he is, however, better. Pray write me a line in answer to this. I have not written to Mr. Pinkney. Will you make my excuse to him, as I am anxious for your getting this soon?

Believe me, dear sir, most truly yours,

F. VINCENT.

JAMES MONROE, Esq., &c. &c. &c.

NOTE.—On Friday, the 11th, Sir Francis Vincent promised us an interview with Mr. Fox on the 15th, which Mr. Fox invited by his note of that date. We attended at Mr. Fox's house, according to appointment, but did not see him, his health not permitting it. On the evening of the same day Sir Francis Vincent wrote the note which bears his name of that date. The arrangement with Lord Holland was made on the 20th, for which the circumstance of our dining with him furnished a favorable opportunity. Sir Francis Vincent's note of the 21st was written before he was acquainted with that arrangement.

[Owing to the haste in despatching the original, the copy of the correspondence annexed to it was not so full as that accompanying the duplicate.]

No. 2.

SIR:

LONDON, August 11, 1806.

It was intimated to us by Sir Francis Vincent, soon after the date of our last, that as the state of Mr. Fox's health was not likely soon to permit him to attend to us or the subjects of our mission, Lord Grenville would be asked to communicate with us in his stead; and Sir Francis promised that he would endeavor, without loss of time, to arrange with Lord Grenville to that effect.

On the 1st instant Sir Francis informed us, by a note to Mr. Monroe, that Lord Grenville had been applied to, and that he would fix an early day for our reception. Believing that we should not make the most profitable use of the opportunity if we waited for a note from Lord Grenville, we determined to write him immediately, and request him to appoint a time for receiving us. He accordingly appointed Monday, the 4th, which, on account of an interfering engagement not at first adverted to, was changed to the day following.

His lordship received us with great cordiality, but, as we had expected, was not prepared to enter into any formal consideration of the subjects embraced by our commission; which, as the letter of credence had been delivered to the King, and had not been seen by Lord Grenville, we thought it advisable to submit to his perusal. He told us that he was at present able to say little more than that His Majesty's Government was earnestly desirous of giving the most prompt and effectual attention to what we had to propose, and of adjusting satisfactorily whatever was in any degree calculated to disturb the good understanding which ought to subsist between us; that he had always entertained and acted upon a sincere disposition to cultivate the most friendly connexion and intercourse with the United States, and that he could say for his colleagues that such was their disposition also; that we were aware that the delay we had hitherto experienced arose entirely from the illness of Mr. Fox, to whose Department subjects of this description particularly belonged; that he himself, having only recently returned to a situation of confidence in His Majesty's councils, was of course but very imperfectly acquainted with those immediate transactions and discussions which had a bearing upon the relations of the two countries; that he could not, therefore, at this moment, undertake even to converse with us upon them otherwise than very loosely and informally; but that he should, notwithstanding, be glad to hear from us a statement of the principal points which it was supposed our negotiation would involve. His lordship added, that if Mr. Fox should unfortunately continue to be disqualified by indisposition from attending personally to the affairs of our mission, it would be necessary to receive His Majesty's pleasure whether this important duty should be committed to some other of the Secretaries of State, or to commissioners to be specially appointed to treat with us; and that this would not be delayed beyond the actual necessity of the occasion.

The statement which his lordship invited was of course given with as much minuteness as was thought to be prudent; and it drew from him several remarks, some of which, although not very interesting, it may be proper to state.

On the subject of the impressment of our seamen, he suggested doubts (which we endeavored to remove by suitable explanations) of the practicability of devising the means of discrimination between the seamen of the two countries within (as we understood him) their respective jurisdictions; and he spoke of the importance to the safety of Great Britain, in the present state of the power of her enemy, of preserving in their utmost strength the right and the capacity of Government to avail itself in war of the services of its seamen. These observations were connected with frequent professions of an earnest wish that some liberal and equitable plan should be adopted for reconciling the exercise of this essential right with the just claims of the United States, and for removing from it all cause of complaint and irritation.

To a very brief sketch of the views of our Government relative to belligerent proceedings in the vicinity of our coasts and harbors, he replied that there could be no objection on their part to a suitable provision on that head. And as this topic recalled the recollection of Captain Whitby's outrages at New York, his lordship took occasion to say that, if they had been truly represented, they would meet with the severest censure here; that Captain Whitby could not be condemned upon such grave charges unheard, but that he would return to answer for his conduct.

To what was suggested by us on the subject of contraband, he replied only that he and Mr. Jay had copied the enumeration in their treaty from the British treaty with Sweden.

Upon the commercial subject, very little was said on either side. For obvious reasons, it was not proper that we should do more than lead to it in a very general way. On the West Indian branch of it, Lord Grenville remarked that he did not feel the difficulties which were supposed by many to belong to it; and that he regretted that the twelfth article of Mr. Jay's treaty had not been retained, as it would have prepared the way for the more complete admission of the United States into that trade. We inferred, from the little that passed on this point, that Lord Grenville looked to a prevailing prejudice here, at variance with his own opinion, as likely to oppose itself to our views.

As the illness of Mr. Fox had hitherto restrained Mr. Monroe from sending to him a note which he had prepared on the subject of Captain Whitby's proceedings, he took the opportunity afforded by this interview of asking the opinion of Lord Grenville as to the course which, in reference to that interesting object, would now be most proper; intimating at the same time his own desire that his communication, delayed thus long by motives of delicacy and respect towards Mr. Fox, should, as soon as possible, be brought under the serious consideration of His Majesty's Government. Lord Grenville stated his opinion and his wish to be, that the note should be retained for the present.

On the 7th Mr. Fox underwent the operation of tapping, by which he was much relieved; and his friends have since had strong hopes of his permanent recovery.

On the 9th, we called on Sir Francis Vincent, and stated to him what had passed with Lord Grenville. He now assured us that Mr. Fox wished extremely to act in our affairs himself, and the late favorable appearances seemed to justify an expectation that his convalescence would be sufficiently rapid to enable him to indulge that wish. He even went so far as to express his conviction that if there was one reason more than another why Mr. Fox was at this time particularly anxious to remain in office, it was his strong desire to settle personally with us every question relative to our country.

The public papers will inform you, that Lord Lauderdale has been sent by this Government to Paris on the subject of peace. According to some opinions, the basis and the terms had been settled by previous correspondence, and his lordship was simply to perform the office of signing a treaty already adjusted. Others have supposed that he has been sent to make the usual experiment; and others again, that, although much has been agreed upon, there are certain points upon which this Government has been misunderstood by that of France, which require to be explained by an envoy, and are of course still open.

The terms of M. d'Aubril's treaty are yet unknown; and the treaty itself is in all respects as mysterious as at first.

We need not suggest to you the various conjectures which it would be possible to form as to the causes to which it is owing that our negotiation is not yet in train, and as to the probable effect of our mission. We have not been inattentive to what has passed here and upon the continent; but we are disposed to give credit to the professions of just and amicable views which we have so often heard, and to the precise assurances which have so frequently been given us, that Mr. Fox's illness alone has suspended our progress. In the actual state of things, it would be vain, and probably injurious, and certainly harsh, to be very urgent for despatch. You may be assured, however, that we shall lose no opportunity of fulfilling the just expectations of our Government with as little delay as possible.

We have the honor to be, with great consideration and esteem, your most obedient servants,

JAMES MONROE,
WILLIAM PINKNEY.

From Sir Francis Vincent.

MY DEAR SIR:

DOWNING STREET, August 1, 1806.

Having communicated to Lord Grenville, as I told you I would, your and Mr. Pinkney's anxiety to see one of his Majesty's ministers, his lordship has desired me to inform you that he will fix as early a time as he can to have the honor of receiving you. If you will have the goodness to communicate this to Mr. Pinkney, I trust he will dispense with my troubling him with a similar notification.

Believe me ever, dear sir, most truly and sincerely yours,

F. VINCENT.

JAMES MONROE, Esq., &c.

To Lord Grenville.

PORTLAND PLACE, August 2, 1806.

Mr. Monroe and Mr. Pinkney present their compliments to Lord Grenville, and request the honor of an interview with his lordship on the interesting subjects which form the object of the special mission with which they are honored by their Government to His Britannic Majesty. They make this request in consequence of the much lamented indisposition of Mr. Fox, which has hitherto and still continues to put it out of his power to meet them on that important business.

From Lord Grenville.

DOWNING STREET, August 2, 1806.

Lord Grenville presents his compliments to Mr. Monroe and to Mr. Pinkney, and will be happy to have the honor of seeing them on Monday next at 1 o'clock.

[A similar note sent to Mr. Pinkney.]

From Lord Grenville.

DOWNING STREET, August 3, 1806.

Lord Grenville presents his compliments to Mr. Monroe and to Mr. Pinkney: Lord Grenville when he made the appointment for to-morrow at 1 o'clock, did not recollect an engagement he had in the city at that hour, and therefore requests to have the honor of seeing Mr. Monroe and Mr. Pinkney on Tuesday, at 1 o'clock.

[A similar note sent to Mr. Pinkney.]

No. 3.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

LONDON, August 15, 1806.

SIR:

We have the honor to transmit, herewith enclosed, a duplicate of our last, under date of the 11th instant.

Some circumstances have since occurred with which it is proper that you should be made acquainted.

On the 13th we dined with Lord Grenville at his house in Downing street, where we met the Lord Chancellor, Lord Howick, Lord Auckland, Marquis Wellesley, Lord Holland, Mr. Erskine, and several other persons of distinction. After dinner it was mentioned to us by Lord Grenville, as well as by Sir Francis Vincent, that Lord Auckland and Lord Holland had been appointed and commissioned to treat with us; that Sir Francis Vincent had directions to communicate this circumstance to us, and that he would not fail to do so formally on the next day. Sir Francis has not in fact made this communication, but we doubt not we shall very soon receive it.

Just before we retired, Lord Auckland invited us to visit him in the country, "where," he added, "I trust we shall be able to do some good to mankind, if your powers are sufficiently extensive." He seemed to suppose that we should be under the necessity of consulting our Government in the progress of our negotiation, upon questions to arise out of it. To his inquiries on this head, (which were connected with the most liberal and conciliatory professions,) it was replied that we had no reason to believe that our powers would be found to be, in any essential particular, inadequate to their object. He did not explain the nature of the topics to which these doubts applied, but it is to be presumed that we shall not long be left to conjecture them.

Mr. Erskine sails for the United States in the course of next week, as the successor of Mr. Merry.

The calculation of the day is against the success of Lord Lauderdale's mission.

It was intimated to Mr. Monroe that his note on the subject of Captain Whitby's improper conduct at New York as not being comprehended within the objects of the joint commission, might be sent to Mr. Fox, and that it would now be attended to. He proposes to take immediate advantage of this suggestion, and to transmit a copy of his note, and of the answer to it, as soon as it is received. It was expressly stated, though not in a manner to authorize the communication to be considered as an official act, that Captain Whitby was recalled, and would be subjected to a trial by a court martial.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAS. MONROE,
WM. PINKNEY.

No. 4.

Extract of a letter from Messrs. Monroe and Pinkney to the Secretary of State.

SIR:

LONDON, August 21, 1806.

We have the pleasure to transmit you a copy of a note from Mr. Fox of yesterday, which announces the appointment of Lords Holland and Auckland to meet us on the subjects which are embraced by our joint commission. We flatter ourselves that we shall enter on this business in the course of a few days, and that we shall be able in a short time afterwards to speak with some confidence of the result. We add, with pleasure, that we see no reason at this time to think the prospect less favorable to a satisfactory one than we have heretofore presumed it to be. Aware of the considerations which urge despatch, we have been, and shall continue to be, attentive to that object, though it is far from being in our power to promise any thing explicit on that point.

Mr. Fox to Mr. Monroe.

DOWNING STREET, August 20, 1806.

Mr. Secretary Fox presents his compliments to Mr. Monroe and Mr. Pinkney, and he has the honor to inform them that His Majesty has been graciously pleased (Mr. Fox not being yet sufficiently recovered to attend to business of such magnitude,) to appoint Lord Holland and Lord Auckland to enter with Mr. Monroe and Mr. Pinkney upon the discussion of all matters now depending between His Majesty's Government and the Government of the United States.

Mr. Fox feels it his duty, in expressing his regret at being unable at the present moment to undertake this important business himself, to observe that His Majesty, in this appointment of commissioners, has given a fresh proof of his most anxious and constant desire to bring to a speedy termination all discussions between the two countries, and to form such arrangements as may tend to render perpetual a system of mutual friendship and cordiality so conducive to the honor and interests of both.

Mr. Fox begs Mr. Monroe and Mr. Pinkney will accept the assurances of his high consideration.

No. 5.

Messrs. Monroe and Pinkney to Mr. Madison.

LONDON, September 11, 1806.

SIR:

Our first meeting with Lord Holland and Lord Auckland took place in Downing street, on the 22d of August.* After the usual exchange of powers, we stated, at their request, the objects of our mission, and the general nature of the stipulations by which we expected them to be provided for. They took minutes of what was said by us, for the purpose of making their report to the cabinet, and threw out some observations, but of a very loose and inconclusive character, upon several branches of the subject. They resisted, with great earnestness and decision, as an impracticable subject, the claim of indemnity, which we pressed as standing upon unquestionable grounds of justice. They appeared to consider the subject of impressment as extremely delicate and embarrassing, and that of our trade with the colonies of their enemies as presenting important though not equal difficulties; and Lord Auckland expressed a strong desire, which of course we discouraged, that the former should be suffered to rest upon mere understanding, and find no place in the projected treaty. The best dispositions were, however, professed to arrange every thing upon fair and amicable principles, and nothing was suggested to impair the hope that the result of our negotiation would be entirely satisfactory. We were told at parting that an early day would be mentioned for renewing our conferences.

On the 28th† we met them again upon their own appointment. We were then told that the purpose of this interview was to obtain from us an explanation of our views with reference to some of the points upon which we had touched at the former meeting. We were accordingly asked to state precisely what equivalent stipulation for restoring British seamen leaving their service we would be disposed to insert in the article relative to impressment. Having ascertained that it was vain to expect their consent to an arrangement on this interesting topic, in which some such provision was not an ingredient, we gave them at length a project upon this point, extracted from Mr. Monroe's instructions of 1804, requesting them, however, to receive it as perfectly extra official, and combining it, as you will perceive, with the provisions in their most advantageous form, for which it was required as the equivalent. A copy of this paper is among the enclosures. We presumed that this course, while it hazarded nothing, would at least promote despatch, and that the air of frankness which belonged to it would be likely to influence advantageously the temper and character of our discussions upon this and every other question before us.

We were also asked to explain the footing upon which we desired to place the commercial intercourse between the United States and the British European dominions. This we did by intimating, as we had done at the former meeting, that the footing of the most favored nation was in a general view the most natural. Their inquiries, however, looked to some precise and equal arrangement of tonnage and imposts, and the countervailing power in the treaty of 1794 was slightly mentioned. Without encouraging at this time any discussion on this point, which they did not seem to be prepared or inclined to enter into, we thought it proper to suggest for their consideration the expedient of a mutual abolition of alien duties.

On the impressment subject, it was soon apparent that they felt the strongest repugnance to a formal renunciation or abandonment of their claim to take from our vessels on the high seas such seamen as should appear to be their own subjects; and they pressed upon us with much zeal, as a substitute for such an abandonment, a provision that the persons composing the crews of our ships should be furnished with authentic documents of citizenship, the nature and form of which should be settled by treaty; that these documents should completely protect those to whom they related; but that, subject to such protections, the ships of war of Great Britain should continue to visit and impress on the main ocean as heretofore.

They enforced their preference for this sort of arrangement in a desultory conversation, by observing that they supposed the object of our plan to be to prevent the impressment at sea of American seamen, and not to withdraw British seamen from the naval service of their country in times of great national peril, for the purpose of employing them ourselves; that the first of these purposes would be effectually accomplished by a system which should introduce and establish a clear and conclusive distinction between the seamen of the two countries, which on all occasions would be implicitly respected; that if they should consent to make our commercial navy a floating asylum for all the British seamen who, tempted by higher wages, should quit their service for ours, the effect of such a concession upon their maritime strength, on which Great Britain depended, not only for her prosperity but her safety, might be fatal; that, on the most alarming emergency, they might thus be deprived, to an extent which it was impossible to calculate, but which could not fail to be great, of their only means of security; that our vessels might become receptacles for deserters to any amount, even from the military marine in the ports of neutral States, and when once at sea might set at defiance the just claims of the service to which such deserters belonged; that, even within the United States, it could not be expected that any plan for recovering British deserters could be efficacious, and that moreover the plan we proposed was inadequate in its range and object, inasmuch as it was merely prospective, confined wholly to deserters, and in no respect providing for the case of the vast body of British seamen now employed in our trade to every part of the world. To this it was replied, that one of the suppositions on which much reliance had been placed was that of an extreme case, which was barely possible in fact, and which, if it should happen at all, and redress should not be afforded by the interference of the neutral Power in whose port the unlawful refuge should be attempted, could not be considered as within the spirit of such a provision as we had suggested; that another of these suppositions ascribed undue importance to the resource in question, which, while it severely oppressed and irritated their friends, could add little to the effective strength of their navy; that the number of men thus violently taken from our vessels, if American citizens should be deducted, had always been comparatively small; that if Great Britain should now be admitted (as intended by the plan) to the benefit of our domestic regulations for apprehending and securing within our country future deserters from her merchant and other vessels, the number to which such a resource could apply must hereafter be considerably less, and in time be wholly insignificant; that it would be in their own power to prevent us, by suitable regulations, from carrying their seamen from their own ports, and would become our duty to assist in restoring them when they should desert and be found within our jurisdiction; that there was every reason to believe that this assistance would be as effectual as it was known to be in the case of our own seamen deserting from our own vessels; for that, even if it should be admitted that a motive might now be imagined of sufficient power to induce the people of the United States to give shelter and protection to deserting British seamen, it was obvious that this motive arose out of the claim and practice on the part of Great Britain which it was now proposed to renounce, and would cease with them; that there would moreover be open to this country the fair and reasonable exercise of the right of regaining her own seamen within her own jurisdiction, as opportunity occurred, in whatsoever vessel they should be found; that im-

* This date is erroneous; the first meeting took place on the 27th.

† This date is also erroneous; the meeting took place on the 1st of September.

pressment upon the high seas by those to whom that service is necessarily confided must, under any conceivable guards, be frequently abused, and in its best form cannot fail to generate private animosity and national resentment, and of course to endanger the friendly relations of the two countries; that if it were for no other cause, we should see with deep regret the power of impressment at sea under any modifications, however plausible, insisted upon; but that it was besides impossible that we should acknowledge in favor of any foreign Power the claim to such jurisdiction on board our vessels found upon the main ocean as this sort of impressment implied—a claim as plainly inadmissible in its principle, and derogatory from the unquestionable rights of our sovereignty, as it was vexatious in its practical consequences.

Upon the commercial subject, we collected that the East India trade would not be likely to give much trouble; but that an open trade to the British West Indies will be obtained, if at all, with great difficulty. Lord Auckland expressed an opinion that there should be a restriction upon the tonnage, as in the twelfth article of the treaty of 1794, which we told him at once could never be assented to; and Lord Holland spoke of a duty to be imposed by our Government upon importations from their islands, which should be of sufficient amount to check the exportation of the articles so imported to Europe. His idea was, of course, that no part of this duty should be remitted as a drawback, and he wished to comprehend in this plan our importations from enemy colonies, without which it could have no other effect than to force the imports from the British colonies into our internal consumption, and leave the imports from enemy colonies for exportation. We thought it proper to oppose ourselves in a particular manner to the last mentioned application of this plan, and it was not persisted in.

The trade with enemies' colonies was still viewed as an embarrassing subject, and continuous voyages even between neutral European ports and these colonies were strongly protested against. It appeared to be certain, however, that our opponents would finally agree that the continuity of the voyages should in all cases be held to be broken by the landing of the cargoes in the United States, and perhaps also the paying or securing the duties, as heretofore practised. We did not bring into view at this time the distinction which we mean hereafter to urge in favor of our commerce with the East India colonies of the other parties to the war.

In the course of this conference Lord Auckland renewed a proposal which he had glanced at in our first interview, that the treaty of 1794 should be made the basis of the present negotiation. This was rejected in such a manner as to obtain for the rejection his entire acquiescence. His lordship, towards the close of the meeting, inquired if Congress had not at their last session passed some law affecting their commercial relations with Great Britain. We had been restrained from calling their attention to the act prohibiting, &c. by the apprehension that, as they could not be supposed to be ignorant of it, we might be thought, by pressing it officiously and ostentatiously into notice, to wish to make use of it as a menace; but we now took occasion to explain, in as conciliatory a manner as was consistent with the complete justification of the law, its origin and character. They requested us to give them a copy of the act, and we sent it accordingly the next day.

On the 4th instant, at night, we received from the British commissioners a note upon the subject of the act of Congress, of which a copy is enclosed. It appeared to us, that it would be prudent to found upon this note a request of an immediate interview, in the course of which, it might perhaps be practicable to avail ourselves of their anxiety, that a suspension of the act should be pressed upon our Government, to advance our negotiations, with reference, at least, to the most interesting of the topics involved in it. To our note desiring an interview, Lord Holland replied that he would be glad to see us on the —, but that Lord Auckland being out of town, would not probably be able to attend; Lord Auckland did not in fact, and we believe could not, attend. We opened the conference with Lord Holland, by observing that we had been withheld by considerations, which he would easily comprehend, from being the first to mention the act of the American Government which formed the subject of their note, but that it had been constantly present to our minds, as making it peculiarly desirable that we should understand one another as soon as possible, upon some, if not all, of the points in discussion between us; and as presenting the prospect of a dilemma, as the period prescribed for its commencement approached without finding us forward in our negotiation. After a short vindication of the act, in the course of which we did not omit to represent it in connexion with the special mission which grew out of it, as manifesting the friendly sentiments and views of our Government towards that of His Majesty, we observed, that relying upon the dispositions which their lordships constantly had avowed, and by which they were evidently animated, to establish between the two countries, by a suitable adjustment of all subsisting differences, the most perfect and lasting harmony, it was our earnest desire to take some effectual step, which should save the honor of both Governments, for ensuring the suspension which their lordships had recommended; that there might be reason to apprehend that, unless some advantageous change should appear to have taken place in the state of things, which, in the opinion of Congress, required the adoption of the measure in question, it would not easily be abandoned even for a time; that no such change has taken place, for that all the subjects of complaint which had excited the sensibility of Congress at their last session, and led to the passage of this act, were still as much at large as ever; that it was, indeed, true that commissioners, in the highest degree acceptable, had been appointed by His Majesty's Government to treat with us, and that the spirit of justice and amity displayed by their lordships promised the happiest results; but that it was also true that up to this period it could only be said, as might equally be said of the period when this act was finally past, that negotiations were depending; that we were, therefore, extremely anxious, when we should transmit their lordships' note to the United States, to be enabled to accompany it with assurances that, although much remained to be done, the two subjects of impressment and trade with enemies' colonies would certainly be adjusted to the satisfaction of our Government.

Lord Holland told us, in reply, that we were aware that the first of these subjects was full of difficulty, and required that the feelings and opinions of many persons should be managed and consulted; that it touched the most delicate and momentous of their national concerns, and called for much inquiry and deliberation; that he hoped it would soon be practicable, (and we might be confident that there should be no unreasonable delay,) to submit to us a plan, to which both sides might without reluctance consent; that, in the mean time, we could state to our Government, what was unquestionably true, that those with whom we were treating were diligently and anxiously employed in endeavors to devise an arrangement which should be convenient and honorable to us, and at the same time free from improper hazard to Great Britain; that it appeared to him, that the actual pendency of the negotiations here, (unless their sincerity were distrusted, as he was sure it would not be,) would furnish an adequate motive to Congress for merely postponing the commencement of a law which was originally a very strong measure, and would certainly, if allowed to go into operation at a moment when Great Britain was affording, in the face of the world, an unequivocal demonstration of her wish to remove every ground of misunderstanding between us, acquire a character of extreme harshness; that it was greatly to be lamented that the discussions in which we were now engaged had not been sooner begun, but, that knowing as we did to what cause the delay was to be ascribed, we knew also that it was unavoidable. His lordship mingled with these observations the most amicable assurances, and took an occasion, which a remark from one of us presented, to express his conviction that the event of a peace between Great Britain and France would be so far from creating any indisposition, or producing any obstacles on

the part of this country to a liberal adjustment with us, that it would rather facilitate that adjustment, by removing from some of the topics the peculiar interest and difficulty which the present crisis imparts to them.

After some further efforts on our part to promote the object of this interview, without departing from that tone of conciliation which prudence as well as inclination recommended, we separated, and soon afterwards we prepared and sent to the British commissioners an answer to their note of the 4th, of which you will find a copy enclosed.

To these details, we take the liberty to add our opinion, formed upon a careful view of the whole subject, that it will be proper, upon the meeting of Congress in December, to suspend the act for prohibiting the importation of certain articles of British manufacture, so as to afford further time for the completion of the negotiations which it evidently presumes, and which are now in train.

The ground which Congress have taken in this just and salutary measure we are far from wishing to abandon; but to suspend and to abandon it are very different things. The last would wound deeply the honor of the nation, and prostrate the character of the Government; but the first is in perfect conformity with the spirit and purpose of the law; and while it would furnish a signal proof of the equity and moderation of our public councils, would preserve unimpaired that firm and dignified attitude which it becomes us at all times, but now especially, to maintain. The suspension will be so far from relinquishing the measure, or weakening its effect, that it will distinctly imply a re-assertion of its principle and policy, and an unshaken resolution to act upon and enforce it as soon as negotiation shall have been sufficiently and unsuccessfully tried.

The death of Mr. Fox, which every hour is expected to announce, may, and probably will, retard our progress for some time; but our hopes are strong that we shall finally, and without much further delay, accomplish the great objects confided to us. The temper which the British commissioners have obviously brought to the negotiation, corresponding with that which has been manifested towards the mission by those who hold official stations here, as well as by the public in general, is as friendly and respectful to our Government and country as could be desired. We shall continue our exertions to fulfil, with all possible despatch, the instructions with which we have been honored, and shall communicate to you by the earliest opportunity whatever of importance shall occur.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAS. MONROE,
WM. PINKNEY.

P. S. September 12. We have just received separate notes to the same effect from Lord Auckland, of which copies are enclosed. They authorize us to expect that the conference of Wednesday next, to which he invites us, will enable us to give you details of a more precise and interesting nature than it has been practicable to give in the letter to which this is a postscript.

We omitted to mention in this letter that we have been assured by the British commissioners (particularly by Lord Holland) that a liberal and satisfactory article, relative to the extent of our jurisdiction over the waters near our own coast, and the exemption of the defined limits from all the operations of war, will be cheerfully agreed to, and that an article for defining blockade will meet with no opposition.

September 13. The last account of Mr. Fox's health of this morning is, that the symptoms have increased to so alarming a degree, that he is not expected to survive many hours.

From Lord Holland.

DOWNING STREET, August 23, 1806.

DEAR SIR:

I have seen Lord Auckland this morning, and, if not inconvenient to you and Mr. Pinkney, we thought of proposing to you to meet us at the Foreign Office, Downing street, at twelve o'clock next Wednesday, [27th August.] On that day we can exchange our powers, and will, if you please, take minutes of the general objects of your mission.

I am, dear sir, ever sincerely yours,

HOLLAND.

JAMES MONROE, Esq., &c.

To Lord Holland.

PORTLAND PLACE, August 24, 1806.

MY LORD:

I have been honored with your note of yesterday, inviting Mr. Pinkney and myself to meet your lordship and Lord Auckland at the Foreign Office in Downing street, at twelve o'clock on Wednesday next for the purpose of exchanging our powers and commencing the business confided to us by our respective Governments. I have conferred with Mr. Pinkney on the subject, and have to assure your lordship that we shall be punctual to the appointment which you have been so good as to give us.

I am, with great consideration and esteem, very sincerely yours,

JAMES MONROE.

The Right Hon. LORD HOLLAND, &c.

From Lord Holland and Lord Auckland.

DOWNING STREET, August 28, 1806.

Lord Holland and Lord Auckland present their compliments to Mr. Monroe, and request that, if it be not inconvenient to him, he will have the goodness to meet them in Downing street, on Monday next, [1st September,] at twelve precisely.

[A similar note sent to Mr. Pinkney.]

To Lord Holland and Lord Auckland.

AUGUST 29, 1806.

Mr. Monroe presents his compliments to Lord Holland and Lord Auckland, and has the honor to inform them that Mr. Pinkney and he will not fail to wait on their lordships in Downing street, on Monday next at twelve o'clock.

To Lord Holland and Lord Auckland.

SEPTEMBER 2, 1806.

Mr. Monroe and Mr. Pinkney present their compliments to Lord Holland and Lord Auckland, and have the honor to enclose to their lordships a copy of the act of Congress which they requested in their interview of yesterday.

From Lord Holland and Lord Auckland.

DOWNING STREET, September 4, 1806.

GENTLEMEN:

We have received a copy (sent by you, at our request,) of the "act of Congress to prohibit, from and after the 15th of next November, the importation into the territories of the United States of a very large description of goods, wares, and merchandise, from any port or place situated in Great Britain or Ireland."

On a full consideration of that act, we think it our duty to express our earnest hope and expectation that some means may be found to suspend the execution of a measure so opposite in its temper and tendency to the disposition and views with which our pending negotiation has been commenced and is carrying on.

That measure, unless suspended, will take effect, if not before our discussions can be closed, at least before it is possible that their result can be known in the United States; and would obviously lead to the necessity of proposing to Parliament similar steps on the part of this country, by which mutual irritation would be excited, and fresh impediments created in the way of such a final adjustment as, we trust, is mutually desired.

We rely on you for taking such immediate steps in this business as may best contribute to a happy termination of our treaty, and to a cordial and permanent friendship between His Majesty's subjects and the citizens of the United States.

We have the honor to be your faithful, humble servants,

VASSAL HOLLAND,
AUCKLAND.

P. S. The sailing orders of the North American mail will, in course, be issued this evening, unless you should wish to have them delayed for a day or two.

To Lord Holland and Lord Auckland.

SEPTEMBER 4, 1806. *Ten o'clock, P. M.*

Mr. Monroe and Mr. Pinkney present their compliments to Lord Holland and Lord Auckland, and have the honor to request an interview with their lordships, at as early a moment as shall suit their convenience, on the subject of their note of this day, which they have just received. In the mean time, the delay suggested, in the postscript of their lordships' note, of the sailing orders of the North American mail, will be extremely agreeable to Mr. Monroe and Mr. Pinkney.

From Mr. Allen, Secretary of Lord Holland.

HOLLAND HOUSE, Friday, September 5.

DEAR SIR:

Lord Holland, understanding by your and Mr. Pinkney's note of yesterday, that you are desirous to have some conversation with him before the sailing of the American packet, will be happy to meet you and Mr. Pinkney tomorrow at the Foreign Office, at half-past eleven o'clock.

I have the honor to be, dear sir, &c.

JOHN ALLEN.

JAMES MONROE, Esq., &c.

The American Ministers to Lord Holland.

SEPTEMBER 10, 1806.

The undersigned ministers extraordinary and plenipotentiary of the United States of America, present their compliments to Lord Holland and Lord Auckland, and have the honor to inform them that they will hasten to transmit to their Government their lordships' note of the 4th instant, the receipt of which has already been acknowledged.

The undersigned consider it their duty to assure Lord Holland and Lord Auckland, that nothing is more remote from the views of their Government than to oppose any obstacle to a fair and satisfactory conclusion of the present negotiation. They are persuaded, if all the circumstances which have occurred between the two Governments since the commencement of the present war are taken impartially into consideration, that not the slightest doubt can remain on that point. It is certain that the act of Congress to which their lordships have objected is attributable to other causes of a very imperious nature, and that it furnishes no sufficient reason to call in question the sincerity with which the United States have uniformly sought to preserve the most friendly relations with Great Britain. The undersigned are, however, far from being desirous to look back to incidents, a review of which can serve only to produce regret. It is more important, and therefore more agreeable, to look forward, and to provide by suitable arrangements against the like in future.

The undersigned flatter themselves that nothing will occur on either side to excite irritation or to create new obstacles in the way of an adjustment, which it is confidently believed the interest of both countries requires. They indulge the hope that the present negotiation, which has been entered into by both Governments with a sincere desire to adjust all subsisting differences and to place their navigation and commerce on a basis of reciprocal advantage, will succeed in all its objects. The undersigned will not fail to promote that desirable result by all the means in their power. They will be happy in communicating to their Government a copy of their lordships' note of the 4th instant, to do justice to the friendly disposition which their lordships have brought into the negotiation; and, in the mean time, the undersigned will always be prepared to promote, by their joint labors, with the greatest possible despatch, and on fair conditions, a satisfactory conclusion of it.

The undersigned request Lord Holland and Lord Auckland to accept the assurance of their high consideration.

JAMES MONROE.
WILLIAM PINKNEY.

[Enclosed in Mr. Monroe and Pinkney's despatch of 11th September.]

ART. 1. No person whatever shall, on the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to citizens or subjects of one of the parties, by the public or private armed ships belonging to or in the service of the other, unless such person be at the time in the military service of an enemy of such other party.

No person, being a subject or citizen of one of the parties, and resorting to or residing in the dominions of the other, shall in any case be compelled to serve on board any vessel, whether public or private, belonging to such other party; and all citizens or subjects whatever of the respective parties at this time compulsively serving on board the vessels of the other shall be forthwith liberated, and enabled, by an adequate recompense, to return to their own country.

In all questions which may arise within the dominions of either Power, respecting the national character of any person who claims to be a citizen or subject of the other Power, due credit shall be given to such public documents as his Government may have granted for his protection; and where such documents may have been lost, destroyed, or by casualty not obtained, and any person claims to be a citizen or subject of either party, such other evidence of said claim shall be received and admitted, as would be satisfactory in a court of judicature. The high contracting parties engage that due care shall be taken that such documents shall be granted in their respective ports to such persons only as are justly entitled to them, and by suitable officers who shall be specially designated for the purpose.

ART. 2. It is agreed that no refuge or protection shall be afforded by either party to the mariners, sailors, or other persons not found to be its own citizens or subjects, who shall desert from a vessel of the other party, of the crew whereof the deserter made a part; but; on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or to such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made within two years from the time of desertion, by an exhibition of the ship's papers, or authenticated copies thereof, and by satisfactory evidence of the identity of the person, that the deserters so demanded were actually part of the crew of the vessels in question.

And for the more effectual execution of this article, adequate provision shall be made for causing to be arrested, on the application of the respective consuls or vice-consuls to the competent authorities, all deserters, duly proved to be such, in order that they may be sent back to the commanders of the vessels to which they belonged, or removed out of the country. And all due aid and assistance shall be given in searching for as well as in seizing and arresting the said deserters, who shall even be detained and kept in the prisons of the country, at the request and expense of the said consuls or vice-consuls, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

From Lord Auckland to Mr. Monroe.

OFFICE FOR TRADE, WHITEHALL, *September 12, 1806.*

MY DEAR SIR:

Lord Holland and I have received your note of September 10, in answer to ours of the 4th instant. The unhappy consideration which at present occupies Lord Holland has prevented him from meeting me since I returned from Dropmore; but I have received several letters from him, in which he expresses great anxiety that you should be informed by me that we are not neglecting the joint object which we all have in view.

If you and Mr. Pinkney (to whom I send a duplicate of this note) could conveniently come to Downing street at eleven o'clock next Wednesday morning, [September the 17th,] I shall then be able to state provisionally (in Lord Holland's absence) many particulars which may deserve your consideration and advance our next official discussion.

I am, my dear sir, most sincerely yours,

AUCKLAND.

To Lord Auckland.

MY LORD:

PORTLAND PLACE, *September 14, 1806.*

I have had the pleasure to receive your letter of the 12th, and shall, with Mr. Pinkney, not fail to meet your lordship at Downing street on Wednesday next, at eleven o'clock in the morning. We will receive there any communications which your lordship will be so good as to make on the interesting subjects which engage our joint attention, not doubting that every interview will contribute to advance the business to its desired conclusion. We are aware that Lord Holland's domestic distress and duties will deprive us of the pleasure of seeing him for the present, and hope that your lordship will prevent that circumstance giving him the least anxiety. I beg your lordship to present, &c. and to be assured of the great consideration and esteem with which

I have the honor, &c.

JAMES MONROE.

No. 6.

Messrs. Monroe and Pinkney to Mr. Madison.

SIR:

LONDON, *November 11, 1806.*

We flattered ourselves, at the date of our last despatch, which was of September 11th, that we should have been able to have concluded a treaty with the British commissioners, and to have transmitted it to you before this, on all the interesting topics which are embraced by our instructions, and on terms that would be approved by our Government. The disposition which had been shown by the members of the cabinet, with most of whom we had had conversations on the subject, and the sentiments which had been expressed in our conferences by the plenipotentiaries who had been appointed to meet us, independent of other considerations of a favorable character, had inspired us with great confidence in such a result. We regret, however, to be now under the necessity of stating to you, that although every topic has been frequently taken into consideration and discussed, and there is good cause to believe that a satisfactory arrangement may be obtained of many of the great points, and an admissible one of the inferior, that, nevertheless, nothing has been concluded on any point, and an insurmountable difficulty has occurred on one which is deservedly considered of the first importance to our country.

The opportunity by which we propose to forward this communication is so pressing as to time, that we fear we shall not be able to give you all the details which have attended the negotiation since the 11th September; we shall, however, endeavor to comprise in it every circumstance which may be necessary to convey a just idea of its present state and probable result.

You were apprised by our last of the delay to which we had been previously exposed by the indisposition of Mr. Fox. It happened unfortunately that the same cause subjected us afterwards to much interruption in the prosecution of the business, which was finally suspended altogether, for several weeks, by his death. We add, however, with pleasure, that we experienced no delay on account of Mr. Fox's indisposition, which did not appear to us, in consideration of all circumstances, to be natural and reasonable; that the business was resumed by the British commissioners as soon after his death and interment as a suitable respect for his memory would permit; and that it has been pursued by them since in a manner to evince an evident desire on their part to bring it to a speedy conclusion.

Our attention was naturally drawn from the commencement of the negotiation to its principal objects, the impressment of our seamen, and the trade with enemies' colonies; the former of which presented the most serious difficulties with this Government. As we knew that the tranquillity of our country, if not its peace, was essentially connected with a suitable provision for this great interest, it seems useless to proceed to those of minor consideration, till it should be satisfactorily disposed of. Hence the greater portion of our time and labor has been bestowed in our several conferences on this latter topic. We have said every thing that we could in support of our claim, that the flag should protect the crew, which we have contended was founded in unquestionable right, whose enjoyment it was indispensable to secure, by an unqualified and positive stipulation in its favor. We have also proposed, in a spirit of accommodation, every suitable expedient that we could devise, consistent with that principle, to obviate the inconveniences which it was urged on the other side were likely to result from its admission. But all our efforts have so far proved ineffectual. The right was denied by the British commissioners, who asserted that their Government to seize its subjects on board neutral merchant vessels on the high seas, and who also urged that the relinquishment of it at this time would go far to the overthrow of their naval power, on which the safety of the state essentially depended. At one time, and that very recently, there was a prospect of an agreement on conditions which appeared to be just and fair between the parties, but that seems now to have completely vanished. It was urged by the British commissioners, that the proposition which we have made, to give the aid of the local authorities of the United States, to apprehend and restore deserters from their vessels, as an inducement for their Government to acknowledge the right which we contended for in favor of the vessels of the United States on the high seas, did not furnish a complete remedy for the evil complained of. It did not follow, they observed, that such deserters would, in all, or even most cases, retire into the country; they might, on the contrary, go on board an American vessel which might put immediately to sea, where our flag would protect them; that such desertions might also take place in a neutral port, and be attended with like consequences. They were, therefore, desirous that we should stipulate that a law should be passed by the Congress, (to be of course reciprocal,) which should make it penal for the commanders of American vessels to take deserters from those of Great Britain under such circumstances, they being British subjects, and likewise to make it the duty of our Government to restore them on their arrival in the United States, on suitable application, and due proof being made of their persons. We agreed to provide a remedy for this presumptive evil. They then observed that the term "deserters" was too limited, according to their law, to comprehend those who might leave their merchant vessels; that it would apply only to such as left their ships of war; they, therefore, proposed that we should enlarge its import by adding the following terms, "seafaring people quitting their service," to which we also agreed; taking care, however, by confining their operation always to the case of real desertion from some vessel, not to give them a greater range in the sense of our law than we had at first intended. To our original project, thus amended, the British commissioners seemed to give their assent; they agreed expressly to propose an article to the cabinet to that effect; from which circumstance, and from what had previously occurred in our conferences, we were led to conclude that they would also support it. To give the cabinet full time for deliberation on the subject, our next meeting was postponed to so distant a day as to admit it. We are sorry to add, that the result of that deliberation was a rejection of the project, and, with it, an end to all hope of obtaining at this time, in its stead, any satisfactory stipulation by treaty respecting impressments.

Our next interview had been appointed to take place on the 5th instant. On the preceding day we received a note from the British commissioners, with a report from a law officer of the crown, which seemed to be communicated to prepare us for what they had to announce more formally the next day. The report of the crown officer had been made in answer to an inquiry from them, on what ground Great Britain claimed a right to take by force her seamen from on board the merchant vessels of other Powers on the high seas. The report justified the pretension by stating that the King had a right, by his prerogative, to require the service of all his seafaring subjects against the enemy, and to seize them by force wherever found, not being within the territorial limits of another Power; that as the high seas were extra-territorial, the merchant vessels of other Powers navigating on them were not admitted to possess such a jurisdiction as to protect British subjects from the exercise of the King's prerogative over them. We were desired to consider the communication as a private one, at least in that stage. At our meeting the next day, the British commissioners stated explicitly, but in a very conciliating manner, that it was not in their power to adopt an article in the spirit of our project; that the Board of Admiralty had been consulted on the subject, as had also been the crown officers in Doctors' Commons, who united all, without exception, in the opinion that the right of their Government, in the case in question, was well founded, and ought not to be relinquished; they added that, under such circumstances, the relinquishment of it was a measure which the Government could not adopt, without taking on itself a responsibility which no ministry would be willing to meet, however pressing the emergency might be. They presented to us at the same time a counter-project, which they intimated they did in obedience to instructions from their Government. It was proposed by this that laws should be passed by the parties, respectively, whereby it should be made penal for the commanders of British vessels to impress American citizens on board American vessels on the high seas, and for the officers of the United States to grant certificates of citizenship to British subjects. The negotiation being thus brought, as it were, to an issue on this very important point, the discussion of the whole subject was necessarily resumed at considerable length, and with great earnestness. We maintained, with all the force in our power, the right of our Government, on the principle and to the extent we had done before, and denied as strenuously the pretension advanced by Great Britain; their counter-project we declared was utterly inadmissible, as its adoption, so far from securing the just rights of the United States, and remedying the evils of which they complained, would prove an abandonment of their rights, and a sanction, in a considerable degree at least, to future injuries. The British commissioners, after supporting with great force, but with candor, the claim of their Government, assured us that it was willing to do any thing in its power to satisfy the United States on the ground of their complaints, which might be done without a relinquishment of their claim. This interview terminated in the appointment of another to take place on the 7th, when it

was agreed that the subject should be definitively disposed of, and, in the interim, that each party should revolve it in mind, to see if it might not be possible to suggest some plan which should prove equally satisfactory to both. We met on the 7th, according to appointment, and, having repeated what we had said before of their counter-project, which we deemed altogether inadmissible, and having also stated that we could adopt none which did not allow our ships to protect their crews, or suggest any accommodation other than what we had already proposed as an inducement to their Government to admit the principle, and it appearing that no change had taken place in their instructions, we came at length to the main question, (that which had, in truth, been the great object of the meeting,) what was next to be done under existing circumstances? Should the negotiation cease? The British commissioners expressed an earnest desire that it should not. We had repeatedly stated, that unless this interest was provided for in a satisfactory manner, it would be useless to touch the other points, since a continuance of the same abuses on their part would render of no effect any arrangement, however eligible, which might be made of them. They intimated that their Government gave at present no cause of offence to the United States by impressments, and that we might be satisfied it would continue to pursue the same policy; that it might be better that neither party should abandon its rights, and that each should endeavor to act, in respect to the injuries complained of by the other, in such manner as to prevent future complaints. They thought that, with such a disposition on both sides, seconded by a correspondent exertion, which they assured us existed, and would be made on their part, it was likely that the interest of each country would be placed on a footing equally secure for temporary purposes, and much more so in respect to a permanent good understanding, than it could be for either, by a treaty, which should even stipulate for it the object which it sought. We desired them to communicate to us, by note, the ideas which they had thus expressed, which they readily undertook by proceeding to give a sketch of them at the time, and evidently showing a disposition to make it as acceptable to us as they could do consistently with the principles of their Government. We adjourned to meet again on the 12th instant, without having come to any positive decision as to the part which it became us to take in the delicate conjuncture in which we were placed. We did not fail, however, in showing our regret that no suitable provision had been made for the very important question which had been so long under consideration, to express our sincere desire to pursue that course in respect to the other objects of the negotiation which our duty, under existing circumstances, would permit, and which might be most likely to promote a good understanding between the two countries.

On the 9th instant we received from the British commissioners the note which they had promised us in the last interview, which we have found to correspond in all respects with what we have been taught to expect. We have also weighed, with due consideration, the great question which is propounded by it, and are decidedly of opinion that it is our duty to proceed to the other objects of the negotiation, leaving that of impressment on the ground on which it will be placed by this note, and our acting on it. Many strong reasons favor this course, while none occur to us of any weight against it. When we take into view all that has passed on this subject, we are far from considering the note of the British commissioners as a mere circumstance of form. We persuade ourselves, that by accepting the invitation which it gives, and proceeding in the negotiation, we shall place the business almost, if not altogether, on as good a footing as we should have done by treaty, had the project which we offered them been adopted. The time at which this note was presented to us, and the circumstances under which it was presented, being when the negotiation was absolutely at a stand on this very question, and we had informed the British commissioners that we could do nothing if it was not provided for, give the act a peculiar degree of solemnity and obligation. It was sent to us as a public paper, and intended that we should so consider it, and with the knowledge and approbation of the cabinet. It ought, therefore, to be held as obligatory on the Government, in its just import, as if the substance had been stipulated in a treaty. It is just, also, to give it a liberal construction in favor of the United States, in consideration that it is the act of the British Government. In that view it merits attention; that every thing is expressed in it that could be desired, except the relinquishment of the principle; that in speaking of impressments, the exercise of that act on the high seas is not mentioned, an omission which we know to have been intentional. From a full view of all these circumstances, we think it fair to infer that this Government intends to conform its conduct in future to the just claims of the United States on this great interest, while, by particular motives of policy, it deems it improper to relinquish a claim, especially at this time, which has been long sustained and acted on by it, and which has been heretofore strongly supported by the national feeling, or more properly speaking, prejudice: for we cannot believe that the interest of the nation is in favor of it, more especially if the project which we proposed should be adopted, or correspondent regulations entered into, to produce the same effect, by friendly co-operation between the two Governments. We are therefore of opinion, if the negotiation had contemplated an arrangement of this point alone, that it would be proper to close the business amicably, on the ground on which it is thus placed, rather than to break it off abruptly, and take an unfriendly attitude, from which no advantage could possibly arise in any one respect, and much injury might, and most probably would, for a time at least, even to this very interest. How much stronger, then, is the obligation to proceed, when the other objects of the negotiation are taken also into view, all of which it is highly interesting to arrange, and several of which, of the first importance, it is, as we believe, in our power to arrange? We are aware that our instructions impose on us the necessity of providing satisfactorily for this great interest, as one of the conditions on which a treaty shall be formed; but it does not appear that the fair object of that instruction will not be satisfied by the arrangement thus made. The prohibition not to conclude a treaty, otherwise than on the condition adverted to, is fairly to be understood as applicable to a refusal, on the part of this Government, to arrange the business on just principles, and an adherence by it to its former improper and offensive conduct, which it is well known is not the case. Impelled by these considerations and motives, we shall go forward in the negotiation, and use our best efforts to place the other points on the most advantageous footing that may be practicable. We are the more confirmed in this resolution from the consideration that we shall be able to do it without exposing our Government or country to any the slightest inconvenience. It is known to the British commissioners that in proceeding, under existing circumstances, we shall do it on our own responsibility; a responsibility, however, which we undertake in full confidence that our conduct and the motives of it will be approved.

We shall meet the British commissioners to-morrow to proceed in the negotiation, which we are persuaded it will not require any considerable length of time to conclude. All the other topics have been heretofore brought into view and discussed, but without any intention in that stage, on either side, to push a definitive settlement of them. So much, however, has been said on each by the British commissioners, as to enable us, as we presume, to form a tolerably correct estimate of what may be obtained on several, especially those of the greatest importance. In respect to the trade with enemies' colonies, they have repeatedly told us, that on condition we would land the cargoes in the United States, store them for a month, and change the ship, they would agree that the trade might be free afterwards in the productions of those colonies to other countries, including the parent country of the colony. We have refused to comply with the condition in respect to the storing of the goods for a month, and changing the ship. Some arrangement more advantageous to us than their proposition will, we have no doubt, be obtained. The question of blockade, and others connected with it, may, we think, be satisfactorily arranged. They will agree

also to acknowledge our jurisdiction to the extent of a league from our coast; we have claimed that acknowledgment to the extent of three leagues. The trade with India they will put on the footing it held under the treaty of 1794. That with the West Indies must, we fear, rest on the ground of the most favored nation only. Something, we think, may also be done in favor of an intercourse with the British provinces to the north of us. But our claim to an indemnity has been much discouraged, though we have never ceased to press it with great zeal. We shall continue to use our best endeavors to place all these great concerns on the most just and advantageous ground in our power, and shall hasten to communicate to you the result, with the greatest possible despatch, as soon as the business is concluded.

We have been cautious not to compromise ourselves with respect to the law which was passed the last session of the Congress, prohibiting the importation of certain British manufactures into the United States after the 15th of this month, either with this Government or individuals. We think it our duty, however, to observe, that our opinion of the propriety of suspending that law remains unchanged, as it was communicated to you in our letter of September the 11th. Indeed, the uniform conciliating disposition of this Government has strengthened us in that opinion.

Of the state of the war on the continent, the gazettes which accompany this will give you all the information which we possess. Of the ultimate views of Prussia, under existing circumstances, we know nothing. So far, she has followed the example and participated in the fortune of Austria, as exhibited in the last campaign; and so far has Austria imitated hers of the same epoch, by viewing with an apparent indifference events which menace the overthrow of both.

We have the honor to be, with great respect, your most obedient servants,

JAS. MONROE,
WM. PINKNEY.

HOLLAND HOUSE, November 8, 1806.

His Majesty's commissioners and plenipotentiaries have the honor to represent to the commissioners and plenipotentiaries of the United States:

That the project of an article on the subject of impressing seamen, together with the reasons by which the commissioners of the United States have urged the expediency of an arrangement on that subject, has been laid before His Majesty's Government, and has been considered with the same friendly and conciliatory disposition which has marked every step of the negotiation.

That His Majesty's Government has not felt itself prepared to disclaim or derogate from a right which has ever been uniformly and generally maintained, and in the exercise of which the security of the British navy may be essentially involved; more especially in a conjuncture when His Majesty is engaged in wars which enforce the necessity of the most vigilant attention to the preservation and supply of the naval force of his kingdom.

That His Majesty's Government, animated by an earnest desire to remove every cause of dissatisfaction, has directed His Majesty's commissioners to give to Mr. Monroe and to Mr. Pinkney the most positive assurances that instructions have been given, and shall be repeated and enforced, for the observance of the greatest caution in the impressing of British seamen; and that the strictest care shall be taken to preserve the citizens of the United States from any molestation or injury; and that immediate and prompt redress shall be afforded upon any representation of injury sustained by them.

That the commissioners of the United States well know that no recent causes of complaint have occurred, and that no probable inconvenience can result from the postponement of an article subject to so many difficulties. Still, that His Majesty's commissioners are instructed to entertain the discussion of any plan that can be devised to secure the interests of both states, without any injury to rights to which they are respectively attached.

That, in the mean time, the desire of promoting a right conclusion of the proposed treaty, and of drawing closer the ties of connexion between the two countries, induces His Majesty's commissioners to express their readiness to proceed to the completion of the other articles, in the confident hope that the result cannot fail to cultivate and confirm the good understanding happily subsisting between the high contracting parties, and still further to augment the mutual prosperity of His Majesty's subjects and of the citizens of the United States.

VASSAL HOLLAND.
AUCKLAND.

To JAMES MONROE, Esq. and WILLIAM PINKNEY, Esq.

PROJECT.

In order to prevent the vessels of either party becoming a sanctuary at sea for deserters from the vessels of the other party, it is expressly stipulated by the high contracting parties that they will respectively enact laws whereby it shall be made penal for the commanders or masters of the vessels of either of the parties, who may happen to be in the ports of some third Power, or in the ports of one of the parties, with the vessels of the other party, to receive on board and carry to sea (knowing them to be such) the sailors belonging to and deserting from such vessels. It is further agreed, whenever the vessels having on board the sailors who may have so deserted in a neutral port shall arrive at any port of the party to which they belong, that such party shall cause such deserters to be delivered up, on proper application, supported by lawful evidence, to the agent or consul of the other party, who may be duly authorized by his Government to act in such cases.

COUNTER-PROJECT.

Whereas, when the one nation is at war and the other at peace, it is not lawful for the belligerent to impress or carry off from on board the vessels of the neutral sea faring persons, who are the native subjects of the neutral, or others who are not the subjects of the belligerent; and whereas, from the similarity of language and appearance, it may be difficult to distinguish the subjects of the two states, the high contracting parties agree, that for the greater security of the subjects of the neutral, they will enact such laws respectively as shall subject to heavy penalties the commanders of the belligerent ships who shall impress or carry off the native subjects of the neutral, or others, not being the subjects of the belligerent, from on board the neutral vessels, on any pretence whatever. And they further agree to enact laws, respectively, making it highly penal in the subjects of the neutral to grant any certificates of the birth and country of seafaring persons, without due evidence and proof of the same.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

GENTLEMEN:

DEPARTMENT OF STATE, *November 28, 1806.*

Your despatch of the 11th of September has been duly received. Although the tenor of the discussions which it recites does not exhibit on the part of the British commissioners the readiness in yielding to the justice of our claims and to the energy of your statements which might be wished, yet the general spirit of conciliation with which they profess, and appear to have met you, cherishes a hope that further explanations on your part, and reflection on theirs, will have brought the negotiation to a favorable result. In this hope, and in consideration of the amicable views and manner in which a suspension of the non-importation act is pressed, the President has not hesitated in his determination to recommend the measure to Congress, whose session will commence on Monday next. This will be done, not in his first general message, which has been already put into its final form, but in a message appropriated to the subject, which will follow as soon as the course of business will conveniently admit.

In your communication of this compliance, so far as depends on the President, with the object of the British commissioners, seconded by your recommendation, you will not fail to let it be understood, as a proof of his earnest desire to smooth the way to a happy adjustment of all differences between the two nations, and to make every sacrifice for the purpose which may be reconcilable with that consistency and just policy in the national proceedings which cannot be abandoned.

This letter, with another to Mr. Monroe, will be put into the hands of Mr. Merry, who, in consequence of the arrival of Mr. Erskine, is now on his return. I have made him acquainted with the general posture of your negotiations, and with the intention of the President to recommend to Congress the proposed suspension of the prohibitory act.

I have the honor to be, &c.

JAMES MADISON.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

GENTLEMEN:

DEPARTMENT OF STATE, *December 3, 1806.*

The President having this day complied with the recommendation in your letter of September 11, by a special message to Congress on the subject of the non-importation act of the last session, I lose not a moment in forwarding to Mr. Merry's care the enclosed copy, hoping that it will either find him still at Alexandria, or overtake him before the vessel gets out of reach.

I remain, &c.

JAMES MADISON.

Mr. Madison, Secretary of State, to Messrs. Monroe and Pinkney, Ministers Extraordinary and Plenipotentiary of the United States in London.

GENTLEMEN:

DEPARTMENT OF STATE, *December 6, 1806.*

The detention of the Leonidas enables me to enclose a copy of the bill suspending the non-importation act of the last session, as it was passed by the House of Representatives this day, with only five dissenting voices.

In the object, the House is supposed to have been unanimous, the difference of opinion being produced by a disagreement about the time to which the suspension should be limited. As the bill passed with unusual celerity, it is not improbable that the suspension may be further extended by the Senate, especially as a proposal to suspend till the 30th December next was lost by a majority of sixty to forty in the House.

Enclosed I transmit a copy of the documents referred to in the President's message, respecting the approaches of the Spaniards upon the Orleans Territory, and a few printed copies of the special message, recommending a suspension of the non-importation law.

I have the honor to be, &c.

JAMES MADISON.

Mr. Madison to Messrs. Monroe and Pinkney.

GENTLEMEN:

DEPARTMENT OF STATE, *December 20, 1806.*

You will have seen by my letter of the 6th, which went by sundry other conveyances, that the bill suspending the non-importation act had passed the House of Representatives. I now enclose it in the form of a law, with an amendment providing for a further suspension by the Executive, in case the state of things between the two countries should require it. In the Senate the vote for the bill was unanimous. I add a continuation of the newspapers, and refer to them for the current information of a public nature.

I have the honor to be, &c.

JAMES MADISON.

No. 7.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

SIR:

LONDON, *December 27, 1806.*

We have the pleasure to acquaint you that we have this day agreed with the British commissioners to conclude a treaty on all the points which have formed the object of our negotiation, and on terms which we trust our Government will approve. It will require only a few days to reduce it to form. When that is done, we shall transmit it to you by a special messenger. We hasten to communicate to you this interesting intelligence for the information and guidance of our Government in such measures as may have reference to the subject.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAS. MONROE,
WM. PINKNEY.

JAMES MADISON, *Secretary of State, Washington.*

No. 8.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

Sir:

LONDON, January 3, 1807.

We have the honor to transmit you a treaty which we concluded with the British commissioners on the 31st of December. Although we had entertained great confidence from the commencement of the negotiation that such would be its result, it was not until the 27th that we were able to make any satisfactory arrangement of several of the most important points that were involved in it. On the next day we communicated to you that event by several despatches, three of which were forwarded by vessels from Liverpool, so that we hope you will receive very early intelligence of it. We commit this, with the treaty, to Mr. Purviance, who, we flatter ourselves, will have the good fortune to arrive in time to deliver it to you before the adjournment of Congress.

The necessity we feel ourselves under to forward to you the treaty without delay will, we fear, render it impossible for us to enter so fully into the subject of it as on many considerations it might be proper to do. We are aware that such instruments must be construed by an impartial view of their contents, uninfluenced by extraneous matter. A knowledge, however, of the sense in which the several articles of a treaty were understood by the parties to it may in most cases be useful. It is also just to remark, that some circumstances occurred in the course of this negotiation, which, although they do not appear on the face of the instrument itself, yet, as they may have no inconsiderable influence on the future relations of the two countries, it is peculiarly important to explain. We shall endeavor to give such explanations, where they may be necessary, in the best manner that may be found compatible with the despatch which the occasion so imperiously requires, and, we flatter ourselves, without omitting any thing on any point that may be deemed of essential importance.

The first article of the present treaty, which stipulates that peace shall subsist between the parties, is taken from that of 1794, and is found in most of the modern treaties.

The second article confirms those of a permanent nature in the treaty of 1794. The British commissioners were very desirous to introduce the permanent articles of that treaty, in the form of new stipulations, into the present one. They insisted, with great earnestness, that that article which relates to the trade with the Indian tribes should be so amended as to admit the traders of Canada and the Hudson Bay Company to participate with us in that trade with the tribes in Louisiana. They seemed to admit that, by a fair construction of the article, they could not support such a claim, but contended that it was justified by its spirit. Their solicitude on this point, which they had supposed was an unimportant one to the United States, created some embarrassment and delay in the business. They intimated that it proceeded from a desire to conciliate the public opinion in this country in favor of the treaty, which became necessary in consequence of the concessions which they thought they made us on other points. As we were decidedly of opinion that the article in the treaty of 1794 could not apply to territory afterwards acquired, and could see nothing in its spirit which entitled it to such an extension, and more especially as our instructions contemplated a different result, it was impossible for us to adopt their proposal. They finally agreed, therefore, though not without evident reluctance, to the article in its present form.

We regret to say that the third article, which regulates our trade with the British possessions in India, which, with one essential and most unfavorable difference, is the same with the thirteenth article of the treaty of 1794, is not what we had been led to hope it would be practicable to make it. Aware of the importance attached to this commerce in America, we have used the most zealous and persevering efforts, not only to prevent the introduction of new restraints upon it, but even to emancipate it from some of those which the treaty of 1794 had distinctly sanctioned. The India Company have, however, been less accommodating than was at first expected, and hence the rejection of all the amendments proposed by us, one of which sought to omit entirely, and (when that was refused) to modify the proviso copied from the treaty of 1794, that our voyages from the British possessions should be direct to the United States. This amendment, in both its shapes, was repelled in such a manner as to convince us that nothing would be gained by continuing to press it; and we gave it up, at length, with great reluctance. In this stage of the business, the British commissioners insisted upon an amendment on their part, by which our voyages to British India were required to be direct from the United States. This unexpected amendment was proposed at the instance of the India Company, after the project of the British commissioners (which, with reference to this subject, was a literal copy of the thirteenth article of the treaty of 1794) had not only been presented to us, but fully discussed, and, as we understood, settled. The real intention and office of it were said by Lord Holland and Lord Auckland to be no more than to make the article speak unequivocally what was the true meaning of the article in the late treaty. We replied to this, that the article in the late treaty was not susceptible of this limited construction; that its obvious import was, that only the voyage from India should be direct; that this had been solemnly adjudged by their own courts of law; and that the practice had been, and still continued to be so. We were answered by the production of a paper, purporting to be a report of ———, that, in their opinion, an American vessel was not entitled to a clearance from a port in Great Britain to Calcutta, under the treaty of 1794. We were told, moreover, that Lord Grenville when he made the treaty, the India Company when it sanctioned, and the British Government when it ratified it, did not mean to authorize any other than direct voyages, outward as well as homeward, between the United States and their Indian possessions; and that if the treaty was liable to another construction, it arose from mere inadvertence in adjusting the phraseology; but that, in truth, it was not a fair and natural interpretation of words which authorized a commerce between two defined limits; that a commerce between one of these limits and some third place was intended to be allowed, although not a word was said about it in the article. Having given the obvious answer to these suggestions, we urged as long and as zealously as was thought advisable the inconveniences to which our trade with India would be subjected by prohibiting any of the modes in which it was prosecuted, as well as the unfriendly appearance of the new restriction, for which there existed no adequate motive. We spoke of the sensibility which would be excited in our country by such an ill-timed and ungracious interference, the interests which it would affect, and the passions which it would enlist against the entire treaty; to all which it was finally answered, that the India Company could not be prevailed upon to relax upon this point; that, moreover, it ought not to be forgotten that this was a trade from which their own subjects were ordinarily excluded, in favor of the company's monopoly; that this monopoly, as a losing concern, seemed at present to require peculiar protection; that our admission into British India at all was a boon for which we did not and could not give any equivalent; and, of course, that we could not justly complain if that admission was somewhat qualified, with a view to the mitigation of the evils by which it was undoubtedly attended, and which it was not possible wholly to prevent, especially if we were not placed upon a more disadvantageous footing in that respect than other friendly Powers; which was so far from being the case, that we were unquestionably admitted by the article, as they proposed to amend it, upon much better terms than any other nation, inasmuch as our commerce (exclusive of the advantage of being secured by treaty) would be subject only to British duties; whereas the Danes and Swedes paid alien duties to a considerable amount, without enjoying any privilege (whatever might be said to the contrary) to which we were not equally entitled. We were at last reduced

to the necessity of accepting the article with the obnoxious amendment, rendered less obnoxious, perhaps, by the clause relative to the most favored nation; or making a treaty without any article upon the subject, which would have the same, and probably worse effects; or of making no treaty at all. We preferred the first.

The fourth and fifth articles regulate the trade between the United States and the British possessions in Europe. By these we are persuaded that much greater satisfaction will be given to our Government and country than in the preceding one. The three first clauses of the fifth article, which place the vessels and merchandise of each country in the ports of the other, in respect to duties and prohibitions, on the footing of the most favored nation, are taken from the treaty of 1794. To these we were not aware that any well founded objection was ever made. But the subsequent clauses give a new character to this intercourse. The right which the British Government reserved, by the treaty of 1794, to impose a tonnage duty on American vessels equal to the duty which was payable on British vessels in the United States, is, by the first of these clauses, made reciprocal. Under that reservation, or rather, as we presume, on the pretext of it, the British Government had actually imposed a tonnage duty on American vessels of six shillings and five pence sterling per ton, being almost three times the amount of the duty which was payable on British vessels in the United States. And as the United States had expressly stipulated not to raise the duty on British vessels higher than it then was, it was out of their power, without a palpable violation of that stipulation, to countervail the duty imposed by Great Britain on American vessels. But by making the reservation reciprocal, the United States have an unquestionable right to raise the duty on British vessels to the same level, wherever that may be. And by confining the reciprocity strictly to the principle of national equality, that is, an equality of tonnage duties which shall be payable on the vessels of each party in the ports of the other, a right is reserved to each to give what preference it thinks fit, within that limit, to its own vessels and people. At present, such preference is given by our law to the amount of forty-four cents per ton, which is not only protected by this clause against any countervailing measure, other than by lessening the duty, but the right is secured to increase it in the degree above stated. By this we do not wish to imply that it would be advisable to take all the advantage of this circumstance which the article admits of. The presumption is, that the British Government will, in case the treaty is ratified, repeal the additional duty on American vessels, which will leave them charged, in common with their own and those of every other nation, with the sum of four shillings and five pence per ton. Should our Government think proper to raise the duty on British vessels to the same point, it may, perhaps, be advisable not to increase the present discrimination. The last clause of this article, which stipulates that the same duties of exportation and importation shall be paid on all goods and merchandise, and that the same drawbacks and bounties shall be allowed in both countries, whether the same be in British or American vessels, will, it is also hoped, be found of very essential advantage to the United States. The right which Great Britain had reserved by the treaty of 1794, to countervail the difference of duty payable in the United States on Asiatic goods, when imported in British or American vessels, had been productive of very serious injury. The duties which had been imposed by the British Government on American productions, on that principle, were so high, making in most cases a difference of ——— shillings per ton in favor of British vessels, that it must have been impossible in peace for our navigation to have borne it. The evil was the greater, because the species of commercial warfare in which it engaged us, in consideration of the comparative value and bulk of the articles subject to it in each country, furnished no remedy. On the contrary, as the principle was unfavorable, the further it was carried the worse would be its effect. By this clause it is presumed that the evil will be completely done away, while we flatter ourselves that the stipulation in favor of drawbacks and bounties, without exposing us to any inconvenience, will be productive of some advantage.

It is proper to remark that we did not omit to propose an arrangement on the subject of export duties, by which the United States should at least be placed, in that respect, upon the footing of all other nations. The discrimination to our prejudice in the British duties on exportation, which took their rise in the convoy duty of the last war, has undoubtedly an unkind and an oppressive effect. This discrimination is found in the 43 Geo. III. ch. 68, a permanent act, (which repealed the then existing duties, and substituted others,) and in the 43 Geo. III. ch. 70, which imposes additional duties during the present war. Taking the war duty and the permanent duty together, the consumers in the United States of certain British manufactures (for the duties in question apply only to *British* manufactures, and not to all of them, British cotton, yarn, and manufactures, and some other articles, being excepted) pay two and a half per cent. ad valorem, more than the consumer in Europe, or within the straits, pays on the same goods.

The only mode in which it could be supposed to be possible that this unpleasant distinction could be removed was, by applying to the subject the rule of the most favored nation. Great Britain was not likely, in her present situation, to stipulate against all export duties, or even to agree to a maximum. Neither was she likely, by considering the actual duties as originally, and even now, convoy duties, and therefore, in their principle applicable only to the navigation which her convoys protect, to relieve from them wholly, or in part, such merchandise as should be carried to our country in American vessels, and leave them to oppress her own tonnage; thus offering a bounty in favor of American ships against her own. The rule of the most favored nation was, therefore, finally suggested with a hope that it would meet with no objection. It was, however, perseveringly opposed. We were told that the single effect of such an arrangement would be to compel Great Britain to raise the export duties against other countries, not to reduce them as to us; and that this would be of no advantage to the United States, but might be a serious embarrassment to Great Britain. It was urged, on our part, that, if Great Britain could not give up entirely the excess of export duty now paid by us, it did not follow that it might not be fairly distributed among the consumers of her merchandise in every part of the world, so as still to produce the same revenue, with more regard to justice; that, as her best customers, we had a right to be placed upon at least an equal footing with other nations, and to complain if we were rather distinguished by the peculiar burthens which she undertook to impose upon us; that the discrimination against us, upon the notion that the duty had reference to convoy, was a fallacy, since part of the discrimination was permanent, and, of course, a peace as well as a war duty, since we, who paid the duty, derived no benefit from the convoy, which was professed to be the consideration of it; and since the protection of their own trade, in their own navigation, being a general and national concern, there was no sound reason why the relative expense of particular convoys should be allowed to suggest the relative measure of the duties which were to supply the means of affording them. They replied to the idea of distributing the amount of the discrimination among all the consumers of their merchandise, by referring us to the present state of Europe. They reminded us that their own colonies in America paid the same export duty that was paid by us, and repeated that, as it was only the discrimination between the United States and Europe, of which we could not demand to have any part of the duty, against which we have any right to complain, withdrawn from us, and we could gain nothing by forcing this country to add to the burthens of others already overwhelmed and impoverished by the calamities of war. We were obliged, though very reluctantly, to abandon this object.

The sixth article relates to the commerce with the West Indies, which it was found impossible to arrange in a satisfactory manner. There were many serious obstacles to an agreement on this point, some of which seemed to

be peculiarly applicable to the present time. The British West India merchants had, at an early stage, represented that, by the trade which our citizens enjoyed with the colonies of their enemies, we had so completely stocked the markets of the continent with West India productions as to shut those markets on them. They had remonstrated earnestly against any arrangement of that point which should sanction, in any degree, our trade with those colonies. This question had taken deep hold of the minds of a great proportion of this community, among whom may be classed not those in the mercantile line only, who were immediately engaged in the trade, but the whole commercial interest, and many in other circles of great consideration in the country. Of this fact sufficient proof was furnished by the debate which took place, in the last session of Parliament, on the bill for regulating the intercourse between the United States and the West Indies. The British commissioners seemed to have taken from that debate, more especially from the support which their opponents apparently received from the public, a very strong admonition not to touch the subject by treaty at this time. They were apprehensive that any regulation of this trade, however fair it might be, which should accompany their sanction of that with the colonies of their enemies, would produce the worst effect with all parties, and endanger any treaty which might be formed. They were, therefore, desirous of postponing the subject for the present; to which we agreed. In the stipulation which provided for the postponement, we have, as you will perceive, in conformity with our instructions, reserved the right to our Government to counteract any regulations by which the British Government may exclude us from a fair participation in that commerce. While the war lasts, we shall enjoy it, in a certain degree, by the consent of the British Government, by necessity; and the reservation cannot fail to be considered by it as a powerful weapon of defence, to be used when occasion calls for it. It must be seen that it will be impossible for the Congress to prohibit an intercourse between the United States and the West Indies in British vessels, without producing a very serious effect on their whole navigation and commercial interests. We flatter ourselves, therefore, that it may be found practicable, and perhaps not difficult, to arrange this business hereafter to the satisfaction of both countries.

The seventh article relates to the appointment of consuls by each party in the territories and ports of the other. It was taken from the treaty of 1794.

The eighth article, which specifies the causes for which vessels may be captured or detained, including among them the circumstance of their having enemies' property on board, is (except the last clause) a transcript of the seventeenth article of the treaty of 1794. The stipulation contained in that clause (that the parties shall be allowed adequate damages and charges of the trial in all cases of unfounded detention or other contravention of the regulations of the present treaty) will, we presume, produce the salutary effect contemplated by it. There is, perhaps, no principle in the maritime pretensions of this country which has been more abused in practice than that which this provision is intended to remedy. That damages should be allowed in all such cases is, it is true, a doctrine recognised by the Court of Admiralty. It cannot, however, be doubted that, by providing for them in the treaty, the obligation to allow them will acquire greater force with the court, and even the Government itself, while it cannot fail to give a useful admonition to the cruisers.

The ninth article regulates what shall be deemed contraband of war.

You will observe that tar and turpentine, except when destined to a place of naval equipment, are not comprised in the list, and that provisions are altogether omitted. We endeavored to exclude from it naval stores, but without effect. We succeeded, however, in exempting the vessel on the return voyage, after depositing her cargo at the port of her destination, from being detained on the pretence that it consisted of contraband articles.

The provision in the tenth article, relative to vessels sailing without knowledge of a blockade, is somewhat altered from the treaty of 1794. The precise effect of the change cannot, perhaps, be pronounced with certainty; but it seems to be clear that it cannot be otherwise than advantageous. The alterations consist in the introduction into the preamble of "the distance and other circumstances incident to the situation of the contracting parties," and of the word "such" into the provision which follows. The first amendment appears to justify an inference that, on account of the peculiar circumstances, local and relative, thus recited as the reasons why, in the opinion of the contracting parties, "it may frequently happen that vessels may sail for a port or place without knowing that it is besieged, blockaded, or invested." Our vessels ought not to be liable to be judicially affected with knowledge of a blockade, so as to subject them to penalty by the evidence usually held to be sufficient for that purpose. Sir William Scott decided, in 1799, that, in consequence of the distance of the United States from Europe, we were entitled to a more favorable rule, in that respect, than other countries; and our article may be fairly considered as adopting that idea, and acting upon it. On the foundation of the single fact of distance, Sir William Scott justified a conjectural destination from America to Amsterdam, although the blockade of that port had been notified; and the parties concerned were proved to have known of the commencement of it. The article, as it now stands, seems necessarily to imply, at least, the same indulgence; and, if it does, it certainly goes further than Sir William Scott's opinion, which does not admit that an inquiry can be made of the blockading force, as our article unquestionably does, in the cases to which it applies. It does not appear to be unreasonable to hold that, a peculiar motive being now assigned in the preamble for the provision which it introduces, a correspondent peculiar effect is contemplated by that provision; and no such effect can follow from it, if it be not that (as our distance makes it impossible "that we should have constant information of the state of the blockade, whether it continues or is relaxed,) the mere notification of the blockade, or even the knowledge that the blockade has been commenced *de facto*, shall not be sufficient to make the destination illegal; but that, notwithstanding such notification or knowledge, we shall receive warning at the port or place blockaded. The words, "without knowing that the same is either besieged, blockaded, or invested," will admit of this interpretation, since, by reason of our distance, it may, in our case, be truly said (and has, in substance, been judicially said) to be one thing to know that a blockade has been notified or instituted, and another that it continues. We endeavored, without success, to obtain the consent of the British commissioners to the article proposed in your project. They would only agree, as you will perceive, to take its preamble, and engraft it upon the article of 1794, observing that this would give to that article a new and more favorable, though certainly an undefined, character; and that, at a moment when their maritime efforts in this mode of hostility might more than ever become indispensable to the national safety, it was impossible to do more. We pressed them long and earnestly to connect with the clause a definition of blockade, to which, in the early stages of our negotiation, it was believed there would be no objection. We found them, however, decidedly averse to such a definition by treaty, notwithstanding the precedent afforded by Lord St. Helen's convention with Russia. They maintained that the British doctrine was already as explicit upon this point as any definition could make it; that it was difficult, if not impracticable, to agree upon one which should be at the same time accurate and complete; that the clause, in its present form, would do much towards the accomplishment of our object; and that what remained it would be in their power, as it certainly was in their inclination, to supply as effectually as in the treaty itself, by taking occasion to state, in a letter which it was intended should be delivered to us, on their part, at the time of the signature of the treaty, in which you will hereafter find explained the theory and practice of the British Government on this subject.

This reasoning was in no degree satisfactory, and it was resisted accordingly, but without effect. The proposed substitute for a definition by treaty might be of some value, and was not therefore opposed; but it was obvious,

that it would be greatly impaired, if not wholly destroyed, by the nature of the letter of which we had received a full explanation, and in which the suggested statement was to be inserted.

The eleventh article regulates the great question of our commerce with enemies' colonies, the interruption of which was one of the principal causes of the late disagreement between the two countries. We trust that the compromise which has been made on this point will be advantageous to our commercial interest, and satisfactory to our Government. The British commissioners were very desirous of burthening this intercourse with several severe restrictions, to place, as they did not hesitate to state, their own merchants on an equal footing in the great markets of the continent with those of the United States. With that view, and to settle all questions concerning the continuity of the voyage, they proposed that all articles of West India produce should be stored in the United States for the term of one month, be transported thence to Europe in another ship from that in which they were brought, and be likewise subjected to a duty of at least four per cent. on re-exportation. They finally agreed, however, to relinquish all these pretensions, except the landing of the goods in the United States, and the payment (by which is understood the securing of the payment in the mode prescribed by our law) of one per cent. on such European articles as may be carried from thence to the colonies; and of two per cent. on such West India productions as may be carried to Europe, including the parent and every other country. We are persuaded that this arrangement will be attended with less inconvenience to the parties than the other restrictions above mentioned, or either of them. The storing of the goods, especially for a month, seemed to be peculiarly objectionable, as it would have subjected us to a serious injury, without being attended with any circumstances to alleviate the regret inseparable from it. We flatter ourselves that the sum agreed to be paid will not be felt as a heavy one by our merchants, whose patriotism will be gratified by the recollection, that the duty which they pay will redound to the advantage of their country. By the compromise which is made, the practical enjoyment of the rights of each party is forborne, in the manner stated and for the term specified, while the rights themselves are reserved. The stipulation being in the form of a concession on the part of Great Britain, is intended to mitigate her principle where it applies, but in no respect to enlarge the sphere of its operation. No judicial decision of the Court of Admiralty in this country has hitherto extended the British principle to enemies' colonies in the East Indies, and it is understood that it does not apply to the greater part, if to any of them. Some cases are depending before it from the Vice-admiralty Courts of Halifax and Columbo, which will bring the point into question. Should the opinion of the court be, that the principle is applicable to the colony to which the cause relates, then the party will have the advantage of the provision contained in this article; should it, on the contrary, decide that it does not apply to such colony, then the trade between it and the parent country will be free. This view of the subject was entertained equally by the British commissioners and ourselves, and is that, as they assure us, which the Court of Admiralty will adopt in its decisions. We endeavored to exempt this branch of the trade with enemies' colonies from the operation of the British principle, but that was found to be impracticable. We flatter ourselves that the arrangement made respecting it will be deemed the next most eligible one that could have been adopted, and that it will produce in practice, in a great measure, if not altogether, the same effect.

The twelfth article establishes the maritime jurisdiction of the United States to the distance of five marine miles from their coast, in favor of their own vessels and the unarmed vessels of all other Powers who may acknowledge the same limit. This Government contended that three marine miles was the greatest extent to which the pretension could be carried by the law of nations, and resisted, at the instance of the Admiralty and the law officers of the Crown, in Doctors' Commons, the concession, which was supposed to be made by this arrangement, with great earnestness. The ministry seemed to view our claim in the light of an innovation of dangerous tendency, whose admission, especially at the present time, might be deemed an act unworthy of the Government. The outrages lately committed on our coast, which made some provision of the kind necessary as a useful lesson to the commanders of their squadrons, and a reparation for the insults offered to our Government, increased the difficulty of obtaining any accommodation whatever. The British commissioners did not fail to represent that which is contained in this article, as a strong proof of a conciliating disposition in their Government towards the Government and people of the United States. The limit established was not so extensive as that which we had contended for, and expected to have obtained; we persuade ourselves, however, that the great object which was contemplated by any arrangement of the subject, will result from that which has been made. The article in the treaty, in connexion with the causes which produced it, forms an interesting occurrence in the history of our country, which cannot fail to produce the most salutary consequences. It is fair to presume, that the sentiment of respect which Great Britain has shown by this measure for the United States, will be felt and observed in future by her squadrons in their conduct on our coast, and in our bays and harbors. It is equally fair to presume, that the example of consideration which it affords in their favor, by a nation so vastly preponderant at sea, will be followed by other Powers.

By the thirteenth article it is agreed, that the sum for which bonds shall be given by the commanders of privateers, before they receive their commissions, to indemnify those who shall be injured by their misconduct, shall be increased to a greater amount than was required by the nineteenth article of the treaty of 1794. It is also enjoined in stronger and more definite terms on the belligerent, in this than in the former article, to see that its ships of war and privateers shall observe, in a manner the most favorable to neutrals, the acknowledged principles and rules of the law of nations in the search of merchant vessels. We endeavored to obtain an arrangement more adequate to the object, and relinquished the pursuit of it with regret. While the subject of visitation and search was under consideration, the British commissioners assured us that their Government would regulate it in a satisfactory manner to the United States, by act of Parliament, especially in respect to privateers; which assurance they repeated when the treaty was signed.

The following articles to the twenty-first, inclusive, are taken from the treaty of 1794. The British commissioners showed a desire to retain them, and as it appeared that they had, in substance, been introduced into the treaty with France of 1801, and that an attempt on our part to omit them would be thought unaccommodating and captious, we agreed to them.

The twenty-second article contains a new and useful provision in favor of the unfortunate, in the case of shipwreck.

The twenty-third article, after declaring that it is the intention of the high contracting parties that the people of their respective dominions shall be on the footing of the most favored nations, stipulates that, in case either of the parties shall hereafter grant any additional advantages in navigation or commerce to any other nation, the citizens or subjects of the other party shall fully participate in them. This article is deemed peculiarly important in many views, but more especially in its application to the British possessions in the East Indies. If it can be shown that any peculiar accommodation is, or shall be hereafter, granted to any other Powers, we become entitled to it of course.

The twenty-fourth article engages that the parties shall communicate to each other the laws which their respective Legislatures may enact for the abolition or limitation of the African slave trade, and that they will also use their best endeavors to procure the co-operation of other Powers for the complete abolition of that trade. As this engagement reposes on the basis of our laws, it follows that it does not enjoin any obligation unknown to

them. If it should be acted on at all by our Government, further than by communicating to this the laws of Congress, as is proposed in the first part of the article, the sphere of its operation would be a very contracted one till the year 1808. After that period; such a co-operation, on a more enlarged scale, would become a constitutional measure of the Government, and, as we think, a suitable one. Mr. Fox had taken great interest in this question, and it is understood that, in suggesting the idea, in the address of the House of Commons to the King, of obtaining the co-operation of other Powers, the United States were held particularly in view. The British commissioners proposed the article, and showed great desire that we should accede to it. As this stipulation was not comprised within the scope of our instructions, we have thought it our duty to explain to you the cause to which its admission into the treaty is to be attributed.

The twenty-fifth article was introduced for the purpose of protecting other Powers having treaties with either party in the enjoyment of the rights secured by them. The stipulation contained in our treaty with France in 1803, of certain commercial privileges in favor of French and Spanish subjects, for a definite term, in Louisiana, made such a provision particularly necessary.

The twenty-sixth article fixes the term of the treaty to ten years from the date of the exchange of the ratifications.

We are sorry to add that this treaty contains no provision against the impressment of our seamen. Our despatch of the 11th of November communicated to you the result of our labors on that subject, and our opinion, that, although this Government did not feel itself at liberty to relinquish formally, by treaty, its claim to search our merchant vessels for British seamen, its practice would, nevertheless, be essentially, if not completely abandoned. That opinion has been since confirmed by frequent conferences on the subject with the British commissioners, who have repeatedly assured us that, in their judgment, we were made as secure against the exercise of their pretension by the policy which their Government had adopted in regard to that very delicate and important question, as we could have been made by treaty. It is proper to observe, however, that the good effect of this disposition, and of its continuance, may depend, in a great measure, on the means which may be taken by the Congress hereafter to check desertions from the British service. If the treaty is ratified, and a perfectly good understanding produced by it between the two countries, it will be easy for their Governments, by friendly communications, to state to each other what they respectively desire, and in that mode to arrange the business as satisfactorily as it could be done by treaty.

We regret, also, to be under the necessity of stating that no provision has been made by the treaty to indemnify our citizens for their losses by the late seizures, and other violations of the law of nations. This object engaged our attention in every stage of the negotiation, and was not abandoned by the signature of the treaty. On the day it was signed, we stated in explicit terms to the British commissioners, that we could not conclude without having a satisfactory assurance by them of the part their Government intended to take, equally in regard to the vessels and cargoes which had been condemned, and to the suits that were depending. The principle established in the correspondence between Mr. King and Lord Hawkesbury we admitted should form the bound of our claim in respect to the seizures for an imputed illegal trade, for every violation of which, in cases of condemnation, we expected a full indemnity, and a dismissal of all the causes still depending that were protected by it. The British commissioners observed, that it was neither their wish nor expectation that we should relinquish our claim; on the contrary, they were willing we should preserve it: with which view they proposed that we should present them a paper bearing date prior to the signature, which should make the reservation in such form as we thought best suited to the object. They intimated that, in cases of vested right, it was not in the power of their Government to interfere to the prejudice of the parties, and that it would be hard on the Government, and unpopular in the ministry, to apply the public money to such a purpose; still, they said nothing to preclude that expectation; on the contrary, they encouraged it, and were still more explicit in suggesting that the depending cases would not be unfavorably adjudged. They seemed desirous that, while we should reserve our claim, their Government should retain a right to pursue such a course of conduct in regard to it as might be dictated hereafter by circumstances. To enter into an engagement in favor of our claim, in the present state of things, appeared to them as being likely to expose their Government to the imputation of having done it by coercion, and to deprive it of a claim to any merit for such accommodation as it might, under other circumstances, be disposed to yield. Should the circumstances of collision which had taken place between the two countries be done away, and their commerce and friendly relations be re-established, as they hoped was already in a great measure done, and would be so completely by this treaty, their Government, they thought, would feel itself more at liberty to yield accommodations on this topic than in the actual state. This was the substance of the communication made to us on this subject by the British commissioners before the signature of the treaty, on which, and our declaring explicitly that we would reserve the right in the manner they had proposed, in full confidence that their Government would respect it, we proceeded to sign the treaty. We have had an interview with the British commissioners since the signature, and were happy to find that they had not forgotten what had passed between us on that occasion. We had asked the interview, as we informed them, for the purpose of conferring on this subject, and of obtaining their sentiments in so distinct a form as to leave us under no embarrassment in the communication it was our duty to make to you on it. Nothing passed in this interview on their part to change the ground on which the business had been placed in the former one. They intimated, however, that it might be advantageous, and would certainly be proper for us, in the present stage, to confer with Lord Howick on this subject, since any declaration from him could not fail, according to its import, to merit the peculiar attention of our Government. We have accordingly seen and conferred with Lord Howick upon this topic, whose sentiments appeared to correspond strictly with those which had been delivered to us by the British commissioners. He intimated, however, that it would be better for us to address the note which should contain a reservation of our rights to indemnity to him than to the commissioners, to which we assented, as we could not perceive that that circumstance would make any difference in the case. We are engaged in preparing this paper, which we expect to present to his lordship in a few days, though we fear it will not be ready in time to enable us to obtain his answer to it to be forwarded to you with this despatch. We shall not fail to communicate to you without delay whatever may occur on this subject. We think it our duty, however, to add, that we do not wish our Government to be too sanguine in the expectation of a satisfactory result. In the deliberation on this subject, it may, perhaps, be better to presume that such a one may not be obtained, as it is not provided for in the treaty. The above statement is, nevertheless, perfectly correct, and we beg you to be assured that we shall continue to exert our best endeavors to secure an object which we consider of so much importance. We shall send you a statement of the cases of condemnation, and of the causes still depending, which is less extensive, in both views, than may have been supposed.

It happened when the negotiation had reached a very advanced stage, that an account was received here of the decree of the Emperor of France at Berlin, of November 21, which declared Great Britain and Ireland in a state of blockade, and all British manufactures and the produce of British colonies lawful prize. This circumstance produced a strong impression on this Government, which was very seriously felt in our concerns. It seemed prob-

able for some days that it would subject the negotiation to a long suspension, if it did not entirely defeat its object. The British commissioners informed us that that decree of the Government of France had opposed a powerful obstacle to the conclusion of any treaty with us, before our Government should be consulted on the subject, and its answer obtained as to the part it might take in regard to it; that in case the United States submitted to a violation of their neutral rights by France in the manner contemplated by that decree, it would be impossible for Great Britain to respect them; that by concluding a treaty with the United States, by which they should not only bind themselves to the observance of such rights, but agree to concessions or relaxations of what they conceive to be their unquestionable rights of war, after knowing the contents of that decree, they might be understood to restrain themselves from counteracting the policy of France, which it would be improper to do, unless our Government should engage to support its rights against the measures of France. In consideration of these circumstances, they proposed that we should proceed in the business so far as to agree on all the articles of a treaty, to reduce them to form, and then transmit the instrument to the United States, to become obligatory in case our Government should enter into a satisfactory engagement of the kind proposed. We replied in very explicit terms to the British commissioners, that we considered their proposition altogether inadmissible on our part, and not likely to accomplish, if we could agree to it, the object which they contemplated by it; that such a proposition to our Government, under the circumstances attending it, would amount in substance to an offer to it of the alternative between the treaty and a war with France, since, if our Government refused to give the satisfaction which they desired, the treaty would be lost; and if such satisfaction was given, and the treaty concluded, and France should persist to execute her decree according to the construction given of it here, war seemed to be inevitable; that if it should happen that our Government should approve the treaty, it was not to be presumed that it would make any sacrifice, or stipulate any thing not contained in the instrument, especially so very important an act as that alluded to, as the condition on which it was to be obtained; that the arrangement of our differences and other concerns with Great Britain was an affair which rested on its own ground, and had no connexion with our relations with France; that His Majesty's Government ought to suppose that the United States would not fail, in any case, to support, with becoming dignity, their rights with any Power, and that it must be sensible that it would be more at liberty to enter into suitable friendly explanations with the Government of France on the subject of the decree in question, after the adjustment of their differences with Britain, than while they existed; as it likewise must be that the prospect of obtaining satisfactory explanations on that point of France would be better while they acted under their own impulse, as an independent and friendly Power, than it would be in case they entered into an engagement of the kind proposed with her adversary. The British commissioners admitted that these considerations were entitled to much attention; at length, however, after the subject had been, as we had reason to believe, maturely weighed by the cabinet, they informed us that their Government still thought it incumbent on it to make a reservation of their right to counteract the policy of France, in case our Government did not give them the satisfaction they desired, either by suitable assurances before the ratification of the treaty, or by its conduct afterwards. With this view, they presented us a paper, which we have the honor to transmit with this despatch. In transmitting to you this paper, it is our duty to observe that we do not consider ourselves a party to it, or as having given it in any the slightest degree our sanction. The incident which produced the paper was unexpected on our part, and, without entering into its merits, we used our best exertions to diminish its effect in relation to the objects of our negotiation. The British commissioners brought the incident into view, and made it the subject of discussion in the manner above stated, as they did the part which it became their Government to take in the depending negotiation in consequence of it. We therefore thought, not only that we were at liberty, but that it was imperiously our duty to use our best exertions to make the paper which they proposed to present to us, in reference to the decree of France, as little injurious as possible, and even to urge that decree as a strong reason why Great Britain should be more explicit and satisfactory in her definition of neutral rights, as well for the purpose of vindicating herself against the strong denunciation it contained, as to enable our Government to urge with more force with the Government of France its objections to the decree. We were glad to find that these remarks were not altogether without effect, as will appear by the paper referred to, especially the definition it gives of a blockade, which is tolerably correct.

You will observe that the commerce between the United States and the British colonies, which bound them to the east and north, has not been regulated by this treaty. The British commissioners refused to agree to any arrangement of it, in consequence of our declining to admit their Canada and Hudson Bay traders into Louisiana.

It has occurred to us, that it might be advantageous to the United States, and consistent with the views of our Government, to comprise both these objects, under suitable regulations, in a separate convention, especially if they can be made instrumental to a satisfactory establishment of our boundaries. We have reason to think, that in the form of a new act in connexion with these other objects, it would be more agreeable to this Government to settle the question of boundary, according to the views of the President and Senate, than by ratifying the convention already entered into, with the exception of the fifth article. The British commissioners have expressed their willingness to proceed in the business for the purpose of arranging all these topics in a satisfactory manner, as Lord Howick has likewise done; and it seems to be highly important to take advantage of this disposition to settle amicably with this Government, at the present time, every remaining cause of strife, so far as it may be practicable. Should we undertake to form such a convention, the commercial part of it, with respect to Louisiana, as well as the British provinces, will, of course, be limited to the same term, not to exceed that of the treaty. We shall also be attentive to the conditions on which the traders with the Indian tribes are to be admitted into Louisiana, by being particularly careful that it be done on such conditions as to render it impossible for them to do any injury. We are persuaded that such regulations might be adopted, as would, even at this time, have that effect. We are confident that our population will have so far spread over the whole surface of that country, by the time the treaty would expire, as to supersede the necessity of renewing it.

We have the honor to be, with great consideration and esteem, sir, your most obedient servants,

JAS. MONROE,
WM. PINKNEY.

Treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America.

His Britannic Majesty and the United States of America, being equally desirous to promote and perpetuate the good understanding and friendship which happily subsist between the subjects of the United Kingdom and the citizens of the United States, and for that purpose to regulate the commerce and navigation between their respective countries, territories, and people, on the basis of reciprocity and mutual convenience, have respectively named their plenipotentiaries, and have given to them full powers to make and conclude a treaty of amity, navigation and commerce; that is to say, His Britannic Majesty has named for his plenipotentiaries, Henry Richard Vassal, Lord Holland, one of His Majesty's privy council and lord keeper of His Majesty's privy seal, and William, Lord Auck-

land, one of his Majesty's privy council, and President of the committee of council for all matters of trade and foreign plantations: and the President of the United States, by and with the advice of the Senate thereof, hath appointed for their plenipotentiaries, James Monroe and William Pinkney, commissioners extraordinary and plenipotentiaries; who, after having exchanged their respective full powers, have agreed on the following articles:

ART. 1. There shall be a firm, inviolable and universal peace, and a true and sincere friendship, between His Britannic Majesty, his heirs and successors, and the United States of America, and between their respective countries, territories, cities, towns, and people, of every degree, without exception of persons or places.

ART. 2. It is agreed that the several articles of the treaty of amity, commerce, and navigation, between His Majesty and the United States, made at London, on the nineteenth day of November, one thousand seven hundred and ninety-four, which have not expired, nor, as yet, had their full operation and effect, shall be confirmed in their best form, and in their full tenor; and that the contracting parties will also from time to time enter into friendly explanation on the subject of the said articles, for the purpose of removing all such doubts as may arise or have arisen as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience.

ART. 3. His Majesty agrees that the vessels, belonging to the United States of America, and sailing direct from the ports of the said States, shall be admitted and hospitably received in all the seaports and harbors of the British dominions in the East Indies; and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States in all articles of which the importation or exportation respectively to or from the said territories shall not be entirely prohibited. Provided only that it shall not be lawful for them in any time of war between the British Government and any other Power or State whatever, to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels, when admitted into the said ports, no other or higher tonnage than shall be payable on British vessels when admitted into the ports of the United States; and they shall pay no higher or other duties or charges on the importation or exportation of the cargoes of the said vessels than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties as shall, from time to time, be found necessary to enforce the due and faithful observance of this stipulation.

It is also understood, that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but the vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade; neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if any transgressions should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America, in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted in manner aforesaid to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of whatever nature, established in such harbor, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British Government may, from time to time, establish there.

ART. 4. There shall be between all the dominions of His Majesty in Europe, and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries respectively shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers, within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time; also to hire and possess houses and warehouses for the purposes of commerce; and generally, the merchants and traders on each side shall enjoy the most complete protection and security for their commerce, but subject always, as to what respects this article, to the laws and statutes of the two countries respectively.

ART. 5. It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles being of the growth, produce, or manufacture of any other foreign country.

Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties respectively, which shall not equally extend to all other nations. But the British Government reserves to itself the right of imposing on American vessels entering into the British ports in Europe a tonnage duty equal to that which shall at any time be payable by British vessels in the ports of America; and the Government of the United States reserves to itself a right of imposing on British vessels entering into the ports of the United States a tonnage duty equal to that which shall at any time be payable by American vessels in the British ports in Europe.

It is agreed that in the trade of the two countries with each other, the same duties of exportation and importation on all goods and merchandise, and also the same drawbacks and bounties, shall be paid and allowed in either country, whether such importation or exportation shall be in British or American vessels.

ART. 6. The high contracting parties not having been able to arrange at present by treaty any commercial intercourse between the territories of the United States and His Majesty's islands and ports in the West Indies, agree that until that subject shall be regulated in a satisfactory manner, each of the parties shall remain in the complete possession of its rights in respect to such an intercourse.

ART. 7. It shall be free for the two contracting parties respectively to appoint consuls for the protection of trade, to reside in the dominions and territories aforesaid; and the said consuls shall enjoy those liberties and rights which belong to them by reason of their function. But before any consul shall act as such, he shall be in the usual forms approved and admitted by the party to whom he is sent; and it is hereby declared to be lawful and proper, that in case of illegal or improper conduct towards the laws or Government, a consul may either be punished according to law, if the laws will reach the case, or be dismissed, or even sent back; the offended Government assigning to the other the reasons for the same.

Either of the parties may except from the residence of consuls such particular places as such party shall judge proper to be so excepted.

ART. 8. It is agreed that in all cases where vessels shall be captured, or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, or for other

lawful cause, the said vessel shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy, or is otherwise confiscable, shall be made prize, and the vessel, unless by law subject to condemnation, shall be at liberty to proceed with the remainder of the cargo without any impediment. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ships.

It is also agreed that in all cases of unfounded detention, or other contravention of the regulations stipulated by the present treaty, the owners of the vessel and cargo so detained shall be allowed damages proportioned to the loss occasioned thereby, together with the costs and charges of the trial.

ART. 9. In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war by land or by sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket-rests, bandoliers, gunpowder, matches, saltpetre, balls, pikes, swords, head-pieces, cuirasses, halberts, lances, javelins, horse-furniture, holsters, belts, and generally all other implements of war; as also timber for ship building, copper in sheets, sail-cloth, hemp, and cordage, and in general (with the exception of unwrought iron and firplanks, and also with the exception of tar and pitch, when not going to a port of naval equipment, in which case they shall be entitled to pre-emption) whatever may serve directly to the equipment of vessels; and all the above articles are hereby declared to be just objects of confiscation whenever they are attempted to be carried to an enemy. But no vessel shall be detained on pretence of carrying contraband of war, unless some of the above-mentioned articles not excepted are found on board of the said vessel at the time it is searched.

ART. 10. Whereas, in consideration of the distance and of other circumstances incident to the situation of the high contracting parties, it may frequently happen that vessels may sail for a port or place belonging to an enemy without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after such notice she shall again attempt to enter, but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel or goods of either party that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

Neither of the parties when at war shall, during the continuance of the treaty, take from on board the vessels of the other the subjects of the opposite belligerent, unless they be in the actual employment of such belligerent.

ART. 11. Whereas differences have arisen concerning the trading with the colonies of His Majesty's enemies, and the instructions given by His Majesty to his cruisers in regard thereto, it is agreed that during the present hostilities, all articles of the growth, produce, and manufacture of Europe, not being contraband of war, may be freely carried from the United States to the port of any colony not blockaded belonging to His Majesty's enemies, provided such goods shall previously have been entered and landed in the United States, and shall have paid the ordinary duties on such articles so imported for home consumption; and, on re-exportation, shall, after the drawback, remain subject to a duty equivalent to not less than one per cent. ad valorem; and that the said goods and the vessels conveying the same shall, from the time of their clearance from the American port, be *bona fide* the property of citizens and inhabitants of the United States; and in like manner that all articles, not being contraband of war, and being the growth and produce of the enemy's colonies, may be brought to the United States, and after having been there landed, may be freely carried from thence to any port of Europe not blockaded, provided such goods shall previously have been entered and landed in the said United States, and shall have paid the ordinary duties on colonial articles so imported for home consumption; and, on re-exportation, shall, after the drawback, remain subject to a duty equivalent to and not less than two per cent. ad valorem; and provided that the said goods and the vessel conveying the same be *bona fide* the property of citizens and inhabitants of the United States.

Provided always, That this article, or any thing therein contained, shall not operate to the prejudice of any right belonging to either party; but, that after the expiration of the time limited for the article, the rights on both sides shall revive and be in full force.

ART. 12. And whereas it is expedient to make special provisions respecting the maritime jurisdiction of the high contracting parties on the coast of their respective possessions in North America on account of peculiar circumstances belonging to those coasts, it is agreed that in all cases where one of the said high contracting parties shall be engaged in war, and the other shall be at peace, the belligerent Power shall not stop except for the purpose hereafter mentioned, the vessels of the neutral Power, or the unarmed vessels of other nations, within five marine miles from the shore belonging to the said neutral Power on the American seas.

Provided That the said stipulation shall not take effect in favor of the ships of any nation or nations which shall not have agreed to respect the limits aforesaid, as the line of maritime jurisdiction of the said neutral state. And it is further stipulated, that if either of the high contracting parties shall be at war with any nation or nations which shall not have agreed to respect the said special limit or line of maritime jurisdiction herein agreed upon, such contracting party shall have the right to stop or search any vessel beyond the limit of a cannon shot, or three marine miles from the said coast of the neutral Power, for the purpose of ascertaining the nation to which such vessel shall belong; and with respect to the ships and property of the nation or nations not having agreed to respect the aforesaid line of jurisdiction, the belligerent Power shall exercise the same rights as if this article did not exist; and the several provisions stipulated by this article shall have full force and effect only during the continuance of the present treaty.

ART. 13. With respect to the searching of merchant ships, the commanders of ships of war and privateers shall conduct themselves as favorably as the course of the war then existing may possibly permit towards the most friendly Power that may remain neuter, observing as much as possible the acknowledged principles and rules of the law of nations; and for the better security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war and privateers, and all others, the said subjects and citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be compelled to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of two thousand pounds sterling, or, if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of four thousand pounds sterling, to satisfy all damages and injuries, which the said privateers or officers, or men, or any of them, may do or commit during their cruise, contrary to the tenor of this treaty, or to the

laws or instructions for regulating their conduct; and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

It is also agreed, that whenever a Judge of a Court of Admiralty of either of the parties shall pronounce sentence against any vessel, or goods, or property, belonging to the subjects or citizens of the other party, a formal and duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander of the said vessel, without the smallest delay, he paying all legal fees and demands for the same.

ART. 14. It is further agreed, that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences.

And all their ships, with the goods or merchandises taken by them and brought into the ports of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or the factors or agents duly deputed, and authorized in writing by them, (proper evidence being shown in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe, or suspect that they had been piratically taken.

ART. 15. It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or state, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in the military service, any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed; and if any subject or citizen of the said parties, respectively, shall accept any foreign commission or letters of marque for arming any vessel, to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque as a pirate.

ART. 16. It is expressly stipulated, that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries and damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ART. 17. The ships of war of each of the contracting parties shall at all times be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and Government of the country. The officers shall be treated with that respect which is due to the commissions which they bear, and, if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And both contracting parties agree, that in case any vessel of the one should, by stress of weather, danger from enemies, or other misfortunes, be reduced to the necessity of seeking shelter in any of the ports of the other, into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the Government of the place, be hospitably received, and permitted to refit and to purchase at the market price such necessaries as she may stand in need of, conformably to such orders and regulations as the Government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same shall be *bona fide* necessary to her being refitted; nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ART. 18. It shall not be lawful for any foreign privateers, (not being subjects or citizens of either of the said parties,) who have commissions from any Power or State in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

ART. 19. It shall be lawful for the ships of war and privateers belonging to the said parties, respectively, to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any fees to the officers of the Admiralty, or to any judges whatever; nor shall the said prizes, when they arrive at and enter the ports of the said parties, be detained or seized; nor shall the searchers or other officers of those places visit such prizes, (except for the purpose of preventing the carrying of any part of the cargo thereof on shore in any manner contrary to the established laws of revenue, navigation, or commerce;) nor shall such officers take cognizance of the validity of such prizes, but they shall be at liberty to hoist sail and depart as speedily as may be, and carry their said prizes to the places mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show.

No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties; but, if forced by stress of weather or the dangers of the sea to enter them, particular care shall be taken to hasten their departure, and to cause them to retire as soon as possible. Nothing in this treaty contained shall, however, be construed to operate contrary to the former and existing public treaties with other sovereigns or states; but the two parties agree that, while they continue in amity, neither of them will in future make any treaty that shall be inconsistent with this or the preceding article.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor within the jurisdiction described in Article 12, so long as the provisions of the said article shall be in force, by ships of war or others having commissions from any prince, republic, or state whatever. But in case it should so happen, the party whose territorial rights shall thus have been violated shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. 20. If at any time a rupture should take place (which God forbid) between His Majesty and the United States, the merchants and others of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade, so long as they do it peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective Governments should think proper to order them to remove, the term of twelve months from the publication of the order shall be allowed them for that purpose, to remove with their families, effects, and property; but this favor shall not be extended to those who shall act contrary to the established laws; and, for greater certainty, it is declared that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be pending, nor until the respective ambassadors or ministers, if such there shall be, shall be recalled or sent home on account of such differences, and not on account of personal misconduct, according to the nature and degree of which both parties retain their rights either to request the recall or immediately to send home the ambassador or minister of the other, and that without prejudice to their mutual friendship and good understanding.

ART. 21. It is further agreed, that His Majesty and the United States, on mutual requisitions by them respectively, or by their respective ministers or officers authorized to make the same, will deliver up to justice all persons who, being charged with murder or forgery committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other; provided that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the offence had there been committed. The expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the fugitive.

ART. 22. In the event of a shipwreck happening in a place belonging to one or other of the high contracting parties, not only every assistance shall be given to the unfortunate persons, and no violence done to them, but also the effects which they shall have thrown out of the ship into the sea shall not be concealed or detained, or damaged, under any pretext whatever. On the contrary, the above mentioned effects and merchandise shall be preserved, and restored to them upon a suitable recompense being given to those who shall have assisted in saving their persons, vessels, and effects.

ART. 23. And it being the intention of the high contracting parties, that the people of their respective dominions shall continue to be on the footing of the most favored nation, it is agreed that, in case either party shall hereafter grant any additional advantages in navigation or trade to any other nation, the subjects or citizens of the other party shall fully participate therein.

ART. 24. The high contracting parties engage to communicate to each other, without delay, all such laws as have been or shall be hereafter enacted by their respective Legislatures, as also all measures which shall have been taken for the abolition or limitation of the African slave trade; and they further agree to use their best endeavors to procure the co-operation of other Powers for the final and complete abolition of a trade so repugnant to the principles of justice and humanity.

ART. 25. And it is further agreed, that nothing herein contained shall contravene or affect the due execution of any treaty or treaties now actually subsisting between either of the high contracting parties and any other Power or Powers.

ART. 26. This treaty, when the same shall have been ratified by His Majesty and by the President of the United States, with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States for ten years, from the date of the exchange of the said ratification, and shall be reciprocally executed and observed with punctuality and the most sincere regard to good faith.

In faith whereof, we, the undersigned, plenipotentiaries on the part of His Majesty the King of Great Britain, and the commissioners extraordinary and plenipotentiaries on the part of the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal of our arms.

Done at London, this thirty-first day of December, one thousand eight hundred and six.

VASSAL HOLLAND,
AUCKLAND,
JAS. MONROE,
WM. PINKNEY.

GEORGE R.

George the Third, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, Duke of Brunswick and Lunenburg, Arch Treasurer, and Prince Elector of the Holy Roman Empire, &c. &c. To all and singular to whom these presents shall come, greeting:

Whereas, for the better treating of and arranging certain subjects now in discussion between us and our good friends the United States of America, the President of the United States, with the consent and by the authority of the Senate and House of Representatives of the said United States, has nominated, constituted, and appointed James Monroe, Esquire, and William Pinkney, Esquire, commissioners extraordinary to conduct the said discussion on behalf of the said United States; and we, reposing especial trust and confidence in the wisdom, loyalty, diligence, and circumspection of our right trusty and well beloved councillor Henry Richard, Lord Holland, and our right trusty and well beloved councillor, William, Lord Auckland, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint them our true, certain, and undoubted commissioners, procurators, and plenipotentiaries, giving to them all, and all manner of faculty, power, and authority, together with general as well as with special orders, (so as the general do not derogate from the special, nor on the contrary,) for us and in our name to meet, confer, treat, and conclude with the said James Monroe and William Pinkney, being duly furnished with sufficient powers, on the part of our said good friends the United States of America, of and concerning all such matters and things as may be requisite and necessary for accomplishing and completing the several ends and purposes hereinbefore adverted to, and of and concerning all such matters and things as may tend to the mutual interests and advantage of our subjects or dominions, and of those of our said good friends, and to the promoting and maintaining a mutual friendship, good understanding, and intercourse between our subjects or dominions, and those of our said good friends, and for us and in our name to sign all such article or articles, or other instruments whatsoever, as may be agreed upon between the said plenipotentiaries, and mutually to deliver and receive the same in exchange; and to do and perform all such other acts, matters, and things, as may be anywise proper and conducive to the purposes above adverted to, in as full and ample manner, and with the like validity and effect, as we ourself, if we were present, could do and perform the same; engaging and promising on our Royal word, that we will accept, ratify, and confirm all such acts, matters, and things as shall be so transacted and concluded by our aforesaid commissioners, procurators, and plenipotentiaries; and that we will never suffer any person to violate the same, in whole or in part, to act contrary thereto.

In testimony and confirmation of all which, we have caused our great seal of our United Kingdom of Great Britain and Ireland to be affixed to these presents, signed with our Royal hand.

Given at our court at St. James's, the twentieth day of August, in the year of our Lord one thousand eight hundred and six, and of our reign the forty-sixth.

Note from Lord Holland and Lord Auckland.

LONDON, December 31, 1806.

The undersigned, Henry Richard Vassal, Lord Holland, and William, Lord Auckland, plenipotentiaries of His Britannic Majesty, have the honor to inform James Monroe and William Pinkney, commissioners extraordinary and plenipotentiary of the United States of America, that they are now ready to proceed to the signature of the treaty of amity, commerce, and navigation, on the articles of which they have mutually agreed.

But at the same time, they have it in command from His Majesty to call the attention of the commissioners of the United States to some extraordinary proceedings which have lately taken place on the continent of Europe, and to communicate to them officially the sentiments of His Majesty's Government thereupon.

The proceedings alluded to are certain declarations and orders of the French Government, issued at Berlin, on the 21st of November last.

In those orders the French Government seeks to justify or palliate its own unjust pretensions by imputing to Great Britain principles which she never professed, and practices which never existed. His Majesty is accused of a systematic and general disregard of the law of nations recognised by civilized states, and more particularly of an unwarrantable extension of the right of blockade; whereas His Majesty may confidently appeal to the world on his uniform respect for neutral rights, and his general and scrupulous adherence to the law of nations, without condescending to contrast his conduct in these particulars with that of his enemy; and with regard to the only specific charge, it is notorious that he has never declared any ports to be in a state of blockade, without allotting to that object a force sufficient to make the entrance into them manifestly dangerous.

By such allegations, unfounded as they are, the enemy attempts to justify his pretensions of confiscating, as lawful prize, all produce of English industry or manufacture, though it be the property of neutrals; of excluding from his harbors every neutral vessel which has touched at any port of His Majesty's dominions, though employed in an innocent commerce; and of declaring Great Britain to be in a state of blockade, though his own naval ports and arsenals are actually blockaded, and he is unable to station any naval force whatever before any port of the United Kingdom.

Such principles, are, in themselves, extravagant and repugnant to the law of nations; and the pretensions founded on them, though professedly directed solely against Great Britain, tend to alter the practice of war among civilized nations, and utterly to subvert the rights and independence of neutral Powers. The undersigned cannot, therefore, believe that the enemy will ever seriously attempt to enforce such a system. If he should, they are confident that the good sense of the American Government will perceive the fatal consequences of such pretensions to neutral commerce, and that its spirit and regard to national honor will prevent its acquiescence in such palpable violations of its rights, and injurious encroachments on its interest.

If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, His Majesty might probably be compelled, however reluctantly, to retaliate in his just defence, and to adopt, in regard to the commerce of neutral nations with his enemies, the same measures which those nations shall have permitted to be enforced against their commerce with his subjects. The commissioners of the United States will, therefore, feel that, at a moment when His Majesty and all neutral nations are threatened with such an extension of the belligerent pretensions of his enemies, he cannot enter into the stipulations of the present treaty, without an explanation from the United States of their intentions, or a reservation on the part of His Majesty in the case above mentioned, if it should ever occur.

The undersigned, considering that the distance of the American Government renders any immediate explanation on this subject impossible, and animated by a desire of forwarding the beneficial work in which they are engaged, are authorized by His Majesty to conclude the treaty without delay. They proceed to the signature, under the full persuasion that, before the treaty shall be returned from America with the ratification of the United States, the enemy will either have formally abandoned or tacitly relinquished his unjust pretensions, or that the Government of the United States, by its conduct or assurances, will have given security to His Majesty that it will not submit to such innovations on the established system of maritime law; and the undersigned have presented this note from an anxious wish that it should be clearly understood on both sides, that, without such an abandonment on the part of the enemy, or such assurances or such conduct on the part of the United States, His Majesty will not consider himself bound by the present signature of his commissioners to ratify the treaty, or precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy.

The undersigned cannot conclude without expressing their satisfaction at the prospect of accomplishing an object so important to the interests and friendly connexion of both nations, and their just sense of the conciliatory disposition manifested by the commissioners of the United States during the whole course of the negotiation.

VASSAL HOLLAND,
AUCKLAND.

Extra official communication with regard to the Canada Trade.

A memorial has been presented to Lord Holland and Lord Auckland on the part of the Canada merchants, setting forth a variety of injuries which they complain of having sustained from the Government and servants of the United States, and praying that their complaints may be attended to, and redress obtained for them in the discussions which are at present pending between the American and British commissioners.

The injuries brought forward in their memorial may be reduced to the three following heads: 1st, their exclusion from Louisiana; 2d, their being made to pay higher duties for the goods they import into the United States from Canada than the duties payable by the citizens of the United States on the importation of the same goods in American vessels into the Atlantic ports of the United States; 3d, certain minor grievances which they contend to be in like manner contrary to the letter and spirit of the treaty of 1794.

By the third article of the treaty of 1794, "it is agreed that it shall at all times be free to His Majesty's subjects and to the citizens of the United States freely to pass and repass by land or inland navigation into the respective territories and countries of the two parties on the continent of America, and to navigate all the lakes and waters thereof, and freely to carry on trade with each other."

But, notwithstanding this express stipulation, which secures to His Majesty's subjects, without limitation or reservation, the right of commercial intercourse by land or inland navigation with all the territories of the United States on the continent of America, the Governor of Louisiana has thought proper to exclude them from the commerce of that extensive province, unless they abjure their allegiance to His Majesty, and take an oath of allegiance to the United States; and the same Governor has also taken it upon him to prohibit the introduction of any goods or merchandise which are not the property of citizens of the United States.

This arbitrary proceeding, besides being a direct violation of the treaty of 1794, is highly detrimental to the private interest of the Canada merchants, for it excludes them from a country where they have been carrying on trade successfully for many years without interruption from the Spaniards; having latterly pushed their commercial posts even to the banks of the Missouri, and augmented the sale of their goods in Louisiana to the amount of about forty or fifty thousand pounds annually.

By the second paragraph of the third article of the treaty of 1794, "it is agreed that all goods and merchandise, whose importation into the United States shall not be wholly prohibited, may freely, for the purpose of commerce,

be carried into the same in the manner aforesaid by His Majesty's subjects; and such goods or merchandise shall be subject to no higher duties than those payable by citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States."

But, notwithstanding this stipulation that the duties on goods imported into the United States from Canada shall be no higher than the duties paid for the same goods when imported in American vessels into the Atlantic ports of the United States, the custom-house officers of the inland ports practise a mode of estimating the duties on goods imported from Canada, which has the effect of raising the duty on the prime cost of these goods to twenty-two pounds per cent. instead of sixteen pounds ten shillings per cent. which is the amount of the duty payable for the goods, when imported in American vessels into the Atlantic ports of the United States.

As these goods are destined ultimately for the Indian market, this difference gives a decided advantage in that commerce to the citizens of the United States over the subjects of His Majesty, contrary to the spirit and obvious meaning of the treaty of 1794, the basis of which, in all its stipulations with regard to the inland trade, were impartiality, equality, and reciprocity of advantage.

The manner in which this evasion of the treaty is effected will appear from the account given of it by the Canada merchants in their memorial above referred to.

They state "that, by the revenue laws of the United States, all goods imported into their territory, not charged with a particular duty, pay a duty of fifteen per cent. ad valorem, excepting goods from the Cape of Good Hope, and from the countries beyond it; that, in calculating this duty, ten per cent. is first added to the prime cost of the goods, and the duty afterwards calculated on the amount, in the following manner:

Prime cost in Europe, -	-	-	-	-	-	-	-	-	£100
Ten per cent. added, -	-	-	-	-	-	-	-	-	10
									£110

Fifteen per cent. duty on one hundred and ten pounds amounts to sixteen pounds ten shillings; but that, in estimating the duty on goods imported from Canada, the custom-house officers add ten per cent. not to the prime cost, but to their value at Montreal, where it is the custom for merchants to add thirty-three and a third per cent. to the prime cost in Europe, as an equivalent for the expense and risk of transporting them so far; and that, proceeding on this principle, the duties on goods imported into the United States from Canada are calculated in the following manner:

Prime cost in Europe, -	-	-	-	-	-	-	-	-	£100 00 0
Additional charge at Montreal, -	-	-	-	-	-	-	-	-	33 6 8
									133 6 8
Additional ten per cent. -	-	-	-	-	-	-	-	-	13 6 8
									£146 13 4

Duty of fifteen per cent. on one hundred and forty-six pounds thirteen shillings and four pence amounts to twenty-two pounds: so that the same goods which pay a duty of only sixteen pounds eight shillings, when imported by an American dealer, pay a duty of twenty-two pounds, when brought to the same market by a British dealer, contrary to the obvious spirit and meaning and to the express stipulation of the treaty of 1794.

Under the third head of minor grievances are to be classed the following: 1st, though British subjects are entitled, in the terms of the treaty of 1794, "freely to pass and repass by land or inland navigation into the territories of the United States," yet they are obliged to pay six dollars for a license to trade with the Indians within the boundaries of the United States by the servants of the States; and, when they arrive at the American ports in the interior, they are often compelled to dismiss their canoe men, and to hire others at a great expense and inconvenience. 2d, though it is agreed in the treaty "that no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying places, on either side, for the purpose of being immediately reembarked and carried to some other place or places," yet various attempts have been made to collect such duties at the American portages, which have at length compelled the British traders to abandon the *Grande Portage*, and to establish a new portage at Kiminesti within the British line.

Though the arrangement of the Indian trade by the treaty of 1794 was "intended to render in a great degree the local advantages of each party common to both, and thereby to promote a disposition favorable to friendship and good neighborhood," yet the revenue officers of the United States, without considering the difficulty of observing in the lakes and rivers of Canada those regulations with regard to the approach to shores and ports which are applicable to the ports of the ocean, have in many instances, and in particular in the case of the two batteaux, stopped at Michilimackinac, manifested a disposition to harass and impede the trade of British merchants on pretences the most frivolous and unfounded, and in a manner equally vexatious and injurious to them.

Mr. Madison to Messrs. Monroe and Pinkney.

GENTLEMEN:

DEPARTMENT OF STATE, February 3, 1807.

The triplicate of your communications of November 11th has just been received. Those of September 11th had been previously received in due time.

The turn which the negotiation has taken was not expected, and excites as much of regret as of disappointment. The conciliatory spirit manifested on both sides, with the apparent consistency of the interests of Great Britain, with the right of the American flag, touching impressments, seemed to promise as much success to your efforts on that subject as on the others; and notwithstanding the perseverance of the British cabinet in resisting your reasonable propositions, the hope is not abandoned that a more enlightened and enlarged policy will finally overcome scruples, which doubtless proceed more from habits of opinion and official caution than from an unbiassed regard to all the considerations which enter into the true merits of the question.

In the mean time, the President has, with all those friendly and conciliatory dispositions which produced your mission and pervade your instructions, weighed the arrangement held out in your last letter, which contemplates a formal adjustment of the other topics under discussion, and an informal understanding only on that of impressment. The result of his deliberations which I am now to state to you, is, that it does not comport with his views of the national sentiment or the legislative policy, that any treaty should be entered into with the British Government which,

whilst on every other point it is either limited to or short of strict right, would include no article providing for a case which, both in principle and in practice, is so feelingly connected with the honor and the sovereignty of the nation, as well as with its fair interests, and indeed with the peace of both nations.

The President thinks it more eligible, under all circumstances, that if no satisfactory or formal stipulation on the subject of impressment be attainable, the negotiation should be made to terminate without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party will entirely conform to what may be thus informally settled. And you are authorized, in case an arrangement of this kind shall be satisfactory in its substance, to give assurances that, as long as it shall be duly respected in practice by the other party, more particularly on the subjects of neutral trade and impressments, it will be earnestly, and probably successfully, recommended to Congress by the President, not to permit the non-importation act to go into operation. You are also authorized to inform the British Government that the President, adhering to the sentiments which led him to recommend to Congress at the commencement of the session a suspension of that act, and trusting to the influence of mutual dispositions and interests in giving an amicable issue to the negotiation, will, if no intervening intelligence forbid, exercise the authority vested in him by the act of continuing its suspension from the 1st day of July to the term limited by the act, and which will afford to Congress, who will then be in session, the opportunity of making due provision for the case.

You will perceive that this explanation of the views of the President requires, that if, previous to the receipt of it, a treaty not including an article relating to impressments should have been concluded, and be on the way, the British commissioners should be candidly apprised of the reason for not expecting its ratification; and that on this ground they be invited to enter anew on the business, with an eye to such a result as has just been explained and authorized.

Having thus communicated the outline assigned by the President as your guide in the important and delicate task on your hands, I proceed to make a few observations which are suggested by the contents of your last despatches, and which may be of use in your further discussions and your final arrangements.

IMPRESSMENTS.

The British Government is under an egregious mistake in supposing that "no recent causes of complaint have occurred" on this subject. How far the language of Mr. Lyman's books may countenance this error I cannot say, but I think it probable that even there the means of correcting it may be found.

In the American seas, including the West Indies, the impressments have, perhaps, at no time been more numerous or vexatious. It is equally a mistake, therefore, to suppose "that no probable inconvenience can result from the postponement of an article" for this case.

The remedy proposed in the note from the British commissioners, however well intended, does not inspire the confidence here which gave it so much value in their judgment. They see the favorable side only of the character of their naval commanders. The spirit which vexes neutrals in their maritime rights is fully understood by neutrals only. The habits generated by naval command, and the interest which is felt in the abuse of it, both as respects captures and impressments, render inadequate every provision which does not put an end to all discretionary power in the commanders. As long as the British navy has so complete an ascendancy on the high seas, its commanders have not only an interest in violating the rights of neutrals within the limits of neutral patience, especially of those whose commerce and mariners are unguarded by fleets; they feel moreover the strongest temptation, as is well known from the occasional language of some of them, to covet the full range for spoliation opened by a state of war. The rich harvest promised by the commerce of the United States gives to this cupidity all its force. Whatever general injuries might accrue to their nation, or whatever surplus of reprisals might result to American cruisers, the fortunes of British cruisers would not be the less certain in the event of hostilities between the two nations.

Whilst all these considerations require, in our behalf, the most precise and peremptory security against the propensities of British naval commanders, and, on the tender subject of impressment more than any other, it is impossible to find equivalent, or even important motives on the British side, for declining such a security. The proposition which you have made, aided by the internal regulations which the British Government is always free to make, closes all the considerable avenues through which its seamen can find their way into our service. The only loss, consequently, which could remain, would be in the number at present in this service, with a deduction of those who might from time to time voluntarily leave it, or be found within the limits of Great Britain, or of her possessions; and in the proportion of this reduced number who might otherwise be gained by impressment. The smallness of this loss appears from the annual amount of impressments which has not exceeded a few hundred British seamen, the great mass consisting of real Americans and of subjects of other neutral Powers. And even from the few British seamen ought to be deducted those impressed within neutral ports, where it is agreed that the proceeding is clearly unlawful.

Under this view of the subject, the sacrifice which Great Britain would make dwindles to the merest trifle; or rather there is just reason to believe that, instead of a loss, she would find an actual gain, in the excess of the deserters who would be surrendered by the United States, over the number actually recoverable by impressment.

In practice, therefore, Great Britain would make no sacrifice by acceding to our terms; and her principle, if not expressly saved by a recital, as it easily might be, would in effect be so by the tenor of the arrangement; inasmuch as she would obtain, for her forbearance to exercise what she deems a right, a right to measures on our part which we have a right to refuse; she would, consequently, merely exchange one right for another; she would also, by such a forbearance, violate no personal right of individuals under her protection. The United States, on the other hand, in yielding to the claims of Great Britain on this subject, would necessarily surrender what they deem an essential right of their flag, and of their sovereignty, without even acquiring any new right; would violate the rights of the individuals under the protection of both, and expose their native citizens to all the calamitous mistakes, voluntary and involuntary, of which experience gives such forcible warning.

I take for granted that you have not failed to make due use of the arrangement concerted by Mr. King with Lord Hawkesbury, in the year 1802, for settling the question of impressments. On that occasion, and under that administration, the British principle was fairly renounced in favor of the rights of our flag. Lord Hawkesbury having agreed to prohibit impressments altogether on the high seas, and Lord St. Vincent requiring nothing more than an exception of the narrow seas—an exception resting on the obsolete claim of Great Britain to some peculiar dominion over them—I have thought it not amiss to enclose another extract from Mr. King's letter giving an account of that transaction.

In the note of November 8, from the British commissioners, the security held out to the crews of our vessels is, that instructions have been given, and *will be repeated*, for enforcing the greatest caution, &c. If the future instructions are to be repetitions of the past, we well know the inefficacy of them. Any instructions which are to answer the purpose, must differ essentially from the past, both in their tenor and their sanctions. In case an infor-

mal arrangement should be substituted for a regular stipulation, it may reasonably be expected from the candor of the British Government that the instructions on which we are to rely should be communicated to you.

COLONIAL TRADE.

It may reasonably be expected that on this subject the British Government will not persist in attempting to place the United States on a worse footing than Russia. In agreeing to consider the storing for a *month*, and changing the ship, as a naturalization of the property, the concession would be on our side, not on theirs; and in making this a condition on which alone we could trade with enemies' colonies, even directly to and from our own ports, beyond the amount of our own consumption, we should make every sacrifice short of a complete abandonment of our principle, while they would retain as much of their pretension as is compatible with any sacrifice whatever; a pretension, too, which they have in so many ways fairly precluded themselves from now maintaining. In addition to the many authorities for this remark, already known to you, you will find one of the highest grade in 5th vol. of Tomlin's edition of Brown's Cases in Parliament, p. 328, Hendricks and others against Cunningham and others, where it was expressly admitted by the House of Lords, in a war case before them, that "it is now established, by repeated determinations, that neither ships nor cargoes, the property of subjects of neutral Powers, either going to trade *at* or coming *from* the French West India islands, with cargoes purchased there, are liable to capture; and, therefore, when a ship and cargo so circumstanced are seized and condemned, the seizure and condemnation shall be reversed, and the value of the ship and cargo accounted for and paid to the owners by the captors."

As it has generally happened that the British instructions issued to the Vice-admiralty courts and naval commanders have not come first to light in British prints, I enclose one of November 14, which has just made its appearance in ours. As it relates to the present subject it claims attention, as a proof that all question as to the legality of the voyage, in a Russian trade with the enemies of Great Britain, is excluded, by limiting the right of capture to cases where the *innocence or ownership of the articles* are questioned. The instruction may at least be considered as co-extensive in its favorable import with the article in the Russian treaty, which you have been authorized to admit into your arrangements; and in that view, as well as on account of its date, the instruction may furnish a convenient topic of argument or expostulation.

If the British Government once consent that the United States may make their ports a medium of trade between the colonies of its enemies and other countries, belligerent as well as neutral, why should there be a wish to clog it with the regulations suggested? Why not, in fact, consent to a direct trade by our merchants between those colonies and all other countries? Is it that the price may be a little raised on the consumers by the circuit of the voyage and the charges incident to the port regulations? This cannot be presumed. With respect to the enemies of Great Britain, the object would be unimportant. With respect to her neutral friends, it would not be a legitimate object. Must not the answer then be sought in the mere policy of lessening the competition with, and thereby favoring the price of British and other colonial productions re-exported by British merchants from British ports; and sought, consequently, not in a belligerent right, or even in a policy merely belligerent, but in one which has no origin or plea but those of commercial jealousy and monopoly?

BLOCKADES.

On this subject it is fortunate that Great Britain has already, in a formal communication, admitted the principle for which we contend. It will be only necessary, therefore, to hold her to the true sense of her own act. The words of the communication are, "that vessels must be *warned* not to enter." The term *warn* technically imports a distinction between an individual notice to vessels and a general notice by proclamation or diplomatic communication; and the terms *not to enter* equally distinguishes a notice at or very near the blockaded port, from a notice directed against the original destination or the apparent intention of a vessel nowise approaching such a port.

MARGINAL JURISDICTION ON THE HIGH SEAS.

There could surely be no pretext for allowing less than a marine league from the shore, that being the narrowest allowance found in any authorities on the law of nations. If any nation can fairly claim a greater extent, the United States have pleas which cannot be rejected; and if any nation is more particularly bound by its own example not to contest our claim, Great Britain must be so by the extent of her own claims to jurisdiction on the seas which surround her. It is hoped, at least, that within the extent of one league you will be able to obtain an effectual prohibition of British ships of war from repeating the irregularities which have so much vexed our commerce and provoked the public resentment, and against which an article in your instructions emphatically provides. It cannot be too earnestly pressed on the British Government, that in applying the remedy copied from regulations heretofore enforced against a violation of the neutral rights of British harbors and coasts, nothing more will be done than what is essential to the preservation of harmony between the two nations. In no case is the temptation or the facility greater to ships of war for annoying our commerce, than in their hovering on our coasts and about our harbors; nor is the national sensibility in any case more justly or more highly excited than by such insults. The communications lately made to Mr. Monroe, with respect to the conduct of British commanders, even within our own waters, will strengthen the claim for such an arrangement on this subject, and for such new orders from the British Government, as will be a satisfactory security against future causes of complaint.

EAST AND WEST INDIA TRADES.

If the West India trade cannot be put on some such footing as is authorized by your instructions, it will be evidently best to leave it as it is, and of course with a freedom to either party to make such regulations as may be justified by those of the other.

With respect to the East India trade, you will find a very useful light thrown on it in the remarks of ———, of which several copies were forwarded in October. They will confirm to you the impolicy, as explained in your instructions, of putting the trade under the regulations admitted in the treaty of 1794. The general footing of other nations in peace with Great Britain will be clearly more advantageous; and on this footing it will be well to leave or place it, if no peculiar advantages, of which there are intimations in ——— remarks, can be obtained.

INDEMNIFICATIONS.

The justice of these ought to be admitted by Great Britain whenever the claim is founded on violations of our rights, as they may be recognised in any new arrangement or understanding between the parties. But in cases, of which there are many examples, where the claim is supported by principles which she never contested, the British Government ought to have too much respect for its professions and its reputation to hesitate at concurring in a provision analogous to that heretofore adopted.

It is not satisfactory to allege that in all such cases redress may be attained in the ordinary course of judicial proceedings. If this were true, there would be sound policy, as well as true equity and economy, in transferring the complaints from partial tribunals, occupied with a great mass of other cases, to a joint tribunal exclusively charged with this special trust. But it is not true that redress is attainable in the ordinary course of justice, and under the actual constitution and rules of the tribunals which administer it in cases of captures. Of this the facts within your knowledge, and particularly some which have been lately transmitted to Mr. Monroe, are ample and striking proofs, and will doubtless derive, from the manner of your presenting them, all the force with which they can appeal to the sentiments and principles which ought to guide the policy of an enlightened nation.

I have the honor to be, &c.

JAMES MADISON.

Mr. Madison to Messrs. Monroe and Pinkney.

DEPARTMENT OF STATE, *March 18, 1807.*

GENTLEMEN:

Your despatch of January 3d, with the treaty signed December 31st, with the British commissioners, were safely delivered on the 15th instant; your letter of December 27th, notifying the approach of that event, had been previously received in time to be included in a communication of the President to Congress, then in session. A copy of the instrument in its actual form, with the declaration of the British commissioners on signing it, was received by Mr. Erskine on the day of the adjournment of Congress, and communicated by him to the Executive.

The observations relating to the whole subject, as it is now presented, with such instructions in detail as will explain the views of the President, will be prepared with as little delay as possible, and transmitted by Mr. Purviance, who holds himself in readiness to be the bearer.

For the present, I am charged by the President to refer you to my letter of February 3d, and to signify his desire that the negotiation may proceed in the form therein stated, but without being brought to an absolute conclusion, until further instructions shall arrive.

You will conform also to the views of the President, in forbearing to enter into any conventional arrangements with the British Government which shall embrace a trade or intercourse of its subjects with the Indian tribes within any part of the territories westward of the Mississippi, under the authority of the United States. Considerations derived from a recent knowledge of the State and of the aboriginal inhabitants of that extensive region, irresistibly oppose the admission of foreign traders into it.

I have only to add, that a proclamation will immediately issue, suspending the non-importation measure until the next session of Congress. This will be a sufficient evidence to the British Government of the conciliatory sentiments of the President, and of his sincere desire that no circumstance whatever may obstruct the prosecution of experiments for putting an end to differences which ought no longer to exist between two nations having so many motives to establish and cherish mutual friendship.

I have the honor to be, &c.

JAMES MADISON.

The American ministers to Lord Howick.

LONDON, *March 14, 1807.*

MY LORD:

In conformity with the intimation which your lordship was so good as to make to us at a late interview, relative to certain claims and prize causes which had been brought into discussion, in the course of the late negotiation between His Majesty's commissioners and those of the United States, we have the honor to transmit to your lordship the copy of a note to Lord Holland and Lord Auckland, in which those claims and prize causes are fully explained. It is proper to add, that at the time of the signature of the treaty, it was distinctly understood between the commissioners on both sides that this subject was not to be affected by it, but was to remain completely open for future adjustment.

We leave it, upon the statement contained in that note and the documents to which it refers, in perfect confidence that it will be viewed by your lordship with the interest which belongs to it; and that every thing which is suitable to the high and honorable character of His Majesty's Government, and the just claims of the United States, will be done with relation to it as promptly as circumstances will permit.

We have the honor to be, my lord, your lordship's most obedient, humble servants,

JAS. MONROE,
WM. PINKNEY.

The Right Hon. Lord Viscount Howick, &c.

[Referred to in the preceding note to the British minister.]

Messrs. Monroe and Pinkney to Lord Holland and Lord Auckland.

LONDON, *August 20, 1806.*

The undersigned, commissioners extraordinary and plenipotentiary of the United States of America, think it necessary to give to Lord Holland and Lord Auckland, the commissioners extraordinary and plenipotentiary of His Majesty, a brief explanation in writing of the claims, which they have already had the honor to mention to their lordships in a recent conference, of sundry American citizens, for suitable compensation for losses and damages sustained in the course of the present war, by reason of irregular or illegal captures or condemnation of their vessels and other property; and, at the same time, to call the attention of their lordships to the situation of certain prize causes, arising out of some of these captures, now depending in the tribunals of this country.

The undersigned are happy in having it in their power to state, that, according to the information they have been able to obtain, such of these claims as relate to captures, which, from causes peculiar to themselves, have excited in America a more than ordinary degree of sensibility, are not so considerable in number as at first was supposed.

The complaints of this description, to which the undersigned would particularly invite the attention of their lordships, have been produced by seizures as prize, made in direct violation of rules of maritime practice, previ-

ously declared by His Majesty's Government to the Government of the United States; and in no degree revoked or affected by any arrangement between them, or even by any notification that they were about to be abandoned.

Of these seizures the most important, and in every view the most interesting, were made in the year 1805, and in the early part of the year 1806, of the ships and merchandise of American citizens, upon the pretension, that the voyages in which they were engaged were direct or continuous between the colonies of His Majesty's enemies and some port in Europe.

Although it is certain, that the Government of the United States has never admitted that illegality can be imputed to such a trade, even when confessedly continuous or direct, and had concluded, that the question had been otherwise formally settled in its favor; the undersigned believe it to be unnecessary to bring that point into view with any reference to the cases now under consideration. It is sufficient to state that, at the date of these seizures, the merchants of the United States did explicitly understand, and were justified in a confident belief, founded, not only upon antecedent practice, but upon a formal communication, in the year 1801, to the American minister in London from His Majesty's principal Secretary of State for the Department of Foreign Affairs, that the circumstances by which these voyages were accompanied, had been and were distinctly admitted by the British Government and by British Courts of Prize, to break their continuity, and render them unquestionably lawful.

The following detail will show, more precisely, the nature and effect of the communication to which the undersigned allude.

The public and private armed ships of this country having seized American vessels, bound from the United States to the Spanish West Indies, on the pretext, that their cargoes consisted of articles of the growth of Spain, then at war with Great Britain, and the Vice-admiralty Court of Nassau having condemned the cargo of one of these vessels upon that pretext, Mr. King, in a note to Lord Hawkesbury, of the 13th of March, 1801, remonstrated against these acts as palpable abuses. The subject of this remonstrance was immediately referred to the King's Advocate, whose report of the 16th of March, 1801, after declaring that the sentence of the Vice-admiralty Court was erroneous, concludes with the following exposition of the law, as understood in Great Britain, relative to the commerce of neutrals with belligerents and their colonies. "It is now distinctly understood, and has been repeatedly so decided by the High Court of Appeal, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence, even to the mother country of such colony; and, in like manner, the produce and manufactures of the mother country may, in this circuitous mode, legally find their way to the colonies. The direct trade, however, between the mother country and its colonies has not, I apprehend, been recognized as legal, either by His Majesty's Government, or by his tribunals.

"What is a direct trade, or what amounts to an intermediate importation into the neutral country, may sometimes be a question of some difficulty. A general definition of either, applicable to all cases, cannot well be laid down. The question must depend upon the particular circumstances of each case. Perhaps the mere touching in the neutral country to take fresh clearances may properly be considered as a fraudulent evasion, and is in effect the direct trade; but the High Court of Admiralty has expressly decided, (and I see no reason to expect that the Court of Appeal will vary the rule,) that landing the goods and paying the duties in the neutral country breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and be forwarded for sale to the mother country or the colony."

An extract from this report, containing the foregoing passage, was transmitted by the Duke of Portland, in a letter of the 30th of March, 1801, to the lords commissioners of the admiralty. His grace's letter concludes thus:

"In order, therefore, to put a stop to the inconveniences arising from these erroneous sentences of the Vice-admiralty courts, I have the honor to signify to your lordships the King's pleasure that a communication of the doctrine laid down in the said report should be immediately made by your lordships to the several judges presiding in them, setting forth what is held to be the law upon the subject by the superior tribunals, for their future guidance and direction."

On the 11th of April, 1801, Lord Hawkesbury communicated to Mr. King, for the information of the Government of the United States, a copy of the above letter of the Duke of Portland, which is stated by his lordship to have been written by His Majesty's command, in consequence of Mr. King's representation of the preceding month, together with a copy of the extract from the report of the King's advocate, referred to in his grace's letter, and already above quoted. Upon the receipt of this communication, Mr. King transmitted it to his Government, in a letter (of which a copy is annexed) containing the following observations: "I take the liberty of suggesting the expediency of publishing these copies in our newspapers, as the most expeditious means of communicating the same to the cruising ships and privateers in the American seas. Having intimated this suggestion to Lord Hawkesbury, before he prepared and sent me his answer, there can be no exceptions here against such a publication." The publication was directed, and took place accordingly.

The undersigned are persuaded that Lord Holland and Lord Auckland will at once perceive that the report of the King's Advocate, thus unequivocally adopted by His Majesty's Government, and communicated, as an act to be respected and confided in, through the American minister to the Government of the United States, and finally to their citizens and to Europe, through the medium of a publication expected and authorized, cannot, in any fair construction, be viewed as any thing short of a formal declaration, on the part of Great Britain, "that the landing of the cargo and the payment of the duties in the neutral country would be considered as legalizing the circuitous trade, even between a belligerent and its own colonies."

The practice during the late, and the two first years of the present war, was in perfect conformity with this document, and by that conformity increased its authority, and furnished an additional justification, if any had been required, for a dependence upon the doctrine which it announced.

In the summer of 1805, however, when a large amount of American property was afloat, undeniably entitled to the protection of the above rule, and committed to the high seas under an implicit reliance upon a strict adherence to it, the rule was suddenly abandoned, and British cruisers fell upon this trade, thus sanctioned by the express admission, as well as by the acquiescence of their Government; and these captures are understood to have received the highest judicial sanction.

The undersigned have no desire to dwell upon this subject. They are convinced that the liberal and equitable sentiments which distinguish His Majesty's Government, render unnecessary the further explanations of which it is susceptible. Referring to two notes from the undersigned, Mr. Monroe to Lord Mulgrave, of the 23d of September, 1805, and to Mr. Fox, of the 25th of February, 1806, the undersigned have only to declare their sincere conviction that His Majesty's Government will not fail to see in the facts, which they have had the honor to state, an irresistible call upon it to repair the injurious effects of these seizures. As to the few cases of this class now depending before the lords commissioners of appeal, or in other prize courts of His Majesty, the undersigned feel assured that measures will be taken to cause them to be favorably disposed of, and that suitable reparation will

moreover be secured to the parties injured for the loss and damage they have sustained. The undersigned have the honor to transmit, herewith, a list of all the cases of this class, in which are distinguished such as are still judicially depending.

The next class of these cases (of which lists and estimates will hereafter be furnished) comprehends captures, during the existing war, contrary to the tenor of a letter of the 5th January, 1804, from Sir Evan Nepean to Mr. Hammond, on the subject of the blockade of Martinique and Guadaloupe, of which a copy was enclosed in a letter of the 12th of April, 1804, from Mr. Merry to Mr. Madison, of both of which letters copies are herewith transmitted.

The citizens of the United States complain that they have suffered severely by captures, in violation of the rules laid down with so much fairness and precision in this communication; and that, where condemnations have not followed, compensation equivalent to the actual loss has not been, and cannot be, procured in the ordinary course by any exertions on their part. The pretext for some of these captures has been the breach of an alleged blockade of Martinique or Guadaloupe; for others, the breach of an imaginary blockade off Curaçoa; and for others the breach of an equally imaginary blockade of other ports and places. In all these cases, either the actual investment of the particular port was wanting, or the vessel, seized for an imputed criminal destination to it, had not been warned as required. The just extent of these claims the undersigned are not able to state, but they presume that it cannot be considerable.

The only remaining claims which are reducible to any precise class, are those which relate to captures within the territorial jurisdiction of the United States. Of these, as well as some others of a miscellaneous nature, which the undersigned have not at present the means of presenting distinctly to Lord Holland and Lord Auckland, lists shall hereafter be prepared and laid before their lordships, accompanied by suitable explanations.

The undersigned request Lord Holland and Lord Auckland to accept the assurance of their perfect consideration.

JAS. MONROE,
WM. PINKNEY.

Mr. Erskine, Envoy, &c. of Great Britain, to Mr. Madison.

WASHINGTON, March 12, 1807.

SIR:

I am charged by His Majesty to express to the Government of the United States His Majesty's perfect confidence in their good sense and firmness in resisting the unjust pretensions contained in the decree issued by the French Government at Berlin, on the 21st November, which, if suffered to take effect, must prove so destructive to the commerce of all neutral nations.

His Majesty has learnt that the measures announced in this decree have already, in some instances, been carried into execution by the privateers of the enemy, and there could be no doubt that His Majesty would have an indisputable right to exercise a just retaliation. Neutral nations cannot, indeed, expect that the King should suffer the commerce of his enemies to be carried on through them, whilst they submit to the prohibition which France has decreed against the commerce of His Majesty's subjects. But though this right of retaliation would unquestionably accrue to His Majesty, yet His Majesty is unwilling, except in the last extremity, to have recourse to measures which must prove so distressing to all nations not engaged in the war against France.

His Majesty, therefore, with that forbearance and moderation which have at all times distinguished his conduct, has determined, for the present, to confine himself to the exercise of the power given him by his decided naval superiority, in such a manner only as is authorized by the acknowledged principles of the law of nations, and has issued an order for preventing all commerce, from port to port, of his enemies, comprehending in this order not only the ports of France, but those of other nations, as, either in alliance with France, or subject to her dominion, have, by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

His Majesty feels an entire confidence that the moderation and justice of this conduct will be duly appreciated by the United States, and has charged me to express to their Government, in the strongest terms, the regret he has experienced in being thus compelled, in his own defence, to act in a manner which must prove in some degree embarrassing to the commerce of neutral nations, and his sincere desire to avoid any stronger measures, to which, however, if the injustice and aggression of his enemies should not be resisted by those nations whose rights and interests are invaded by so flagrant a violation of all public law, it may be ultimately necessary for the King to have recourse.

I have the honor to be, with great respect and consideration, sir, your obedient servant,
D. M. ERSKINE.

Mr. Madison to Mr. Erskine.

DEPARTMENT OF STATE, March 20, 1807.

SIR:

I have laid before the President your letter of the 12th instant, communicating the views of His Britannic Majesty in relation to the French decree of November 21, 1806, and to the principle of retaliation, through the commerce of the neutrals who may submit to the operation of that decree, as also the measure actually taken, of prohibiting all neutral commerce from port to port, of his enemies, not only the ports of France, but those of such other nations, as, either in alliance with France, or subject to her dominion, have, by measures of active offence, or by the exclusion of British ships, taken a part in the present war.

The President cannot be insensible, sir, to the friendship and confidence towards the United States which are signified by his Britannic Majesty in this communication. In making this acknowledgment, however, the President considers it not less incumbent on him, to reserve for a state of things which it is hoped may never occur, the right of discussing the legality of any particular measures to which resort may be had, on a ground of retaliation. At this time, it would suffice to observe, that it remains to be more fully ascertained in what sense the decree in question will be explained, and to what extent it will be carried into execution; and, consequently, whether in any case the United States can be involved in questions concerning measures of retaliation, supposed to accrue to one belligerent from such a proceeding by another. But it is worthy the justice and liberality of the British Government to recollect, that, within the period of those great events which continue to agitate Europe, instances have occurred in which the commerce of neutral nations, more especially of the United States, has experienced the severest distresses from its own orders and measures, manifestly unauthorized by the law of nations. The respect

which the United States owe to their neutral rights, and the interest they have in maintaining them, will always be sufficient pledges, that no culpable acquiescence on their part will render them accessory to the proceedings of one belligerent nation, through their rights of neutrality, against the commerce of its adversary.

With regard to the particular order issued against the trade of neutrals from one port to another, of the enemies of Great Britain, no fair objection can lie against it, provided it be founded on, and enforced, by actual blockades, as authorized by the law of nations. If, on the other hand, the order has reference not to such a blockade, but to a supposed illegality of the neutral trade from one to another of the described ports, the remark is obvious that, on that supposition, the order is superfluous, the trade being, as interdicted by the law of nations, liable at all times, without any such order, to the capture of British cruizers, and the condemnation of British courts; and if not interdicted as such by the law of nations, it can no otherwise be made illegal than by a legal blockade of the ports comprehended in the order. This inference is applicable even to the case of a neutral trade between the ports of France herself, since it is not a principle of the acknowledged law of nations that neutrals may not trade from one to another port of the same belligerent nation; and it would be an innovation on that law, not before attempted, to extend the principle to a neutral trade between ports of different countries, confessedly open in times of peace as well as of war.

If the British order refers for its basis to the principle of retaliation against the French decree, it falls under the observations already made on that subject, and which need not be repeated.

I have the honor to be, with great respect and consideration, sir, your obedient servant,

JAMES MADISON.

Mr. Madison to Mr. Erskine.

SIR:

DEPARTMENT OF STATE, *March 29, 1807.*

Further reflection on the tenor and tendency of the order of His Britannic Majesty, communicated by your letter of the 12th instant, which was answered by mine of the 20th, induces me to resume that important subject.

From the difficulty of supposing that the order can have for its basis either a legal blockade, impossible to be extended to all the ports described in the order, or a supposed illegality of the trade between those ports—an illegality which has never been applied by the British Government or its Admiralty courts to an *accustomed* trade, even between ports of the same belligerent nation, and is utterly at variance with the conduct of both in reference to a trade between a belligerent nation and its allies, a necessity seems to result of ascribing the order to the policy of countervailing, through the commerce of neutrals, the French decree of the 21st November last.

In this view of the order, it demands, on the part of the United States, the most serious attention both to its principle and to its operation.

With respect to its principle, it will not be contested that a retaliation by one nation on its enemy, which is to operate through the interest of a nation not an enemy, essentially requires not only that the injury inflicted should be limited by the measure of injury sustained, but that every retaliating step, in such a case, should be preceded by an unreasonable failure of the neutral party, in some mode or other, to put an end to the inequality wrongfully produced.

Were it certain, therefore, that the French decree is to be enforced in the sense in which it was taken, and that, in violation of the treaty between France and the United States, the commerce of the latter will not be exempted, the British order, being peremptory in its import and immediate in its execution, might justly be regarded by the United States as a proceeding equally premature and unfriendly.

But, in the uncertainty as to the real meaning of that decree, and whilst a presumption offered itself that the decree, if avowed and executed in an unlawful extent, might not embrace the commerce of the United States, they are bound by justice to their interests, as well as by respect for their rights, to consider the British order as a ground for serious complaint and remonstrance.

Should it prove that the decree had not the meaning ascribed to it, and particularly should the respect of France for her treaties with the United States except their trade from the operation of the decree, the order of the British Government will stand exposed to still severer comments. It will take the character of an original aggression; will furnish to the French Government a like ground with that assumed by itself for retaliating measures; and will derive a very unfavorable feature from the consideration that it was a palpable infraction of a treaty just signed on the part of the British Government, and expected, at the date of the order, to be speedily ratified on the part of the United States.

The necessity of presenting the subject in its true light is strengthened by the *operation* which the British order will have on a vast proportion of the entire commerce of the United States. Not to dwell on the carrying branch of the commerce between the ports and countries of Europe, and which the immunity given by our flag, in consequence of treaties with the enemies of Great Britain, to British property, and not enjoyed by the property of her enemies, has hitherto been advantageous to Great Britain; and, without inquiring into the effect of an application of the interdict to other quarters of the globe, all of which are evidently within the comprehensive terms of the order, it cannot be overlooked that the character and course of nearly the whole of the American commerce, with the ports of Europe, other than that of Great Britain, will fall under the destructive operation of the order. It is well known that the cargoes exported from the United States frequently require that they be disposed of partly at one market, and partly at another. The return cargoes are still more frequently collected at different ports, and not unfrequently at ports different from those receiving the outward cargoes. In this circuitous voyage, generally consisting of several links, the interest of the undertakers materially requires also either a trade or a freighting between the ports visited in the circuit. To restrain the vessels of the United States, therefore, from this legitimate and customary mode of trading with the continent of Europe, as is contemplated by the orders, and to compel them, on one hand, to dispose of the whole of their cargoes at a port which may want but a part, and, on the other hand to seek the whole of their returns at the same port, which may furnish but a part, or perhaps no part, of the articles wanted, would be a proceeding as ruinous to our commerce as contrary to our essential rights.

These observations, which are made in conformity with the sentiments of the President, cannot fail, sir, to have all the weight with an enlightened and friendly Government to which they are entitled; and the President persuades himself that the good effect of the truths which they disclose will be seen in such measures as will remove all ground for dissatisfaction, and demonstrate on that side the same sincere disposition to cultivate harmony and beneficial intercourse as is felt and evinced by the United States and their Government.

I have the honor to be, &c.

JAMES MADISON.

The Hon. DAVID M. ERSKINE, Esq., &c.

Messrs. Monroe and Pinkney to Mr. Madison.

SIR:

LONDON, April 22, 1807.

We had the honor to receive your letter of February 3d on the 6th instant, and are now to give you a detail of the measures we have pursued, in obedience to the instructions it communicated.

To enable you to form a just idea of those measures, it will be proper to state concisely what had occurred at the time of receiving your letter, after the departure of Mr. Purviance with the treaty and our despatch of the 3d of January.

Soon after that date, we resumed our conference with the British commissioners, as we intimated it was our intention to do, and had nearly digested with them the project of a supplemental convention upon the principal topics alluded to in the last paragraph of that despatch, when an entire change took place in the British ministry; Lord Grenville and his associates being compelled to retire, in favor of the friends of the late Mr. Pitt. This change, of course, suspended the further progress of the business, and in that state it still remains.

Before this change in the administration, we had presented to the British commissioners, according to an agreement which accompanied the signature of the treaty, an antedated note on the subject of indemnity, and another to Lord Howick on the same subject, previously seen and approved by the British commissioners. With these papers (of which copies are now transmitted) the British commissioners not only expressed their perfect satisfaction, but assured us then, as they have frequently done since, that the just confidence with which that agreement had inspired us in regard to its object would not be disappointed.

We had many conferences with the British commissioners, previous to the late change, upon the subject of impressments, in which they invariably declared to us that the practice of their Government would be strictly conformable to the spirit of the article which they had settled with us, and which was afterwards rejected by the cabinet. They stated that the prejudice of the navy, and of the country generally, was so strong in favor of their pretension that the ministry could not encounter it in a direct form; and that, in truth, the support of Parliament could not have been relied on in such a case. It was their idea that, by discontinuing the practice in the mode proposed by them, which might be done without giving any shock to the public feeling, this prejudice might be gradually overcome, and an arrangement, by treaty, on this very delicate and difficult subject rendered ultimately practicable. The United States would, in the interim, enjoy the security they sought, without any abandonment of their rights, and be induced to yield, in return, as their confidence increased, the equivalents which we had offered in our project.

The footing upon which the note of the British commissioners (which is and must be considered as equally obligatory as if actually inserted in the treaty) left this point was supposed to be the less liable to exception on our part, because, while it affords a pledge unquestionably intended to secure the substance of our object, and constantly admitted here to be equal to that effect, it keeps it nevertheless for our advantage completely open for future negotiation and more formal adjustment. The note declares that the discussion of any plan will be entertained that can be devised "to secure the interests of both States without injury to rights to which they are respectively attached," and consequently provides for a renewal of negotiation with a sincere view to such an arrangement as shall be practically consistent with the declared pretensions of the United States, and yet leave untouched the British principle; or, in other words, an arrangement in which Great Britain shall agree to conform her conduct to our views without renouncing the claim which she has hitherto maintained and acted upon. It was supposed, therefore, to be the clear import of that note that the conduct of Great Britain would not, while the discussion of such a plan as it might be proper to insert in a treaty stood postponed at the request of its commissioners, encroach in practice upon rights which we had so strongly asserted and vindicated as rights not to be abandoned; which it was well understood our Government and country would not suffer to be invaded in future, as they had been during the past; and which the British commissioners themselves, acting under the immediate orders of the cabinet, had in their note distinctly recognized as fit to be preserved hereafter from injury and violation. This conclusion was thought to be the more just and natural, when it was remembered that it was supported, not only by the verbal admissions and declarations of the British commissioners, which would, of course, as they well knew, be reported to our Government, but by the language of such parts of the note as looked particularly to the future practice of Great Britain on the subject of impressments. It was believed to be fortified, too, by the obvious consideration that the United States would be authorized, notwithstanding any adjustment by treaty upon other points, in case of the impressment on the high seas of a single mariner from on board an American vessel, to view it as an act of aggression, and to resent it accordingly. This right existed, undoubtedly, independently of that note; but it seemed, notwithstanding, to derive from it a new and high sanction favorable to its just effect; and certainly the sensibility and determination which have been manifested on this point by the United States, especially of late, and by the American commissioners during the recent negotiation, must have inspired this Government with the conviction that a perseverance in such outrages upon their sovereignty and the rights of their citizens would be wholly incompatible with the peaceable relations of the two countries, which it was the professed object of the British commissioners and their Government to preserve. It is proper, however, for us to state, that it was our intention to have requested of this Government written explanations on this topic of impressment, as well as on that of indemnity, for the purpose of transmitting them to you. The approaching departure of Mr. Monroe for the United States would, it was thought, furnish a suitable occasion for such an application.

Towards the end of the last month the change took place in the ministry, and on the 27th the diplomatic corps had their first interview with Mr. Canning, who succeeded Lord Howick in the Foreign Department. Although the meeting was general, a separate audience was given, as is usual, to the representatives of each Power. At Mr. Canning's request, we gave him a concise but just view of the state of the business between our Governments. He appeared not to have heard before of what had taken place relative to the project of a supplemental convention. He said that he had come too recently into office to be able to say any thing decisive on any of the topics of which we had given him a sketch, but that he would soon make himself acquainted with them, and give us another interview. His professions, which were of a general nature, were conciliatory.

Such was the state of affairs when we had the honor to receive your letter of February the 3d. We were anxious to carry into effect the instructions contained in that letter in the best manner in our power, and with the least possible delay. It became especially our duty to make known to the new ministry, as soon as we might be able, the understanding which had subsisted between the British commissioners, and, through them the late cabinet, and us, as to the condition on which we had consented to continue the negotiation after our project relative to impressments had been rejected; that, in fact, we had no authority to treat after that event; that our Government was not bound, or supposed or intended to be bound, to ratify what we had done, if it disapproved of it. We were equally desirous of turning to the best account the appeal, which a refusal to ratify by our Government would make to the interests of this country, in an effort to arrange by treaty this great point with the new ministry. The first measure seemed to be free from difficulty. The statement proposed was an act of justice to our Government, and of duty to it and our country, which might be discharged without the slightest hazard to the public interest. Indeed,

as it was presumable that this Government would soon receive intelligence from Mr. Erskine, which, without such an explanation, could hardly fail to produce an unfavorable effect, it appeared to be indispensably necessary to make it, to prevent a public injury. The second object, however, was evidently involved in more difficulty. From what we had seen, in the debates of Parliament, of the disposition of several of the members of the new ministry, before they came into power, on subjects which were connected with our treaty, independent of other causes, we had reason to believe that great caution ought to be observed in any communication which we might make to it on that point. Although Lord Holland and Lord Auckland had retired from their offices of Lord Privy Seal and President of the Board of Trade, they still retained their situations as commissioners extraordinary and plenipotentiary, and, as we presumed, would continue to do so until the business in which we had been engaged with them should be concluded. In every view it seemed to be just and expedient to confer with them on the subject of our late despatch. We accordingly obtained an early interview, in which we communicated, in confidence, the substance of that despatch, as well in conformity with the orders of the President as in the hope that they might be able to assist us in the accomplishment of its objects. But we found them under circumstances of such peculiar delicacy with the new ministry, that it was not in their power to give us the slightest aid. They informed us that, on the change of the ministry, Lord Howick had communicated to Mr. Canning the state in which our business stood, and more particularly the progress which had been made in the proposed plan of a convention, in the expectation that he would have requested them to proceed in it; that, however, no such request had been made, in consequence of which they should feel it their duty, in case he continued silent, to withdraw from the commission. They expressed their regret that they had not been able to arrange with us by treaty the subject of impressment, as they wished to have done; but assured us that the order, which they had engaged should be issued in their note of November 8, had been actually issued about that time, and in terms calculated, as they had understood, to accomplish the object desired. They saw no objection to our being furnished with a copy of that order, and presumed that it might still be obtained. In adverting to the understanding which had subsisted between us on the failure of the article which had been submitted to the cabinet for providing against impressments at sea, we were happy to find that they retained a perfect recollection of it in the sense in which we have stated it above. They admitted that we had a right to expect from the new ministry an explanation of its views relative to the project of a convention, and to indemnity and impressment, from the particular state in which those great subjects were left, and the claims which we had on the Government from what had been done in them. Of our prospect of making with the present ministry a satisfactory arrangement against impressments by treaty, they said nothing; but they repeated, what they had often said before, that they had done all on that point in their power; and declared it as their opinion, that if their friends had remained in office, well disposed as they knew them to be towards the United States, the mode in which we were now about to pursue this object would not tend to produce, in that or any other respect, a favorable effect. They could, therefore, give us no advice as to the part which it became us to take in the present juncture. They intimated, however, that, by obtaining an interview and conferring with Mr. Canning, we might probably ascertain the sentiments of his Government on the whole subject, and be enabled thereby to pursue the course which would be the best adapted to the spirit of our instructions and the interests of our country.

Immediately after our interview with the British commissioners, we asked one of Mr. Canning, which was obtained on the — instant. It was our intention to have confined ourselves in the first instance to the topics above mentioned, and to the information which we thought it our duty to give him of the understanding which had subsisted between the British commissioners and ourselves, of the condition on which we had proceeded to the other points of negotiation after the project of an article relative to impressments had been rejected. As soon, however, as we glanced at the objects of the interview, he observed that he had just received intelligence, which, if true, would make it unnecessary for us to enter at present on any of the topics alluded to; that it had been represented to him that an officer just arrived from America had that morning informed the Admiralty that the treaty which had been lately concluded here, had been rejected by our Government; that he had not seen the officer, and therefore could not state the grounds on which the information rested. He observed that such an event would place the relations of the two countries in an embarrassing situation, and wished to know whether we had received any intelligence of a like import. We perceived at once that the important feature in your despatch of February 3d, respecting the disclosure of which to the new ministry, we had entertained some doubts, was not only either already known to it or soon would be, but that inferences of a dangerous tendency were likely to be drawn from the refusal of our Government to ratify the treaty, in case it should occur, which such an event could not justify. We saw therefore the necessity of communicating to Mr. Canning immediately the substance of that despatch, as well for the purpose of preventing those errors, as to obey the instructions contained in it, over which, in the respect alluded to, we should have exercised any discretion with great reluctance. We assured Mr. Canning that there could be no foundation for the report of the rejection of the treaty, as we were satisfied that Mr. Purviance, who had carried it to our Government, could not have arrived in the United States in time to enable the President to submit it to the consideration of the Senate before the 3d of March, when Congress must have adjourned, and that he must be sensible that, until the receipt of our despatch, no step, at least of so decisive a character, would be taken in the business. We stated, however, that we had great reason to believe that the treaty would not be ratified in its present form, for a cause which was well known to His Majesty's late Government. We then communicated to him fully all the circumstances on which that remark was founded, particularly the nature of our instructions relative to impressments; the knowledge which the British commissioners had of them; the entire suspension of the negotiation at a certain period on the failure with the cabinet of a project of an article for the regulation of that point; the considerations which induced us afterwards to proceed in the negotiation, founded on the note of the British commissioners of the 8th of November, the nature of which we fully explained; and finally the condition on which we did proceed in the business, that is, that our Government would not be bound to ratify the treaty, if it should not be satisfied with the substitute for such an article offered in that note. He asked us, in case the treaty should not be ratified, in what state our Government wished to place the relations of the two countries? We replied that it was its wish that the subject of impressment should be resumed and arranged. We explained to him the nature of the article, on the failure of which the negotiation had been suspended, and showed that great Britain would gain by it much more than an equivalent for the forbearance of the practice of which we complained, independent of the other good effects likely to result from it. On this point he gave no opinion, but asked what the relation should be in case no such agreement as we desired should take place respecting impressments? We replied that in such a case, it would be the desire of our Government that no treaty should be concluded, but that the relations should be placed informally on the most friendly footing, adhering in the explanations which we gave him on this head to the ideas contained in your letter of February 3; but without mentioning the actual receipt of such a letter. He said he was glad to find that our Government looked in all events to amicable arrangement. We told him that we had not heard from you since the treaty had arrived in America; but that full instructions would doubtless be forwarded to us as soon after that event as possible. He then observed that, under present circumstances, he thought it would be better to let the whole business rest, as it would be impossible for either party to move in it

with advantage. He promised, in case the officer above mentioned brought any thing material, to inform us of it, and to appoint a time for another interview, which, however, he has not since done. We enclose a copy of his note of the next day.

It is impossible for us to give you a satisfactory opinion as to the prospect of arranging this important business with the present ministry. All the facts on which such an opinion should be formed, not previously known to you, are stated above. As, however, we are not perfectly aware of the consequences of any act on our part, which might tend to lessen the obligation of this Government to ratify the treaty, in case it should be ratified by the President and Senate, we have thought it best (especially as Mr. Canning, after promising us an appointment, has shown no disposition towards another interview,) to leave things in their present state until we hear from you. We flatter ourselves that we shall soon have that satisfaction, as we see by the gazettes that Mr. Purviance must have arrived at Washington about the 12th of March. In the mean time we have placed our affairs on a footing the most favorable for any course which our Government may take, and we beg you to be assured that we shall, with the utmost zeal and promptitude, adopt that which shall be thought the most expedient.

We have the honor to be, with the highest respect and consideration,

JAMES MONROE,
WILLIAM PINKNEY.

P. S. We are preparing a letter to you explanatory of the project of a supplemental convention mentioned above which will be forwarded in a few days. A copy of the project of the British commissioners will be enclosed. It is not our intention to proceed, even if this Government should be so disposed to do any thing conclusive upon the subjects embraced by it, until the views of the President shall be known to us relative to such of the topics as were not contemplated by the instructions originally given to the mission.

Messrs. Monroe and Pinkney to Mr. Madison.

SIR:

LONDON, April 25, 1807.

We had the honor to inform you, in our letter of the 22d instant, that the British commissioners having proposed to us to endeavor to adjust the terms of a supplemental convention relative to boundary, to a trade by sea between the United States and the British northern colonies, and to the subjects reserved for future explanation by the second article of our treaty, we had resumed our conferences with them, and had made considerable progress in digesting the plan of such a convention, when the business was interrupted by an entire change of the King's ministers. It is the purpose of this despatch concisely to explain that negotiation and its objects.

After many interviews and much discussion, the British commissioners at length presented to us the project of which a copy is now transmitted, differing in many essential particulars from that which had been originally offered on our part.

The first article in our plan, which, like the first article in their project, defined the connecting line between the mouth of the St. Croix, as heretofore settled by commissioners, and the Bay of Fundy, was copied from the convention of Mr. King and Lord Hawkesbury, and adopting the ship channel between Deer island and Campo Bello island, first included and then excepted the latter. The British commissioners alleged that the article, in that shape, accomplished its object by a useless inconsistency; that it gave a line of property and jurisdiction beyond its own views, merely to furnish occasion for an exception of almost equal importance with the whole residue of the subject; and that the navigation of the east passage being secured to the United States by a precise provision, the whole effect of the first article of the convention of 1803 would be produced at once by running the line along the middle of the west passage. They therefore proposed an article framed upon that principle, to which no objection of any weight has occurred to us. We do not perceive that, in substance, this article is different from the other, while it is more simple and intelligible in its plan. Even if the commencement of one of the parallel east lines, within which, by the treaty of peace, the United States are entitled to all islands within twenty leagues of any part of our shores (not within the limits of Nova Scotia) should be admitted to depend upon the channel through which our line from the St. Croix is conducted to the Bay of Fundy, it would probably be indifferent to the United States whether the east or the west channel were adopted. Grand Manan seems to be considerably southward of an east line drawn even from West Quoddy Head, and we know of no other island, taking into consideration the exception in the treaty of peace, to the title of which the commencement of that line can now be important.

To the fifth article, regulating our boundary in the northwest, which has encountered much zealous opposition here, even in the form suggested by the British commissioners, from the prejudices, supposed interests, and mistaken views of many persons, an explanation of some of which will be found in an idle paper written by Lord Selkirk, (of which a copy is enclosed,) we finally objected, that the division line between our respective territories in that quarter ought to be drawn from the most northwestern point of the Lake of the Woods due north or south until it shall intersect the parallel of forty-nine degrees, and from the point of such intersection due west along and with that parallel. This was agreed to by the British commissioners.

We objected, also, to the terms, defining the extension of the west line, viz: "as far as the territories of the United States extend in that quarter." It appeared to us that, by these words, a great portion of the subject was in danger of being set at large; that the provision would, perhaps, do no more than establish between the parties the commencement of the line, and might, of course, leave it open to Great Britain to found a claim hereafter to any part of the tract of country to the westward of that commencement, upon the notions of occupancy or conquest, which you will find stated by Lord Selkirk in the paper above mentioned, or upon some future purchase from Spain, as intimated by others. We therefore proposed to omit the words in question altogether, which the concluding proviso appeared to render wholly unnecessary, even upon the ideas of the British commissioners. This was not agreed to; but it was said there would be no objection to give to this part of the description a character of reciprocity, so as to make it read "as far as their said respective territories extend in that quarter." A copy is enclosed of our plan of a fifth article, as also of the same article, with the description above quoted, merely made reciprocal.

It is proper to observe in this place, that the project of the British commissioners contemplates what, of course, had not entered into our plan, a permanent concession, on our part, of access, through our territories in the northwestern quarter, to the river Mississippi, for the purpose of enabling British subjects to enjoy the navigation of that river, as secured to them by the treaty of peace and the treaty of 1794, and the like access to the rivers falling into the Mississippi from the westward. The desired concession, however, amounts simply to a right of passage, and is claimed, not only as an equivalent for such a permanent adjustment of boundary as is here thought, or affected to be thought, highly advantageous to us, and injurious to Great Britain, but (as regards access

to the Mississippi) upon the idea, among others, that the treaty of peace, which secures to Great Britain the free navigation of that river, appears to have looked to it, in common with the treaty of 1763, as overreaching our northern limit, and consequently as being accessible to the British in the territory of Hudson's Bay. It is probable that this demand, so far as respects the waters falling into the Mississippi from the westward, would not be persisted in, if no other difficulty should present itself.

The seventh article of the project is wholly that of the British commissioners, and proposes to extend, as you were apprised by our letter of the 3d of January would be attempted by them, for the term of the treaty, the privileges of trade and inland navigation, secured by the third article of the treaty of 1794, to the territories of the contracting parties to the north and south of the dividing line established by the fifth article, in other words, to Louisiana and the territory of the Hudson's Bay Company, with the exception only of the actual settlements of that company, and their immediate neighborhood. This, if agreed to, must undoubtedly be considered as a concession to Great Britain; although the proposed arrangement throws open to us, for the first time, the territories of the Hudson's Bay; although they still insist that their admission into the trade of Louisiana is a necessary consequence of our acquisition of it, coupled with the third article of the treaty of 1794; and although they sometimes intimate that the independent tribes of savages, who inhabit that vast region, have a right to carry on within it their usual traffic with whom they please, and, of course, to authorize a continuance of the customary British trade to which this article relates; and, if not absolutely to authorize it, at least to give to Great Britain a claim upon the United States for a recognition of it, (especially in connexion with the treaty of 1794,) upon fair terms and equivalents. We resisted this proposal by every consideration which has been stated by you, or has occurred to ourselves. We dwelt particularly upon the high motives of duty and the urgent views of policy, connected with the public tranquillity, as suggested by recent facts, or by the state and peculiar population, as far as they were known, of the country to the westward of the Mississippi, as well as by the nature and character of the traffic itself, which were likely to influence our Government against any plan which should admit British, or any other foreign traders into it. We were not able, however, to produce any disposition to dispense with this demand, and had abundant reason to apprehend that a rejection of it by the United States would be considered here as an unfriendly act, without an adequate motive, and might prevent the completion of any satisfactory arrangement of the other points embraced by the proposed convention. Still, if the consideration of this subject should be resumed, we shall not fail to renew our efforts, whatever may be the prospect of success, to reconcile this Government to the failure of this favorite object, unless the instructions we may receive from you should appear to point to a different course.

There is another feature in this article which it is proper to notice. It relates to a subject with which you are already familiar, the mode of calculating the *ad valorem* duties on goods imported into the United States, under the third article of the treaty of 1794. The calculation is understood to be made upon the value in Canada, not upon the value at the place of original exportation. This is complained of, not as a hardship merely, but as a plain infringement of the treaty. The object is not, perhaps, of such value as to make a perseverance in this doubtful practice desirable, and it is certain that the explanation, if made at this time (and if not made now, it will probably be pressed hereafter with increased zeal, as being demanded by good faith) will be received in this country as the effect of a just and liberal policy towards Great Britain. The remaining provisions of the article in favor of Great Britain are of no importance, and will, perhaps, be best explained by the enclosed copy of an "extra official communication with regard to the Canada trade," made to us by Lord Holland and Lord Auckland some time ago.

The eighth article of the project relates to a trade by sea, between some port or ports of the British northern provinces and the United States, in the vessels of either party. The article is not such as we entirely approve, but connected with an act of Parliament, which it was proposed to pass immediately, and of which the draught was shown to us by the British commissioners, it would, perhaps, go near to accomplish the object of our Government. Our project contained an article upon this subject, proposing an open trade in native productions, with the same system of duties as is contained in our treaty. We were told that, although well disposed towards our object, it was impossible for the Government to venture at present upon a measure striking so plainly and essentially at their colonial system; that, with the aid of the good understanding between the two countries, which would grow out of the adjustment of all points of difference, their plan would be found, in its practical effect, to be nearly, if not altogether, as convenient and beneficial to us as our own; and that, by taking a form as little calculated as possible to alarm the advocates of rigorous monopoly, it was more likely to become the successful means of introducing more enlightened opinions and a more liberal practice into the whole colony system of this country.

The 9th article merely prescribes the duration of the commercial articles of the convention.

We ought to add that we had inserted in our project upon the subject of boundary, an article relative to Grand Manan, but found it impracticable to retain it. The British commissioners had been induced to believe that Great Britain had been in possession of that island for a great number of years, and that, although this possession might not amount to a title, it was a reasonable ground upon which to presume every thing which constituted title, so as to make it improper for them to bring it into question. We argued in vain that the title to Grand Manan must depend upon two plain questions of fact; whether, being within twenty leagues of our shores, it was included within the parallel east lines, described in the treaty of peace as comprehending the islands which should belong to the United States; and whether, if that should be so, it was at the making of that treaty or at any time before within the limits of Nova Scotia; that it was impossible to pretend that the last of these questions could be answered in favor of Great Britain, and that there was strong reason to believe that the answer to the first would be found to be in favor of the United States; that their possession, such as it was, (although its precise nature did not appear and ought not to be taken for granted,) commenced after the treaty of peace, and could neither give them a title, nor, in any fair reasoning applicable to the claims of sovereign States, justify a presumption of these facts upon which their title must rest; facts which were so easily capable of ascertainment, and which it was the immediate object of our article to ascertain, in the same manner as other disputed facts relative to boundary had already been, and again were by this convention proposed to be ascertained. It was retorted that our title to Moose island, Frederick island, and Dudley island, in the bay of Passamaquoddy, was, under the treaty of peace, of a very questionable kind, and that, even if it should be admitted, that their title to Grand Manan was also doubtful, it was but a fair and equitable compromise, that, as we were suffered to hold, principally upon the score of possession, three islands to which Great Britain might make out a claim of considerable strength, she should, on her part, be suffered to retain, upon the same score of long possession, the only island not given up to the United States, to which they seemed to think they had any shadow of pretension. We replied by denying that it was at all doubtful that these islands belonged to the United States; but, as it was evident that there was no disposition to yield upon the main point, we finally thought it most advisable to forbear to press the subject for the present, and to leave the case of Grand Manan for future adjustment, as an independent case, freed from the disadvantage of this idea of compromise.

We have only to repeat, what is stated in our last, that we do not mean in any event to act conclusively upon the project in question until the views of the President, relative to such parts of it as were not embraced by our original instructions, shall have been communicated to us. The intimations thrown out towards the end of our despatch of the third of January may perhaps produce such a communication.

We have the honor to be, &c.

JAS. MONROE.
WM. PINKNEY.

[Enclosed in Messrs. Monroe and Pinkney's letter of the 25th April, 1807.]

Additional and explanatory articles, signed the — day of —, 1807, to be added to the treaty of amity, commerce, and navigation between His Britannic Majesty and the United States of America, signed at London, the 31st day of December, 1806.

Whereas, by the second article of the treaty of amity, commerce, and navigation, concluded at London, on the 31st day of December, 1806, between His Majesty and the United States of America, it is agreed that the several articles of the treaty of 1794, "which have not expired, nor as yet had their full operation and effect, shall be confirmed in their best form and in their full tenor; and that the contracting parties will also, from time to time, enter into friendly explanations on the subject of the said articles, for the purpose of removing all such doubts as may arise, or have arisen, as to the true import of the same, as well as for the purpose of rendering the said articles more conformable to their mutual wishes and convenience;" and it being the sincere desire of His Britannic Majesty and of the United States that certain points should be so explained as to promote mutual satisfaction and friendship; and, for this purpose, the respective plenipotentiaries who concluded and signed the aforesaid treaty of the 31st of December, 1806, having already exchanged their full powers, have, in virtue of the same, entered into these additional and explanatory articles.

ART. 1. The line hereinafter described shall, and is hereby declared to be, the boundary between the mouth of the river St. Croix and the Bay of Fundy; that is to say, a line beginning in the middle of the channel of the river St. Croix, at its mouth, as the same has been ascertained by the commissioners appointed for that purpose; thence through the middle of the channel, between Deer island, Marvel island, and Campo Bello island on the east, and Moose island, Dudley island, and Frederick island on the west; and round the south point of Campo Bello island to the Bay of Fundy; and the islands and waters eastward of the said boundary are hereby declared to be within the jurisdiction and part of His Majesty's province of New Brunswick, and the islands and waters westward of the said boundary are declared to be within the jurisdiction and part of Massachusetts, one of the said United States; notwithstanding which, a full and entire right of navigation is reserved to the United States in the channel between Deer island on the east and north, and Moose island and Campo Bello island on the west and south, and round the east point of Campo Bello island into the Bay of Fundy; the aforesaid channel frequently affording the only convenient and practicable navigation.

ART. 2. And whereas it has become expedient that the northwest angle of Nova Scotia, mentioned and described in the treaty of peace between His Majesty and the United States, should be ascertained and determined, and that the line between the source of the river St. Croix and the said northwest angle of Nova Scotia should be run and marked, according to the provisions of the said treaty of peace, it is agreed that, for this purpose, commissioners shall be appointed in the following manner, viz: One commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said two commissioners shall agree in the choice of a third; or, if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be taken by lot, in the presence of the two original commissioners; and the three commissioners so appointed shall be sworn impartially to ascertain and determine the said northwest angle of Nova Scotia, pursuant to the provisions of the said treaty of peace; and likewise to cause the same boundary line between the source of the river St. Croix, as the same has been determined by the commissioners appointed for that purpose, and the northwest angle of Nova Scotia, to be run and marked, according to the provisions of the treaty aforesaid; the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary; the said commissioners shall draw up a report of their proceedings, which shall describe the line aforesaid, and particularize the latitude and longitude of the place ascertained and determined as aforesaid to be the northwest angle of Nova Scotia; duplicates of which report, under the hands and seals of the said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same in behalf of their respective Governments; and the decision and proceedings of the said commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. 3. It is further agreed that the said commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they hereby are, authorized upon their oaths impartially to ascertain and determine the northwesternmost head of Connecticut river, according to the provisions of the aforesaid treaty of peace, and likewise to cause the boundary line, described in the said treaty of peace, between the northwest angle of Nova Scotia, and the said northwesternmost head of Connecticut river, to be run and marked pursuant to the provisions of the said treaty; the said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit; they shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary; the said commissioners shall draw up a report of their proceedings which shall describe the boundary line aforesaid, and particularize the longitude and latitude of the northwesternmost head of Connecticut river, duplicates of which report, under the hands and seals of said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same, in behalf of their respective Governments, and the decision and proceedings of the said commissioners, made and had as aforesaid, shall be final and conclusive.

ART. 4. It is further agreed that the aforesaid commissioners shall respectively be paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the ratification of this convention; and all other expenses incurred by the said commissioners shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the said commissioners; and, in case of death, sickness, or necessary absence, the place of any commissioner shall be supplied in the same manner as such commissioner was appointed, and the new commissioner shall take the same oath and do the same duties.

ART. 5. It is agreed that a line drawn due west from the Lake of the Woods along the forty-ninth parallel of north latitude shall be the *line of demarcation* [division line] between His Majesty's territories and those of the United States to the westward of the said lake, *as far as the territories of the United States extend in that quarter*; and that

the said line shall, *to that extent*, form the southern boundary of His Majesty's said territories, and the northern boundary of the said territories of the United States; provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to or claimed by either party, on the continent of America, to the westward of the Stony mountains.

ART. 6. It is agreed by the United States that His Majesty's subjects shall have, at all times, free access from His Majesty's aforesaid territories by land or inland navigation into the aforesaid territories of the United States to the river Mississippi, with the goods and effects of His Majesty's said subjects, in order to enjoy the benefit of the navigation of that river, as secured to them by the treaty of peace between His Majesty and the United States, and also by the third article of the treaty of amity, commerce, and navigation of one thousand seven hundred and ninety-four. And it is further agreed that His Majesty's subjects shall, in like manner, and at all times, have free access to all the waters and rivers falling into the western side of the river Mississippi, and to the navigation of the said river.

ART. 7. It is agreed that the privileges of intercourse and trade by land or inland navigation, secured to His Majesty's subjects, and to the citizens of the United States, and to the Indians dwelling on each side of the boundary line between the respective territories on the continent of America, by the third article of the treaty of amity, commerce, and navigation between His Britannic Majesty and the United States of America, signed at London, the 19th of November, 1794, as well as by the explanatory article, concluded at Philadelphia, in 1796, shall extend to all the territories belonging to either of the high contracting Powers on the continent of America, (the actual settlements of the Hudson's Bay Company, and the immediate neighborhood of those settlements, always excepted,) situated on either side of any part of the boundary line described in the preceding article, so that all the rights and privileges secured to His Majesty's subjects and to the citizens of the United States by the aforesaid article of the treaty of 1794, as well as by the explanatory article of 1796, shall be enjoyed by them in the aforesaid territories. It is further agreed that goods or merchandise imported, by land or inland navigation, from the territories of the one Power into those of the other, shall not be subjected to other or higher duties when so imported than would be payable for the same goods if imported directly into the said territories from Europe, or from beyond the seas, and, therefore, that the value of the said goods and merchandise shall be estimated by their respective custom-house officers, in the same manner as if they were so directly imported from Europe or from beyond the seas. It is further agreed that no duties shall be exacted from the traders of either Power for licenses to trade with the Indians for themselves, their servants, or their canoe men, or for passes for their canoes, or for any other purpose whatever. But, if such licenses are required by either Power as a measure of police or internal regulation, they shall be granted by the Power requiring them to the subjects or citizens of the other, without any fee or gratuity, and shall not be withheld from any person demanding them for himself, his servants, or his canoe men, except for some offence committed, or impropriety of conduct on the part of the person for whom the license is demanded. It is further agreed that no restrictions or limitations shall be applied by either Power to the trade of the subjects or citizens of the other Power with the Indians living on its own side of the boundary line, except such limitations and restrictions as a regard to its own safety may, from time to time, compel it to adopt with regard to the trade of its own subjects or citizens.

ART. 8. Whereas it is expedient that the exchange of gypsum, grindstones, and certain other articles of the produce of His Majesty's colonies in North America, and of British manufactures, and British West India produce, to be exported from the said colonies, in return for horses, cattle, grain, provisions, slaves, pitch, tar, turpentine, and certain other articles, the produce of the United States, should be permitted, encouraged, and regulated, by sea, between the subjects of His Majesty and the citizens of the United States: it is agreed that measures shall be taken as speedily as may be for giving a legalized exchange and intercourse for the purposes aforesaid, at such port or ports as shall be fixed, for the vessels of either party, with such fair and equal regulations, restrictions, or extensions, from time to time, as may best promote the said objects, consistently with the respective and essential interests of navigation and trade.

ART. 9. Lastly, This treaty, when the same shall have been ratified by His Majesty and the President of the United States, by and with the advice of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory upon His Majesty and upon the said States, and shall be by them respectively executed and observed with punctuality and the most sincere regard to good faith; and it is agreed that the first six articles of this treaty shall be permanent, and that the seventh and eighth articles shall be limited in their duration to ten years, to be computed from the day on which the ratification of the treaty of amity, commerce, and navigation, signed at London on the 31st of December last, shall have been exchanged.

In faith whereof, &c.

ARTICLE 5.

As proposed by the American commissioners.

It is agreed that a line drawn due north or south (as the case may require) from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the dividing line between His Majesty's territories and those of the United States to the westward of the said lake; and that the said line, to and along and with the said parallel, shall form the southern boundary of His Majesty's said territories and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to or claimed by either party on the continent of America to the westward of the Stony mountains.

ARTICLE 5.

As the British commissioners would agree to make it.

It is agreed that a line drawn due north or south (as the case may require) from the most northwestern point of the Lake of the Woods until it shall intersect the forty-ninth parallel of north latitude, and from the point of such intersection, due west, along and with the said parallel, shall be the dividing line between His Majesty's territories and those of the United States to the westward of the said lake, as far as their said respective territories extend in that quarter; and that the said line shall, to that extent, form the southern boundary of His Majesty's said territories and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to or claimed by either party on the continent of America to the westward of the Stony mountains.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

SIR:

LONDON, *May 7, 1807.*

We had the honor to receive, on the 27th of last month, your letter of the 18th of March, to which the detailed explanations contained in our letters of the 22d and 25th ultimo render any particular reply unnecessary.

We transmit, enclosed, a statement of the American prize causes for hearing in the High Court of Appeals. That which was forwarded by Mr. Purviance was very hastily prepared by General Lyman, under a misconception of our views, and included only cases in the High Court of Admiralty.

We have the honor to be, with the highest respect and consideration, sir, your most obedient, humble servants,
 JAMES MONROE,
 WILLIAM PINKNEY.

JAMES MADISON, Esq., &c.

Mr. Madison to Messrs. Monroe and Pinkney.

GENTLEMEN:

DEPARTMENT OF STATE, *May 20, 1807.*

My letter of March 18th acknowledged the receipt of your despatches and of the treaty signed on the 31st December, of which Mr. Purviance was the bearer, and signified that the sentiments and views of the President, formed on the actual posture of our affairs with Great Britain, would, without any useless delay, be communicated. The subject is accordingly resumed in this despatch, with which Mr. Purviance will be charged. To render his passage the more sure and convenient, he takes it in the sloop of war *Wasp*, which will convey him to a British port, on her way to the Mediterranean. She will touch also at a French port, probably l'Orient, with despatches for General Armstrong and Mr. Bowdoin, and will afford a good opportunity for any communications you may have occasion to make to those gentlemen.

The President has seen, in your exertions to accomplish the great objects of your instructions, ample proofs of that zeal and patriotism in which he confided, and feels deep regret that your success has not corresponded with the reasonableness of your propositions and the ability with which they were supported. He laments more especially that the British Government has not yielded to the just and cogent considerations which forbid the practice of its cruisers in visiting and impressing the crews of our vessels, covered by an independent flag, and guarded by the laws of the high seas, which ought to be sacred with all nations.

The President continues to regard this subject in the light in which it has been pressed on the justice and friendship of Great Britain. He cannot reconcile it with his duty to our seafaring citizens, or with the sensibility or sovereignty of the nation, to recognise, even constructively, a principle that would expose, on the high seas, their liberty, their lives—every thing, in a word, that is dearest to the human heart, to the capricious or interested sentences which may be pronounced against their allegiance by officers of a foreign Government, whom neither the law of nations nor even the laws of that Government will allow to decide on the ownership or character of the minutest article of property found in a like situation.

It has a great and necessary weight, also, with the President, that the views of Congress, as manifested during the session which passed the non-importation act, as well as the primary rank held by the object of securing American crews against British impressment, among the objects which suggested the solemnity of an extraordinary mission, are opposed to any conventional arrangement, which, without effectually providing for that object, would disarm the United States of the means deemed most eligible as an eventual remedy.

It is considered, moreover, by the President, the more reasonable, that the necessary concession in this case should be made by Great Britain rather than by the United States, on the double consideration, first, that a concession on our part would violate both a moral and political duty of the Government to our citizens, which would not be the case on the other side; secondly, that a greater number of American citizens than of British subjects are, in fact, impressed from our vessels; and that, consequently, more of wrong is done to the United States than of right to Great Britain, taking even her own claim for the legal criterion.

On these grounds the President is constrained to decline any arrangement, formal or informal, which does not comprise a provision against impressments from American vessels on the high seas, and which would, notwithstanding, be a bar to legislative measures such as Congress have thought or may think proper to adopt for controlling that species of aggression.

Persevering, at the same time, in his earnest desire to establish the harmony of the two nations on a proper foundation, and calculating on the motives which must be equally felt by Great Britain to secure that important object, it is his intention that your efforts should be renewed, with a view to such alterations of the instrument signed on the 31st December, as may render it acceptable to the United States.

That you may the more fully understand his impressions and purposes, I will explain the alterations which are to be regarded as essential, and proceed then to such observations on the several articles as will show the other alterations which are to be attempted, and the degree of importance respectively attached to them.

1. Without a provision against impressments, substantially such as is contemplated in your original instructions, no treaty is to be concluded.

2. The eleventh article, on the subject of colonial trade, cannot be admitted, unless freed from the conditions which restrict to the market of Europe the re-exportation of colonial produce, and to European articles the supplies to the colonial market.

3. The change made by the third article, in the provisions of the treaty of 1794, relative to the trade with the British possessions in India, by limiting the privilege to a direct trade *from* the United States as well as *to* them, is deemed an insuperable objection.

4. Either an express provision is to be insisted on for indemnifying sufferers from wrongful captures, or at least a saving, in some form or other, of their rights against any implied abandonment.

5. Articles 18 and 19 to be so altered as to leave the United States free, as a neutral nation, to keep and place other helligerent nations on an equality with Great Britain.

6. No such alternative as is presented by the declaratory note on the subject of the French decree of November 21, 1806, will be admissible.

First. The considerations which render a provision on the subject of impressments indispensable have been already sufficiently explained.

Second. The essential importance of the amendment required in the eleventh article results from the extensive effect which the article, if unamended, would have on the system of our commerce, as hitherto carried on with the sanction or acquiescence of Great Britain herself.

It was hoped that the British Government, in regulating the subject of this article, would at least have yielded to the example of its treaty with Russia. It could not have been supposed that a modification would be insisted on, which shuts to our neutral commerce important channels, left open by the adjudications of British courts, and particularly by the principle officially announced by that Government to this, through Mr. King, in the year 1801.

According to that principle and those adjudications, the indirect trade through our neutral ports was as free from enemies' colonies to every other part of the world as to Europe; and as free to such colonies, in the articles of all other countries, as in European articles.

According to the tenor of the article, and the general prohibitory principle assumed by Great Britain, to which it has an implied reference, the productions, both of the continental and of the insular colonies in America, can no longer be re-exported, as heretofore, to any part of Asia or Africa, or even of America, and, consequently, can no longer enter into the trades carried on from the United States to the Asiatic or African shores of the Mediterranean, nor to any of the places beyond the Cape of Good Hope offering a market for them, nor, finally, to any other enemy or neutral colonies in this quarter, to which, in reason as well as according to practice, they ought to be as re-exportable as to the countries in Europe to which such colonies belong.

In like manner, the importations from beyond the Cape of Good Hope, more especially the cotton fabrics of China and India, can no longer be sent, as heretofore, to the West Indies or the Spanish main, where they not only now yield a great profit to our merchants, but, being mixed in cargoes with the produce of this country, facilitate and encourage the trade in the latter. Besides the effect of the article in abridging so materially our valuable commerce, the distinction which it introduces between the manufactures of Europe and those of China and India, is chargeable with evils of another sort. In many cases it might not be easy to pronounce on the real origin of the articles. It is not improbable that supposititious attempts, also, might be occasionally made by the least scrupulous traders. With such pretexts as these, arguing from the abuse made of less plausible ones, the interruptions and vexations of our trade by the greedy cruisers which swarm on the ocean, could not fail to be augmented in a degree not a little enforcing the objection to the article in its present form.

As the prohibitory principle of Great Britain does not extend to the case of a colonial trade usually open, and no judicial decision has professedly applied the principle to such a trade, it is a reasonable inference, that the article will not be so construed as to interfere with the trade of that description, between enemy colonies beyond the Cape of Good Hope, and other countries and ports in that quarter. But, on the other hand, it may not be amiss to guard against a construction of the article that would abolish the rule observed in the prize courts of Great Britain, which, in the case of the Eastern colonies, presumes that these ports were always open, and thereby throws on the captors, instead of the claimants, the disadvantage of proving the fact in question.

It is observable that the duration of this article is limited to the period of the present hostilities, whilst the others are to be in force for ten years; so that if there should be a peace and a renewal of the war, as is very possible, within the latter period, the onerous parts of the bargain would survive a part, in consideration of which they were assumed. Justice and reciprocity evidently require that the more important articles of the treaty should be regarded as conditions of each other, and therefore that they should be co-durable. In this point of view, you will bring the subject under reconsideration, and without making this particular amendment an ultimatum, press it with all the force which it merits. This amendment ought to be the less resisted on the British side, as it would still leave to that side an advantage resulting from the nature of the two great objects to be attained by the United States, namely, the immunity of our crews, and of our neutral commerce, which are connected with a state of war only; whereas, the stipulations valued by Great Britain will operate constantly throughout the period of the treaty, as well in a state of peace as in a state of war.

Whatever term may finally be settled for the continuance of this regulation, it will be proper to retain the clause which saves the right involved in the article from any constructive abandonment or abridgment. Even the temporary modification of the right, as it will stand without the inadmissible restrictions now in the article, is considered as an important sacrifice on the part of the United States to their desire of friendly adjustment with Great Britain. To an admission of the article, with these restrictions, the President prefers the footing promised to the colonial trade, by the deference of Great Britain for the maritime Powers, and by an unfettered right of the United States to adapt their regulations to the course which her policy may take.

That the operation of the article, in its present form, might be more fully understood, it was thought proper to avail the public of the ideas of a citizen of great intelligence and experience with respect to our commerce. His remarks, contained in the paper herewith enclosed, afford a valuable elucidation of the subject. They will suggest, at the same time, some explanatory precautions worthy of attention, particularly in the case of articles, which, paying no duty on importation into the United States, do not fall under the regulation of drawbacks, and in the case of securing by bond, instead of actually paying the duties allowed to be drawn back. It appears by the observations in your letter of January 3d, that the bond was understood, as it surely ought to be, equivalent to actual payment. But this is a point so material, that it cannot be too explicitly guarded against the misinterpretation of interested cruisers, and the ignorance or perverseness of inferior courts.

Third. The necessity of the change required in the third article, in order to secure an indirect as well as direct trade to the British East Indies, will be fully explained by the observations which have been obtained from several of our best informed citizens on the subject, and which are herewith enclosed.

As this latitude of intercourse was stipulated by the thirteenth article of the treaty of 1794, as judicially expounded by the British superior courts; as it was enjoyed by the United States prior to that epoch, and has been always enjoyed, both before and since, by other friendly nations; and as there is reason to believe that the British Government has been at all times ready, since the article expired, to renew it in its original form, it may justly be expected that the inserted innovation will not be insisted on. Should the expectation fail, the course preferred is to drop the article altogether, leaving the trade on the general footing of the most favored nation, or even trusting to the interest of Great Britain for such regulations as may correspond with that of the United States.

Should the negotiation take up the East India article of the treaty of 1794, you will find several amendments suggested in the extracts above referred to, some of which may be attempted with the greater chance of success, as they are harmless, if not favorable to the British system. To these suggestions may be added, a privilege to American vessels of touching at the Cape of Good Hope. The objection to such a stipulation, under the present defeasible title of Great Britain to the Cape, may be obviated by a descriptive provision, not necessarily applicable to it, in the event of its restitution by a treaty of peace, but embracing it, in case the British title should be established by that event. It may be agreed "that vessels of the United States may touch for refreshment at all the ports and places in the possession of Great Britain on or in the African or Asiatic seas."

Fourth. Without a provision, or a reservation, as to the claims of indemnity, an abandonment of them may be inferred from a treaty, as being a final settlement of existing controversies. It cannot be presumed that a precaution against such an inference, in any mode that may be most effectual, can be opposed or complained of. On the contrary, it excites just surprise that so much resistance should be made to indemnifications supported by the

clearest rules of right, and by a precedent in a former treaty between the two countries, from which so many other articles have been copied. The only colorable plea for refusing the desired provision, flows from a presumption, not only that the British courts are disposed, but that they are competent, to the purpose of complete redress. Not to repeat observations heretofore made on this subject, an unanswerable one is suggested by the clause in the ——— article of the treaty, annulling the principle, or rather the pretence, that vessels without contraband of war on board, returning from a port to which they had carried articles of that sort, were subject to capture and condemnation. Previous even to this recognition, it had been settled as the law of nations, by the British High Court of Admiralty, that vessels so circumstanced were exempt from interruption. Yet a British order of August, 1803, expressly declares them to be lawful prizes; and it is well known that a number of American vessels have been seized and condemned under that order. Here, then, is a class of wrongs undeniably entitled to redress, and which neither can, nor ever could possibly be redressed in the ordinary course; it being an avowed rule with the prize courts, to follow such orders of the Government as either expounding or superseding the law of nations. Even cases not finally decided would probably be considered as falling under the rule existing at the time of the capture, and consequently be added to this catalogue of acknowledged but unredressed injuries.

Fifth. Articles 18 and 19. An effect of these articles is to secure to British cruisers and their prizes a treatment in American ports more favorable than will be permitted to those of an enemy, with a saving of contrary stipulations already made, and a prohibition of any such in future. As none of our treaties with the belligerent nations (France excepted) stipulate to their cruisers an equality in this respect, and as there are parties to the war with whom we have no treaties, it follows that a discrimination is made in the midst of war between the belligerent nations, which it will not be in the power of the United States to redress.

Weighty considerations would dissuade from such a deviation from a strict equality towards belligerent nations, if stipulated at a time least liable to objection. But it would be impossible to justify a stipulation in the midst of war, substituting for an existing equality an advantage to one of the belligerent parties over its adversaries; and that, too, without any compensation to the neutral, shielding its motive from the appearance of mere partiality. Hitherto the United States have avoided, as much as possible, such embarrassments; and with this view have gratuitously extended to all belligerents the privileges stipulated to any of them. Great Britain has had the benefit of this scrupulous policy; she can, therefore, with the less reason expect it to be relinquished for her benefit.

The last paragraph of the nineteenth article establishes a just principle as to the responsibility of a neutral nation, whose territory has been violated by captures within its limits; but by extending the principle to the two miles added to our jurisdiction by the twelfth article, qualified as that addition is, it is made peculiarly important that an amendment should take place.

Passing by the failure of a reciprocity, either in the terms or the probable operation of the responsibility, the United States seem to be bound to claim from the enemies of Great Britain redress for a hostile act, which such enemies may not have renounced their right to commit within the given space; making thus the United States liable to the one party, without a correspondent liability to them in the other party; and, at the same time, entitling Great Britain to redress for acts committed by her enemies, which she has reserved to herself a right to commit against them.

Should all the other belligerent nations, contrary to probability, concur in the addition of two miles to our jurisdiction, this construction would still be applicable to their armed ships; those unarmed alone being within the additional immunity against British cruisers; and the armed as well as the unarmed ships of Great Britain being expressly within the additional responsibility of the United States.

Sixth. No treaty can be sanctioned by the United States under the alternative presented by the declaratory note on the subject of the French decree of November 21st. It is hoped that the occasion which produced it will have vanished, and that it will not be renewed in connexion with a future signature on the part of Great Britain. The utmost allowable in such a case would be, a candid declaration that, in signing or ratifying a treaty, it was understood on the part of Great Britain, that nothing therein contained would be a bar to any measures, which, if no such treaty existed, would be lawful as a retaliation against the measures of an enemy. And with such a declaration, it would be proper, on the part of the United States, to combine an equivalent protest against its being understood, that either the treaty or the British declaration would derogate from any rights or immunities against the effect of such retaliating measures, which would lawfully appertain to them as a neutral nation, in case no such treaty or declaration existed.

Having given this view of the alterations which are to be held essential, I proceed to notice such others, as, though not included in the ultimatum, are to be regarded as more or less deserving your best exertions. This will be most conveniently done, by a review of the several articles in their numerical order.

The second, fourth, and fifth articles all relate to the trade and navigation between the two countries. The two first make no change in the stipulations of the treaty of 1794. The last has changed, and much for the better, the provisions of that treaty on the subject of tonnage and navigation.

Two important questions, however, enter into an estimate of these articles.

The first is, whether they are to be understood as a bar to any regulations, such as navigation acts, which would merely establish a reciprocity with British regulations. From the construction which seems to have been always put on the same stipulations in the treaty of 1794, it is concluded that no such bar could be created, and, consequently, that the articles are, in that respect, unexceptionable. It may be well, nevertheless, to ascertain that the subject is viewed in this light by the British Government.

The second question is, whether the parties be, or be not, mutually restrained from laying *duties*, as well as prohibitions, unfavorably discriminating between articles exported to them and like articles exported to other nations.

According to the construction put by the United States on the same clauses in the treaty of 1794, the mutual restraint was applicable to discriminations of both kinds. The British discriminating duties on exports, introduced under the name of convoy duties, and since continued and augmented under other names, were accordingly combated during the existence of the treaty, as infractions of its text. The British Government, however, never yielded to our construction, either in discussion or in practice. And it appears, from what passed in your negotiations on this subject, that the construction which is to prevail admits discriminating duties on exports.

In this point of view, the stipulation merits very serious attention. It cannot be regarded as either reciprocal or fair in principle, or as just and friendly in practice.

In the case of prohibitions, where both Governments are on an equal footing, because it is understood that both have the authority to impose them, neither is left at liberty to exercise the authority.

In the case of duties, where the British Government possesses the authority to impose them, but where it is well known that the authority is withheld from the Government of the United States by their constitution, the articles are silent; and, of course, the British Government is left free to impose discriminating duties on their exports, whilst no such duties can be imposed by that of the United States. How will it be in practice? Stating the

exports of Great Britain to the United States at six millions sterling only, the present duty of four per cent. levies a tax on the United States amounting to two hundred and forty thousand pounds, or one million sixty-five thousand six hundred dollars; and there is nothing, whilst the war in Europe checks competition there, and whilst obvious causes must for a long time enfeeble it here, that can secure us against further augmentations of the tribute.

Even under a regulation placing the United States on the footing of the most favored nation, it appears that the British Government would draw into its treasury, from our consumption, three-eighths of the revenue now paid into it by the United States. Such a footing, however, would be material, as giving the United States the benefit of the check accruing from the more manufacturing state of the European nations. But to be deprived of that check by the want of an article, putting us on the footing of the nations most favored by Great Britain, and at the same time deprived of our own checks by clauses putting Great Britain on the commercial footing of the nations most favored by the United States, would, in effect, confirm a foreign authority to tax the people of the United States, without the chance of reciprocity or redress.

The British duty on exports to the United States has another effect, not entirely to be disregarded. It proportionally augments the price of British manufactures re-exported from the United States to other markets, and so far promotes a direct supply from Great Britain by her own merchants and ships. Should this not be the effect of her regulations as now framed, there is nothing that would forbid a change of them, having that for its object.

On these considerations, it is enjoined upon you by the President, to press, in the strongest terms, such an explanation or amendment of this part of the treaty, as will, if possible, restrain Great Britain altogether from taxing exports to the United States, or at least place them on the footing of the most favored nation; or if neither be attainable, such a change in the instrument, in other respects, as will reserve to the United States the right to discriminate between Great Britain and other nations in their *prohibition* of exports; the only discrimination, in the case of exports, permitted by the constitution. The unwillingness of the President to risk an entire failure of the projected accommodation with Great Britain restrains him from making an amendment of this part of the treaty a *sine qua non*; but he considers it so reasonable, and so much called for by the opinions and feelings of this country, that he is equally anxious and confident with respect to a compliance on the part of the British Government.

Art. 6. This article, as taking the case of the West India trade out of any general stipulation of privileges granted to other nations, may prove convenient, by disencumbering measures which may be taken against the British monopoly from questions of which that stipulation might otherwise be susceptible.

Art 7, though to remain, if desired, would be more reasonable without the last paragraph, or with a right only to except places and periods at which the trade of the other party may not be permitted.

Art. 8. This article is framed with more accuracy than the seventeenth, on the same subject, in the treaty of 1794, and is improved by the additional paragraph at the close of it. But as such general stipulations have not been found of much avail in practice, and as it continues to be the wish of the President to avoid, especially at the present juncture, unnecessary confirmations of the principle that a neutral flag does not protect enemies' property, an omission of the article is much preferred, unless it be so varied as to be free from this objection. This may easily be done, by substituting a general stipulation "that, in all cases where vessels shall be captured or detained for any lawful cause, they shall be brought to the nearest or most convenient port, and such part only of the articles on board as are confiscable by the law of nations shall be made prize; and the vessel, unless by that law subject also to confiscation, shall be at liberty to proceed," &c.

There ought to be the less hesitation on the British side in making this change, as the article, in its present form, departs from that of 1794; and there is the more reason on our side for requiring the change, as the addition of "for other lawful cause," after specifying the two cases of enemy's property and contraband of war, is probably valued by Great Britain as supporting her doctrine, and impairing ours, with respect to colonial trade. The only case other than those specified to which the right of capture is applicable is that of blockades, which might have been as easily specified as provided for by such a residuary phrase; and the pretext for appropriating this phrase to the case of the colonial trade would be strengthened by the specific provision, in a subsequent article, for the case of blockades.

It cannot be alleged that the specification of the two cases of enemy's property and contraband of war is necessary to prevent uncertainty and controversy; the United States having sufficiently manifested their acquiescence in these causes of capture. If there be a source of uncertainty and controversy, it is in the expressions "other lawful cause," and "otherwise confiscable;" and this source could not be increased by the change here proposed.

Art. 9. This article is an improvement of that on the same subject in the treaty of 1794, inasmuch as it excepts from the list of contraband tar and pitch, when not bound to a port of naval equipment; and, when so bound, substitutes pre-emption for forfeiture. It has an advantage, also, in the clause renouncing the principle of the British order of June, 1803, against vessels returning from places to which they had carried contraband of war.

On the other hand, it would not have been unreasonable to expect that the British Government would, in a treaty with the United States, have insisted on no stipulation less favorable than her stipulation on the same subject with Russia, especially as the naval stores exported from the United States are equally the growth and produce of the country.

Consistency, again, as well as reason, evidently required that the exception in favor of tar and pitch should have been extended to every species of naval stores equally applicable to other uses than those of war, and destined to places other than those of naval equipment.

Lastly, it is observable that even turpentine and rosin are not included with tar and pitch in the favorable exceptions, though of a character so kindred as to leave no pretext for the distinction.

Neither has the British Government the slightest ground for regarding as a concession the stipulated immunity of a vessel which, on her outward voyage, had carried contraband to a hostile port. The principle asserted by her order on that subject is an innovation against the clearest right of neutrals, as recognised and enforced even by British courts. The very language of the article implies that this is a pretence for the innovation.

These considerations urge a remodification of the article, and they are strengthened by the great dislike of the President to formal recognitions, at this particular moment, of principles combated by some, and unfavorable to all neutral nations. So ineligible, indeed, in his view, is any step tending in the least to retard the progress of these principles, that naval stores are to be left on a stipulated list of contraband in the event only of an inflexible refusal of the British Government to omit them; nor are they to be retained, in any event, without an addition or explanation that will except turpentine and rosin, as well as tar and pitch; there being no plausible motive for the distinction, and the quantity and value of the two former exported from the United States being found, on inquiry, to make them of equal importance with the two latter. It can scarcely be supposed that the British Government will insist on this unwarrantable distinction. It is not, indeed, improbable that it has been a mere inadvertence. Such an inference is favored by the circumstance of your speaking, in your comment on this article, of tar and *turpentine* as being the two exceptions. Whatever the true state of the case may be, it is thought better to omit a list of contraband altogether than not to include in the exception from it turpentine and rosin, as well as tar and pitch.

Art. 10. The abuse of blockades has been so extravagant, and has produced so much vexation and injury to the fair commerce of the United States, that as, on one hand, it is of great importance to find a remedy, so, on the other, it is the more necessary that the remedy should be such as not itself to admit of abuse. The considerations which reconciled you to the tenor of the article as at least a constructive approach to a solid provision for the case, are allowed the weight which they justly merit; whilst the course which your discussions took is a proof of the exertions which were used to give the article a more satisfactory form.

The failure, however, of the British commissioners to substantiate a favorable construction of the article, by a proper explanatory letter addressed to you, with their reasons for refusing to insert in the treaty a definition of blockade, justify apprehensions that the vague terms which alone were permitted to compose the article would be more likely to be turned against our object by courts and cruisers, and perhaps by a less liberal cabinet, than to receive in practice the more favorable construction which candor anticipated.

The British doctrine of blockades, exemplified by practice, is different from that of all other nations, as well as from the reason and nature of that operation of war. The mode of notifying a blockade by proclamations and diplomatic communications, of what, too, is to be done, rather than of what, in fact, had been done, is more particularly the evil which is to be corrected. Against these nominal blockades the article does not sufficiently close the door. The preamble itself, which refers to distance of situation as a *frequent* cause of not knowing that a blockade exists, though, in one view, giving the United States the advantage of a favorable presumption, in another view carries an admission unfavorable to our principle, which rests not on the distance of situation, but on the nature of the case, and which consequently rejects, in *all* cases, the legal sufficiency of notifications in the British mode. The preamble is liable to the remark, also, that it separates our cause from the common one of neutral nations in a less distant situation, and that the principle of it may even be pleaded against us in the case of blockades in the West Indies. These considerations would have been outweighed by the advantage of establishing a satisfactory rule on this subject in favor of our trade; but, without such a provision in the article, it is thought less advisable to retain it than to trust to the law of blockades, as laid down by all writers of authority, as supported by all treaties which define it, and more especially as recognised and communicated to the United States by the British Government, through its minister here, in ——— last; not to mention the influence which the course of events and the sentiments of the maritime nations in friendship with Great Britain may have in producing a reform on this subject.

The last paragraph, though subjecting persons in civil as well as military service of an enemy, to capture in our vessels, may prove a valuable safeguard to ordinary passengers and mariners, against the wrongs which they now frequently experience, and which affect the vessel as well as themselves.

Art. 12. It is much regretted that a provision could not be obtained against the practice of British cruisers, in hovering and taking stations for the purpose of surprising the trade going in and out of our harbors; a practice which the British Government felt to be so injurious to the dignity and rights of that nation, at periods when it was neutral. An addition of two miles, nevertheless, to our maritime jurisdiction, so far as to protect neutral and other unarmed vessels, notwithstanding its want of any thing like a due reciprocity, is not without its value. This value will at the same time be very materially impaired, if the stipulation cannot be liberated from the clause requiring the consent of the other belligerent nations, as necessary to exempt their vessels from search and seizure. None of the other belligerent nations have, in fact, unarmed vessels engaged in our trade, nor are they likely to have any during the war; and these alone could derive advantage from their consent, their armed vessels being expressly excepted. There can be no motive with them, therefore, to agree to the regulation. They would rather be tempted to embarrass it, with a view to continue, as much as possible, vexations which lessen the mutual good will of the parties. And as, by their not agreeing to the regulation, the right is reserved to British cruisers to examine all vessels for the purpose of ascertaining whether they may not belong to a belligerent, the disturbance of our trade might be little diminished within the additional two miles. Besides the mere interruption of a search concerning the vessel, it is hardly to be expected, from the general spirit of cruisers, that the search will not be extended to the cargo; and if the latter should be thus or otherwise found or suspected to be of a confiscable sort, that the temptation to capture would be resisted, the less so, perhaps, as the increased distance from the shore and the increased difficulty of proof would favor the chance of condemnation, or at least countenance courts in their propensity to refuse damages and costs to the claimants.

To secure the advantage promised by this article, the right of search ought to be suppressed altogether, the additional space enjoying in this respect the same immunity as is allowed to the marine league. To this object the President wishes your endeavors to be directed.

I reserve for the seventeenth article another view of the subject, which will claim your attention.

Art. 13. The general provision here copied from the treaty of 1794, though not hitherto found of much effect in controlling the licentiousness of cruisers, and very different from the special rules in favor of neutrals contained in most treaties which touch the subject of search, enters very properly into a comprehensive arrangement between two friendly nations. The introductory sentence alone, which consists of new matter, invites particular notice. The expressions "*as the course of the war may possibly permit,*" and "*observing, as much as possible, the acknowledged principles and rules of the law of nations,*" however favorably intended by the British negotiators, will not improbably be construed into a relaxation of the neutral right in favor of belligerent pleas, drawn from circumstances of which belligerent nations will be the judges. The expressions may easily be so varied as to refer simply to the law of nations for the rule, and to the friendship of the parties for the spirit, according to which the search is to be conducted. If such an amendment should be deliberately rejected by the British Government, it will be a proof of a lurking danger that will recommend an omission of what relates to the subject of search, in preference to retaining it.

Articles 14, 15, and 16, call for no particular observation.

Art. 17. So much of this article as relates to the admission of ships of war would be advantageously exchanged for a general stipulation, allowing on this subject the privilege granted to the most favored nation. It would then be in the power of the United States to limit the number admissible at one time, whereas such an indefinite admission of British ships imposes on our neutrality a like indulgence to the fleets of other nations. Such an alteration of the article is the more reasonable and important, as there will be but little reciprocity in its operation; the United States having but few ships, and the inconveniences from British ships in our ports being much greater than those from our ships in British ports.

The engagement to treat officers of the navy with respect is not only too indefinite to be enforced by penal regulations, but implies a reproachful defect of hospitality and civility. In this light it was viewed during the discussions of the treaty of 1794. The clause probably grew then out of recent complaints, well or ill founded, of disrespectful conduct on some occasion towards British officers. If latter occurrences were to be consulted, it would be a more apt provision now to stipulate for the punishment of naval commanders making insulting and ungrateful returns for the kindness and respect shown them in our ports and towns. The President makes almost a point of excluding this part of the article.

Articles 18 and 19 already noticed.

Art. 20. Considering the great number of British merchants residing in the United States, with the great means of influence possessed by them, and the very few American merchants who reside in Great Britain, the inconvenience which may be incident to such a protracted right, to remain during a state of war, is evidently much greater on our side than on the other. In this view the stipulation is very unequal. The liberal spirit of it is, at the same time, highly commendable. It were only to be wished that the readiness on one side to make sacrifices of this sort, to a spirit which ought to pervade every part of a treaty between the parties, had been less met by an apparent disposition on the other side rather to extort from than to emulate it.

Art. 21 Not agreeable, but not to be an insuperable obstacle.

Art. 22 is altogether proper.

Art. 23. This article granting the privileges of the most favored nation, seems to require explanation, if not alteration. The term "shall continue to be on the footing of the most favored nation," implies that the parties are now on that footing. To look no further, the discrimination between exports from Great Britain to Europe and to the United States is a proof that the fact is otherwise.

But may not the expression be construed into a barrier against laws on the part of the United States, establishing a reciprocity with the British navigation act and West India regulations? It might be impolitic to extend such laws to all other nations, as it would be unjust to extend them to such as had not adopted the restrictive system of Great Britain. And yet a discrimination might be arraigned, as not continuing Great Britain on the same footing with other nations.

The object of this article, so far as it is a legitimate one, would be sufficiently provided for by a mutual stipulation of the privileges in trade and navigation enjoyed by the most favored nation; and such stipulations, moreover, ought in justice to import or imply that where privileges are granted to a third nation in consideration of privileges received, the privileges cannot be claimed under the stipulation without a return of the same or of equivalent privileges. The condition is certainly not without difficulties in the execution, but it avoids a greater evil. Should Spain or France open her colonies to our ships and productions on our granting certain privileges to her trade, these could not be claimed or expected by the most friendly nation who would not pay the price of them.

Arts. 24 and 25 are entirely proper.

Art. 26. It is particularly desirable that the duration of the treaty should be abridged to the term limited in the instructions of the 5th January, 1804.

Having taken this view of the subject with reference to a formal treaty under new modifications, it is necessary to recollect that you were authorized by my letter of February 3 to enter into informal arrangements, and that before the receipt of my letter of March 18 a plan of that sort may have been definitively settled. In such a state of things, it is impossible to do better than to leave your own judgments, aided by a knowledge of circumstances unknown here, and by the sentiments of the President now communicated, to decide how far it may be eligible, or otherwise, to attempt to supersede that informal arrangement, by opening the negotiation herein contemplated.

Should, on another hand, the negotiation be found in the state authorized by my letter of March 18, that is to say, matured provisionally only, and consequently leaving the door open for the experiment now provided for, it must equally remain with your own judgments, guided by a comparison of the terms of the provisional arrangement with the present instructions, to decide how far it may be best to close the former, or to pursue the objects of the latter, with a view, in case of failure, to return to and close the former.

Whatever may be the course recommended by the actual state of things, you will feel the propriety of smoothing the way for it, by the explanations which will best satisfy the British Government that the several steps taken on the part of the United States have proceeded from their solicitude to find some ground on which the difficulties and differences existing between the two countries might be amicably and permanently terminated. You will be equally aware of the importance of transmitting hither as early and as circumstantial information of your proceedings and prospects as opportunities will permit; and will particularly keep in mind the earnest desire of the President to possess in due time every material, preparatory to the communications relating to our affairs with Great Britain, which will be so anxiously expected on the meeting of Congress on the first Monday in December.

Since the contents of this despatch were determined on and mostly prepared, advices have been received of the change which is taking place in the British administration. Composed as the new one is likely to be, or rather is said to be, the event will subject our British affairs to new calculations. The difference in the general complexion ascribed to the politics of the rival parties towards the United States, and the language held by some individuals of the one now entering the cabinet, augur, on one hand, fresh obstacles to a favorable negotiation; on the other hand, however, a less degree of confidence in their own strength than was felt by their predecessors, and a dread of furnishing these with such a topic as might be found in a real or impending collision with this country, may be a powerful control on illiberal dispositions towards it. Another favorable consideration is, that an important member of the new ministry, Lord Hawkesbury, was formerly, as the head of the Foreign Department, the person who negotiated with Mr. King a relinquishment of impressments on the high seas; who made to the same public minister the communications assuring to neutrals a re-exportation of colonial produce unfettered in any respect other than by the condition of its having been landed and paid the ordinary duties; and, finally, who communicated to this Government, through Mr. Merry, the instructions given to the British commanders and courts in the West Indies, in which blockades, and the mode of giving notice of them, were defined in terms liable to no objection. His concurrence, therefore, in an admissible provision on these cardinal points, is due to that consistency which all men value more or less, and to which you will of course appeal, as far as circumstances may invite and delicacy permit. The inducement to touch that string is the greater, as it has not appeared that, in any of the late parliamentary discussions, this nobleman has joined in the unfriendly language held in relation to the neutral and commercial right, of this country. It is to be recollected, also, that Lord Sidmouth was at the head of the administration at the period alluded to, and consequently ought to be induced, by a like regard for his character, to promote the adjustment we claim, in case he should be excepted, as is said to be not improbable, out of the dismissal of his colleagues.

There are considerations, moreover, which cannot be without weight with a prudent cabinet, however composed. They must know that, apart from the obstacles which may be opposed here to the use of British manufactures, the United States, by a mere reciprocation of the British navigation and colonial laws, may give a very serious blow to a favorite system—a blow that would be felt, perhaps, as much too in its example as in its immediate operation. Should this policy be adopted by the United States as it respects the British West Indies, the value of those possessions would be either speedily lost, or be saved not otherwise than by a compliance with the fair reciprocity claimed by this country. It can no longer be unknown to the most sanguine partisan of the colonial monopoly that the necessities of life and of cultivation can be furnished to those islands from no other source than the United States; that immediate ruin would ensue if this source was shut up; and that a gradual one would be the effect of even turning the supplies out of the present direct channel into a circuitous one through neutral ports in the West Indies. In this latter alternative, (the least unfavorable that presents itself,) the produce of this country would be

carried probably to a Danish island, with the same mercantile profit and the same employment of our navigation as if carried to the British island consuming it; and would thence be transported to the British island with little advantage to British ships, which would necessarily be sent in ballast, and confined to a sickly climate, whilst the enhanced price of the supplies would be fatal, first to the prosperity, and finally to the existence of those dependencies.

It ought to occur, moreover, to the British Government, that its marine may become as dependent as its colonies on the supplies of the United States. As an auxiliary resource for naval stores, this country must be at all times important to Great Britain. But it will be the sole, and, therefore, an essential one, in case that of the Baltic, and even of the Black Sea, should fail. And it may be justly remarked, that a prohibition of this branch of our exports would be a less sacrifice than that of any other important one, inasmuch as some of the articles of which it consists, being necessary to ourselves, and of an exhaustible nature, make it a problem whether the regulation would not, in itself, accord with our permanent interests.

Lastly, it should not be forgotten that the United States are one of the granaries which supply the annual deficit of the British harvests. The northern part of Europe, the usual concurrent resource, is in a situation that must disable it for some time, whatever the course of events may be, to spare any of its stock of food; nor can any substitute, other than the redundant harvests of the United States, be relied on to make up that deficiency. Add to this prospect the possibility of an unfavorable season requiring enlarged importations of bread from the only source that can furnish it, and the risk of losing this would be an evil which no provident councils would neglect to guard against by any measures equitable in themselves, or even by concessions neither dishonorable nor materially injurious.

On the other hand, Great Britain, having been led by her peculiar system to carry her commercial exclusions and restrictions to the utmost limit permitted by her immediate wants, would find no countervailing resources to be turned against the United States. She could not prohibit the importation of our productions. These are necessities which feed her people, which supply her manufactories, which keep up her navy, and which, by direct and indirect contributions to her revenue and credit, strengthen all her faculties as a great Power. As little could she prohibit the exportation of her manufactures to the United States. This is the last evil she would think of inflicting on herself. If it withheld from us the means of enjoyment, it would take from her own people the means of existence.

Would war be a better resort? That it would be a calamity to the United States is so well understood by them, that peace has been cherished in the midst of provocations which scarcely permitted honor to listen to interest, to reason, or to humanity. War they will continue to avert by every policy which can be reconciled with the essential duties which a nation owes to itself. But what will be the gain and the loss to Great Britain by a choice of this resort? The spoils of our defenceless commerce might enrich her greedy cruisers, and flatter the sentiments of national wealth. A temporary spasm might, at the same time, be produced in the affairs of the United States. But these effects weigh little against the considerations which belong to the opposite scale. To say nothing of the hostile use that might be made against Great Britain of fifty thousand seamen, not less hardy or enterprising than her own, nor of her valuable possessions in our neighborhood, which, though little desired by the United States, are highly prized by her, nor of the general tendency of adding the United States to the mass of nations already in arms against her, it is enough to observe that a war with the United States involves a complete loss of the principal remaining market for her manufactures, and of the principal, perhaps the sole, remaining source of supplies, without which all her faculties must wither. Nor is it an unimportant circumstance, though it seems to have engaged little of her attention, that in the loss would be included all the advantages which she now derives from the neutrality of our flag and of our ports, and for which she could find no substitutes in distributing her manufactures, and even her fish, to their necessary markets, and in obtaining the returns which she wants. The more these collateral advantages are inquired into, the more important will the interest appear which Great Britain has in preserving them.

These are views of the subject, which, though not to be presented to Great Britain with an air of menace or defiance, equally forbidden by respect to ourselves and to her, may find a proper way to her attention. They merit hers as well as ours; and if they ought to promote on both sides a spirit of accommodation, they show at the same time that Great Britain is not the party which has the least interest in taking counsel from them.

Such are the instructions and explanations under which the task is consigned to you, of renewing the discussions with the British Government. The President is well assured that it will be executed with all the advantage which talents and patriotism can contribute; and he is unwilling to believe that that Government will finally prefer, to the reasonable terms proposed, the serious state of things which will be left by a miscarriage of this ulterior appeal to the motives which ought to govern a just and friendly nation. As it is possible, however, that this favorable calculation may not be verified, and it will necessarily remain to be decided whether such a state of things can be obviated by any additional proposition not beyond the justifiable limits of concession, the President has taken the case into his serious deliberation, and has concluded to authorize you, in the event of a rejection of every arrangement already authorized, but in that event only, to admit an article to the following effect:

"It is agreed that, after the term of ——— months, computed from the exchange of ratifications, and during a war in which either of the parties may be engaged, neither of them will permit any seaman, not being its own citizen or subject, and being a citizen or subject of the other party, who shall not have been for two years, at least, prior to that date, constantly and voluntarily in the service, or within the jurisdiction of the parties, respectively, to enter or be employed on board any of its vessels navigating the high seas; and proper regulations, enforced by adequate penalties, shall be mutually established for distinguishing the seamen of the parties, respectively, and for giving full effect to this stipulation."

You will observe that the proposition is so framed as not to comprehend among British seamen those who have been made citizens of the United States, and who must necessarily be so regarded within their jurisdiction and under their flag. This modification of the article cannot produce any real objection on the part of Great Britain: 1. Because the legal prerequisites to naturalization, in the United States, imply, what is sufficiently known, that the number of seamen actually naturalized, or likely to be so, is too small to claim attention in any arrangement on this subject. 2. Because the right of British subjects to naturalize themselves in a foreign trade and navigation, as laid down by the judicial authority of Great Britain, ought to restrain the Government from making a difficulty on this point.—(See Durnford and East's Reports, *Wilson vs. Marriatt*, and the same case in *Bosanquet and Buller's Reports*.)

You will observe, also, that the article does not extend to British seamen navigating, not the high seas, but our interior waters. Should the success of the proposition be endangered by this distinction, it may be given up; but it cannot well be supposed of sufficient importance to have that effect. The objection, too, is answered by the consideration, that, as Great Britain would regard the proposed disuse of her seamen as a commutation for her claim to impress them, which is limited to the high seas, the principle of the compromise does not embrace the seamen not employed on the high seas.

If an attempt should be made to bind the United States to deliver up the seamen to Great Britain, instead of excluding them merely from their own service, you are to say at once, that it would be inconsistent with our principles, and cannot be acceded to.

It will occur to you that the period of two years has been chosen in allusion to the period established by Great Britain as sufficiently incorporating alien with British seamen. Her own example, at least, must have weight with her, and the implied appeal to it may be of use in shielding the measure against public prejudices to which the Government may not wish to expose itself.

If the British Government be not predetermined against a friendly adjustment, it is confidently presumed that the concession proposed will not only overcome all obstacles to your success on the essential points, but may be turned to account in promoting the amendment of the other articles.

Should the concession, however, contrary to all expectation, not succeed even as to the essential objects, the course prescribed by prudence will be, to signify your purpose of transmitting the result to your Government, avoiding carefully any language or appearance of hostile anticipations, and receiving and transmitting at the same time any overtures which may be made on the other side with a view to bring about an accommodation. As long as negotiation can be honorably protracted, it is a resource to be preferred, under existing circumstances, to the peremptory alternative of improper concessions or inevitable collisions.

The last suggestion I have to make to you is, that in case of great difficulties in readjusting the multiplied provisions embraced by the treaty of December, particularly those relating to commerce, it may be advisable to simplify the transaction by confining it to the few essential objects, or by not adding more than a few others of least difficulty and most importance. A general article may suffice for the rest, giving reciprocally, in regard to trade and navigation, armed ships and prizes, the privileges of the most favored nation, and leaving for more leisurely and detailed provision whatever further may conduce to the mutual interests, and correspond with the friendly dispositions of the parties. A general stipulation of this sort applied to the subject of commerce would have the advantage to the United States of abolishing and preventing British discriminations on exports, and to Great Britain the like advantage with respect to American discriminations on imports.

I have the honor to be, &c.

JAMES MADISON.

*Mr. Monroe to Mr. Madison, Secretary of State.**

SIR:

RICHMOND, February 28, 1808.

It appears by your letter of May 20, 1807, which was forwarded by Mr. Purviance to Mr. Pinkney and myself at London, and received on the 16th July, that you had construed several articles of the treaty which we had signed with the British commissioners on the 31st December, 1806, in a different sense from that in which they were conceived by us. As the course we were instructed to pursue by your letter of February 3d, with regard to that treaty, which was confirmed in that of May 20th, was in no degree dependent on our construction of any of its articles, or on the political considerations which induced us to sign it, we deemed it unnecessary to enter into any explanation in reply, either of our construction of its articles, or of the political considerations alluded to. We thought it more consistent with our duty to look solely to the object of our instructions, and to exert our utmost efforts to accomplish it, and we acted in conformity to that sentiment. The result of these efforts was made known by the documents which I had the honor to present to you when I was lately at Washington, being copies of a joint despatch which Mr. Pinkney and I had forwarded by Mr. Rose. We had flattered ourselves that it might have been practicable to obtain the amendments of the treaty which the President desired, as the state of affairs in Europe had become more favorable to such a result, but in that we were disappointed. We found no difficulty in accomplishing the other object, of setting it aside, as we were instructed to do, in case the proposed amendments were not acceded to.

At this time there is no objection to such an explanation that I am aware of, and there are many reasons why it should be given. You will be sensible that, so far as an unfavorable estimate is entertained of that transaction, it must, in the degree, tend to injure those who gave it the sanction of their names, and you will be equally sensible that if the United States are in any degree interested in it, at this time, it must consist in its being viewed in a just, rather than an unfavorable light. In retiring from the station which I have lately held, this is the last act of public and private duty which I have to perform in relation to it. It is to me, in many views, a painful duty, but still it is one which it is highly incumbent on me to execute.

It is far from my desire to compromit Mr. Pinkney, in this letter, in the slightest circumstance. In the management of the business, which was entrusted to us jointly, we acted with the greatest harmony, and exerted our best efforts to accomplish the object of our instructions. I am not aware that, in speaking of any part of the treaty, I shall give it a construction in which he would not concur, but that presumption is founded altogether on what took place between us in the course of the negotiation. To this communication he is not a party, nor, indeed, does he know that such a one will be made. In every view, therefore, it is improper, and would be unjust, that he should be considered as having any concern in it.

The impressment of seamen from our merchant vessels is a topic which claims a primary attention from the order which it holds in your letter, but more especially from some important considerations that are connected with it. The idea entertained by the public, is, that the rights of the United States were abandoned by the American commissioners in the late negotiation, and that their seamen were left, by tacit acquiescence, if not by formal renunciation, to depend for their safety on the mercy of the British cruisers. I have, on the contrary, always believed, and still do believe, that the ground on which that interest was placed by the paper of the British commissioners of November 8, 1806, and the explanations which accompanied it, was both honorable and advantageous to the United States; that it contained a concession in their favor, on the part of Great Britain, on the great principle in contestation, never before made by a formal and obligatory act of the Government, which was highly favorable to their interest; and that it also imposed on her the obligation to conform her practice under it till a more complete arrangement should be concluded to the just claims of the United States. To place this transaction in its true light, and to do justice to the conduct of the American commissioners, it will be necessary to enter at some length into the subject.

The British paper states that the King was not prepared to disclaim or derogate from a right on which the security of the British navy might essentially depend, especially in a conjuncture when he was engaged in wars

* The document being explanatory to the treaty signed by Mr. Monroe and Mr. Pinkney, is inserted here as a sequel to the proceedings upon it, although not in strict chronological order.

which enforced the necessity of the most vigilant attention to the preservation and supply of his naval force; that he had directed his commissioners to give to the commissioners of the United States the most positive assurances that instructions had been given, and should be repeated and enforced, to observe the greatest caution in the impressing of British seamen, to preserve the citizens of the United States from molestation or injury, and that immediate and prompt redress should be afforded on any representation of injury sustained by them. It then proposes to postpone the article relative to impressment, on account of the difficulties which were experienced in arranging any article on that subject, and to proceed to conclude a treaty on the other points that were embraced by the negotiation. As a motive to such postponement and the condition of it, it assures us that the British commissioners were instructed still to entertain the discussion of any plan which could be devised to secure the interests of both States, without injury to the rights of either.

By this paper it is evident that the rights of the United States were expressly to be reserved, and not abandoned, as has been most erroneously supposed; that the negotiation on the subject of impressment was to be postponed for a limited time, and for a special object only, and to be revived as soon as that object was accomplished; and, in the interim, that the practice of impressment was to correspond essentially with the views and interests of the United States. It is, indeed, evident, from a correct view of the contents of that paper, that Great Britain refused to *disclaim* or *derogate* only from what she called her right, as it also is; that, as her refusal was made applicable to a crisis of extraordinary peril, it authorized the reasonable expectation, if not the just claim, that even in that the accommodation desired would be hereafter yielded.

In our letter to you of November 11th, which accompanied the paper under consideration, and in that of January 3d, which was forwarded with the treaty, these sentiments were fully confirmed. In that of November 11th, we communicated one important fact, which left no doubt of the sense in which it was intended by the British commissioners that that paper should be construed by us. In calling your attention to the passage which treats of impressment, in reference to the practice which should be observed in future, we remarked that the terms "high seas" were not mentioned in it, and added, that we knew that the omission had been intentional. It was impossible that these terms could have been omitted intentionally, with our knowledge, for any purpose other than to admit a construction that it was intended that impressments should be confined to the land. I do not mean to imply that it was understood between the British commissioners and us, that Great Britain should abandon the practice of impressment on the high seas altogether. I mean, however, distinctly to state, that it was understood that the practice heretofore pursued by her should be abandoned, and that no impressment should be made on the high seas, under the obligation of that paper, except in cases of an extraordinary nature, to which no general prohibition against it could be construed fairly to extend. The cases to which I allude were described in our letter of November 11th. They suppose a British ship of war and a merchant vessel of the United States lying in the Tagus, or some other port, the desertion of some of the sailors from the ship of war to the merchant vessel, and the sailing of the latter with such deserters on board, they being British subjects. It was admitted that no general prohibition against impressment could be construed to sanction such cases of injustice and fraud, and to such cases, it was understood, that the practice should in future be confined.

It is a just claim, on our part, that the explanations which were given of that paper by the British commissioners, when they presented it to us, and afterwards while the negotiation was depending, which we communicated to you in due order of time, should be taken into view in a fair estimate of our conduct in that transaction. As the arrangement which they proposed was of an informal nature, resting on an understanding between the parties, in a certain degree confidential, it could not otherwise than happen that such explanations would be given us, in the course of the business, of the views of their Government in regard to it; and if an arrangement by informal understanding is admissible, in any case, between nations, it was our duty to receive those explanations; to give them the weight to which they were justly entitled, and to communicate them to you with our impression of the extent of the obligation which they imposed. It is in that mode only that what is called an informal understanding between nations can be entered into. It presumes a want of precision in the written documents connected with it, which is supplied by mutual explanations and confidence. Reduce the transaction to form, and it becomes a treaty. That an informal understanding was an admissible mode of arranging this interest with Great Britain, is made sufficiently evident by your letter of February 3, 1807, in reply to ours of November 11th, of the preceding year.

Without relying, however, on the explanations that were given by the British commissioners of the import of that paper, or of the course which their Government intended to pursue under it, it is fair to remark on the paper itself, that as by it the rights of the parties were reserved, and the negotiation might be continued on this particular topic, after a treaty should be formed on the others, Great Britain was bound not to trespass on those rights while that negotiation was depending, and in case she did trespass on them in any the slightest degree, the United States would be justified in breaking off the negotiation and appealing to force in vindication of their rights. The mere circumstance of entertaining an amicable negotiation by one party for the adjustment of a controversy, where no right had been acknowledged in it, by the other, gives to the latter a just claim to such a forbearance on the part of the former. But the entertainment of a negotiation for the express purpose of securing interests sanctioned by acknowledged rights, makes such claim irresistible. We were, therefore, decidedly of opinion that the paper of the British commissioners placed the interest of impressment on ground which it was both safe and honorable for the United States to admit; that, in short, it gave their Government the command of the subject for every necessary and useful purpose. Attached to the treaty, it was the basis or condition on which the treaty rested. Strong in its character in their favor on the great question of right, and admitting a favorable construction on others, it placed them on more elevated ground in those respects than they had held before, and, by keeping the negotiation open to obtain a more complete adjustment, the administration was armed with the most effectual means of securing it. By this arrangement the Government possessed a power to coerce without being compelled to assume the character belonging to coercion, and it was able to give effect to that power without violating the relations of amity between the countries. The right to break off the negotiation and appeal to force could never be lost sight of, in any discussion on the subject, while there was no obligation to make that appeal till necessity compelled it. If Great Britain conformed her practice to the rule prescribed by the paper of November 8th, and the explanations which accompanied it, our Government might rest on that ground with advantage; but if she departed from that rule, and a favorable opportunity offered for the accomplishment of a more complete and satisfactory arrangement, by a decisive effort, it would be at liberty to seize such opportunity for the advantage of the country. These considerations, founded on a view of the proposed arrangement itself, furnished strong inducement to us to proceed to the other objects of the negotiation. There were other considerations of a different character which recommended it with still greater force. Had we refused to proceed in the negotiation, what was the alternative which such a refusal presented to our view? The negotiation would have been at an end, after having failed in all its objects: for if this interest was not arranged, none others could be. The attitude which the Gov-

ernments held towards each other was, in a certain degree, hostile. Injuries had been inflicted by one party and resentment shown by the other; the latter having taken a step in the case of the non-importation law which was intended to vindicate the public rights and honor, by being made the means of obtaining a redress of those injuries. The measure was intended for the ministry of Mr. Pitt, from which the injuries were received, but by the removal of that ministry, and the delay which took place in the passage of the law, it came into operation against the ministry of Mr. Fox and Lord Grenville, who would not have rendered those injuries, and against whom, of course, such a weapon would not have been raised.

Notwithstanding the existence of that law, and the attitude which still remained between the Governments, it was impossible to appeal to it as a strong motive of action with the new ministry. Such an appeal was sure to produce more harm than good. It would have lost us all claim on the generous feelings and liberal policy which the new ministry was believed to indulge, and disposed to adopt towards the United States.

The negotiation, therefore, with the new ministry was conducted by policy as well as by inclination on friendly and conciliatory principles. Should it fail, however, in its object, and be broken off, the relation between the parties would change in an instant. From that moment the new ministry would stand on the ground of the old one, and the nation be united in all its political parties against us. The attitude would become, in fact, what the exterior announced it to be—hostile; and it was difficult to perceive how it could be changed, and peace be preserved, with honor to the United States. They could not recede from the ground which they had taken, or accept, by compulsion, terms which they had rejected in an amicable negotiation. War, therefore, seemed to be the inevitable consequence of such a state of things; and I was far from considering it an alternative which ought to be preferred to the arrangement which was offered to us. When I took into view the prosperous and happy condition of the United States, compared with that of other nations; that, as a neutral Power, they were almost the exclusive carriers of the productions of the whole world; and that in commerce they flourished beyond example, notwithstanding the losses which they occasionally suffered, I was strong in the opinion that those blessings ought not to be hazarded in such a question. Many other considerations tended to confirm me in that sentiment. I knew that the United States were not prepared for war; that their coast was unfortified, and their cities in a great measure defenceless; that their militia in many of the States were neither armed nor trained; and that their whole revenue was derived from commerce. I could not presume that there was just cause to doubt which of the alternatives ought to be preferred. Had it, however, been practicable to terminate the negotiation without such an adjustment as that proposed, and without taking any decisive measure in consequence of its failure, what was to become of the non-importation law? If suffered to remain in force, it was sure to produce war. Great Britain, it was known, would enter into no arrangement by treaty which did not provide for its repeal; and there was little reason to presume, after the rupture of the negotiation, by which the relation between the parties would be less friendly, that she would become more accommodating. It was, on the contrary, fairly to be concluded that, if any arrangement whatever should be practicable, it would be a less advantageous one than that which we had sanctioned. Some disposition of it was therefore indispensably necessary in any course which might be taken.

These considerations had much weight in deciding that which was pursued, and I frankly own that a sincere desire to afford to the administration an honorable opportunity for its repeal, since, under existing circumstances, it did not seem probable that it could be longer useful, and might be injurious, was a strong motive with me to incur the responsibility which I took on myself in that transaction. To the arrangement proposed we gave our sanction. We undertook to submit it to the consideration of our Government, taking care to inform the British commissioners that we had no power to conclude a treaty that would be obligatory on the United States, which did not arrange in a satisfactory manner the interest of impressment. We agreed also to proceed in a discussion of the other objects of the negotiation, and eventually concluded a treaty, it being understood, from what we had frequently stated, that, if our Government should disapprove the arrangement relative to impressment, the whole would fall with it. Thus, the United States enjoyed the advantage of being at liberty to accept or reject the arrangement, while on the British Government it was binding. With one party it was a project; with the other a treaty. There was, in truth, nothing unreasonable in this circumstance, as the British commissioners acted in presence of the cabinet, consulted and took its instruction on every point; while our distance from our Government rendered such a recurrence to it impossible. This advantage, however, proceeded from the nature of the transaction; it was not the effect of finesse on our part. We advanced in the negotiation, and concluded a treaty in a firm belief that, although it fell short of what we had expected to obtain, it was nevertheless, in the then state of affairs, such a one as the United States might adopt with credit and advantage. I have no doubt that the British commissioners entertained still greater confidence in such a result. The circumstance of our finally agreeing to sanction the arrangement, rather than break off the negotiation, at which issue we had frequently stood in the progress of it, was calculated to make that impression. But it was much strengthened by a knowledge that the whole arrangement would expose them to very severe and probably successful attacks from the opposition, while they had no expectation that it would be popular in the country.

By your letter of February 3, 1807, in reply to ours of November 11, 1806, the course which the Government resolved to pursue was announced. By it we were informed that the President disapproved the informal arrangement proposed by the British commissioners relative to impressment, and was resolved to enter into no treaty with the British Government which, when limited to or short of strict right on every other point, should include in it no article on that particular one; that, in case such an article could not be obtained, we should terminate the negotiation without any formal compact whatever, but with a mutual understanding, founded on friendly and liberal discussions and explanations, that in practice each party would entirely conform to what should be thus informally settled between them; and we were authorized to give assurances, in case such an arrangement should be satisfactory in substance, that, as long as it should be respected in practice, particularly on the subjects of neutral trade and impressment, the President would earnestly, and probably successfully, recommend it to Congress not to permit the non-importation law to go into operation; and, in the mean time, that he would exercise the power vested in him by an act of Congress, if no intervening intelligence forbade it, of suspending its operation till the meeting of Congress, who, being in session, would have an opportunity to make due provision for the case; and finally, that, if a treaty which did not provide for the interest of impressment should have been concluded before the receipt of that letter, we should candidly apprise the British commissioners of the reasons why it would not be ratified, and invite them to enter again on the business with a view to such a result as was desired.

By this letter the arrangement which we had sanctioned, comprising the informal one relative to impressment, and that by treaty on the other topics, was rejected, and, in lieu of it, we were instructed to enter into an informal understanding or arrangement of the whole subject, and, as was to be inferred from the fair import of the letter, on the same conditions. It was the more to be presumed that the Government was willing to accept, in the mode which it proposed, the conditions which we might be able to obtain in the other, from the consideration that the latter were under its view at the time the instructions were given by the paper of the British commissioners of

November 8th, and our letter of the 11th, and the certainty with which it, as well as we, must have been impressed, that more favorable could not be expected.

In defending myself against the imputation of having sacrificed the rights of our seamen, I shall be permitted to derive support from the conduct of the Government itself in the same interest. Under that impression, I have to remark that I consider the conduct of the Government as furnishing the most ample vindication of that of the American commissioners. The Government was equally willing to enter into some arrangement which should preserve the peace of the country, although it should not accomplish the object which had been so ardently desired. The only difference between the plan which we sanctioned and that which it proposed was, that the whole arrangement should be informal. Had the administration resorted to war as a preferable alternative, or been willing to leave the business unsettled, its policy and example might have been pleaded against us; but, in offering to accept the same conditions in an informal mode, and to withdraw, in some form, the non-importation law as a motive to it, it showed that the considerations which had been respected by us had as much weight with it.

But the conduct of the administration furnishes other strong arguments in favor of the arrangement proposed by the American commissioners. By engaging to observe the informal arrangement which we were instructed to enter into, as long as Great Britain should observe it, it seemed as if the United States would be deprived of the right of insisting on other terms however favorable the opportunity for it might be, while Great Britain would be at liberty to depart from such arrangement whenever the events of war furnished her an adequate motive for it. This was the opposite of our arrangement as I have stated above, by which, as we presumed, she would be bound, and we free. Certainty to our merchants was all important. Any fair, well defined rule, within which they might prosecute in safety their enterprises, although it might fall short, in some respects, of our just claims, might perhaps be preferable to frequent collisions which put every thing at hazard. In any event it was an object of great importance to keep the peace of the country in our own hands, by retaining the right to resort to war when it suited us, and then only.

I will now proceed to the other topics, which are adverted to in your letter of May 20, 1807, and on which I shall be as concise as possible. In your examination of the treaty, you notice several of primary importance, which you conceive to have been improperly arranged in the articles which refer to them. I will pursue, in my remarks, the order which you have traced.

You consider the eleventh article as objectionable in having shut to our commerce important channels which were left open to it, by the decisions of the British courts, and the principles contained in the communications from Lord Hawkesbury to Mr. King. In support of that opinion you observe, that, as the article stipulates that the United States may carry the manufactures and productions of Europe from their own ports to any colony of the enemies of Great Britain, they are prohibited by it from carrying the manufactures or productions of the countries beyond the Cape of Good Hope, in like manner, to such colonies. You observe also, that as the United States are authorized to carry from their own ports the productions of enemy colonies to Europe, they are prohibited from carrying those productions to the southern coasts of the Mediterranean, or beyond the Cape of Good Hope, or to any other enemy or neutral colonies in this quarter.

I am persuaded that you will be satisfied, on further consideration, that this construction of that article is unfounded. It is not the object of the article to regulate the general commerce of the countries, or to compromise their claims in any case to which the regulation does not explicitly extend. The regulation prescribed by it applies to a case of controversy between the parties, in a point of immediate contact, and it was the object of the article to adjust the controversy in that point. If we advert to the issue which was made up between them, as clearly defined by the orders of the British Government, the decisions of the Courts of Admiralty under them, and the discussions which took place between the Governments on the subject, we shall find that in no view can the construction, which you impute to the article, be supported.

The issue lately made up between the parties involved solely the question, what circumstances or acts, to be performed in the neutral country, were necessary to break the continuity of a voyage from the colony of an enemy to its parent country, or some enemy country in Europe? This point had been settled, as was presumed, by former decisions of the British Courts of Admiralty, and explanations of the British Government, in a manner which was so far satisfactory to the United States, as to justify a belief that if those decisions and explanations had been adhered to, the existing controversy on this subject would not have arisen. But in 1805 the British Courts of Admiralty insisted on the performance of new acts in the United States, or what amounted to the same thing, extended by construction the doctrine of former decisions in such a manner as to make the performance of new acts, such too as were of a nature highly onerous and oppressive, indispensably necessary. On this special point, the parties were at issue, and the sole object of the article was to adjust, by temporary arrangement, the controversy on that point. The rights of the parties, in every other instance, not within the scope of the adjustment, were to remain of course untouched, and in that particular one, to revive at the expiration of the term limited for the duration of the article.

A concise analysis of the several orders of the British Government, relative to the trade of neutral Powers with enemy colonies will place in a clear point of view the ground of the controversy between the parties and the precise object and effect of the regulation, proposed by the article under consideration. The first order bears date on the 6th November, 1793. It directed the British cruisers to bring in for lawful adjudication all vessels laden with goods, the produce of any colony of France, or carrying provisions or supplies for such colony. That order amounted in express terms to a declaration of war against the neutral Powers, and it was issued in that spirit by the British Government. The policy, however, which dictated the order did not last long; events soon produced a change of policy, and with it a revocation, or to use the technical phraseology of the Admiralty, a relaxation of the order. The second order was of the 8th January, 1794. It directed the cruisers "to bring in all vessels laden with goods, the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe." This order being directory prescribed the case in which neutral vessels engaged in such a trade should be seized, and thereby confined the seizure to that case only. No vessel engaged in that trade which did not come within the scope of the order could be touched. Thus the effect of the order was to inhibit the direct trade of the United States, between enemy colonies and Europe, in the productions of those colonies. It left the trade free between the United States and enemy colonies and between the United States and Europe, and of course every other country. It left it free also in the direct line between enemy colonies and Africa and Asia. By confining the restriction to Europe, those countries were necessarily exempted from its operations. The third order of the 25th January, 1798, directed the cruisers to "bring in all vessels laden with cargoes, the produce of any island of France, Spain, or Holland, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of Great Britain, nor of the country to which such ships, being neutral, belonged." The sole effect of this order was to extend to the neutral Powers of Europe the accommodation which had been yielded to the United States by that of 8th January, 1794. The next order bears date on the 24th June, 1803. It directs the cruisers not to seize any vessel which shall be carrying on trade directly between the colonies of the enemies and the neutral country to which the vessel belongs, and laden with the property of inhabitants of such

neutral country, provided such vessel shall not be supplying, nor have supplied, the enemy on the outward voyage with any articles of contraband of war, &c." The sole object of this order appears to have been to introduce a new rule relative to contraband, by subjecting a vessel to seizure on that account, on her return voyage after depositing her cargo at her place of destination. It prohibits the seizure of neutral vessels, European as well as American, engaged in a trade between enemy colonies and the neutral countries, by positive inhibition. That trade had been left free before, by the restriction of the seizure to vessels engaged in the direct trade between enemy colonies and the parent country. It was now secured by positive inhibition. The right to carry on the trade from the neutral country to other countries, was left on the ground on which it stood before. That this order was not intended to affect that trade, and did not affect it, is made sufficiently evident by many decisions of the Courts of Admiralty which have been given since the order was issued. In proof of this, I refer to all the cases that were decided by the British Courts of Admiralty, touching the trade of neutrals with enemy colonies, in the years 1805 and 1806, and more especially to that of the *William, Trefrey*, it being the last one, and containing a summary of the whole doctrine.

If we recur to the decisions of the courts themselves, we shall find a full confirmation of what is here advanced. We shall find that in conforming their decisions to the spirit of the orders of the Government, they inhibit the direct trade only between the colony and the parent country, or some other country of Europe; that they do not call in question the trade between neutral Powers, in the productions of enemy colonies, after those productions were allowed to have been incorporated into the stock of the country; that they gave recent and high offence only by the new doctrines advanced on this latter point, which, by assuming to investigate the motives of the parties engaged in the trade, and to reject acts which were before deemed satisfactory by decisions the most solemn, and to impose new conditions the most onerous and oppressive, laid that commerce completely at the mercy of British tribunals. The most material cases are those of the *Immanuel*, which involved the question of a trade between Bordeaux and St. Domingo, that is, the direct trade between the parent country and its colony, in which the goods were condemned on that account, [*Robin. Rep. vol. 2, page 186.*] and of the *Polly, Lasky*, in which the vessel was taken on a voyage from Marblehead to Spain, charged with the productions of the Havana, brought to Marblehead by the same vessel. In this case the question of continuity of voyage was involved, and the court decided in favor of the American claim, on ground that gave no offence. It was admitted, in explicit terms by the judge, that an American had a right to import the produce of the Spanish colonies into his own country, and to carry them on thence to the general commerce of Europe, and that the landing of the cargo and payment of the duties would be sufficient *criteria* of a *bona fide* importation, [*2 Rob. Rep. p. 361.*] The next cases were those of the *Essex, Orme*, of the *Rowhena*, and some others of the same kind in 1805, which turned on the point of continuity of voyage, in which the court, pushing its doctrine to the unjust and pernicious extent complained of, produced the controversy which took place between the two countries. The communication between Mr. King and Lord Hawkesbury is of the same character. The Advocate General admits in his report, which was adopted by Lord Hawkesbury and communicated by him to Mr. King, that by the relaxation of the general principle respecting the trade with enemy colonies, it was distinctly understood, and had been repeatedly so decided by the Court of Appeal, that the produce of enemy colonies might be imported into the neutral country and re-exported thence *even to the mother country* of such colony; and in the like manner that the produce and manufactures of the mother country might be carried to its colonies. He states that the direct trade between the mother country and its colonies had not been recognised as legal; that what amounted to an intermediate importation into the neutral country might sometimes be a question of difficulty; that the mere touching in the neutral country to take fresh clearances, might perhaps be deemed evasive, and in effect the direct trade; but that the High Court of Admiralty had expressly decided, (and he saw no reason to expect that the Court of Appeal would vary the rules,) that landing the goods, and paying the duties in the neutral country, would break the continuity of the voyage, and was such an importation as would legalize the trade, although the goods were re-shipped in the same vessel, on account of the same proprietors, and were forwarded for sale to the mother country of the colony.

This communication corresponds in every the minutest circumstance with the spirit of the orders and decisions of the courts, as above explained. It insists, and in terms that are far from being positive, that the direct trade only *between the mother country and the colony* was inhibited. It admits, that the trade through the neutral country to the mother country of the colony was lawful, and fixes, with great precision, the acts to be performed in the neutral country, which would be sufficient to incorporate the goods into the stock of the country, and break the continuity of the voyage. In the latter part of the report alluded to, the Advocate General seems to make a kind of reservation of the right of the Court of Appeal to revise the decisions of the High Court of Admiralty, which he represents to have settled the doctrine. But he makes that reservation, if, indeed, it was intended as one, in such terms as to preclude the idea that it would ever be taken advantage of, especially when it is considered that the report was adopted by the Government, and communicated officially by the Secretary of State to a foreign minister. It is certain, however, that through the Court of Appeal the new encroachment on the rights of the United States was made, which produced the controversy which ensued immediately afterwards.

The discussion which took place between Lord Mulgrave and myself, in 1805, on the subject of the seizures then made, treated the encroachment in that line as the special cause of complaint on the part of the United States. Although the British pretension to inhibit even the direct trade had not been countenanced by the Government, yet the commerce of the United States had been made, in a certain degree, to accommodate with it by the merchants. They were content to decline the direct trade, and to prosecute their enterprises through the United States, equally with the mother country and its colonies. It was natural, in the course of a controversy which involved such important interests, that the rights of the parties should be taken up on principle and carried to the greatest extent. To the light thrown upon the subject, by a very able essay which I received from you, I was much indebted, and I acknowledge, in this communication, the aid which it afforded me with peculiar satisfaction. A vindication, however, of the cause, on principle, however extensive the range may be, could not affect the origin of the controversy, nor give to the article entered into for its adjustment a construction different from that which, by well-established rules, is fairly applicable to it.

From this view of the several orders of the British Government, and from the exposition given of them by the courts and by the Government itself, it appears, that the sole object of those that were issued after that of 6th November, 1793, was to inhibit the direct trade of the United States between enemy colonies and Europe; that they did not touch and were not intended to interfere with the trade between the United States and Europe, even the parent country, and *a fortiori* between the United States and Asia and Africa. It was, indeed, the object of the order of November 6, 1793, to suppress the commerce of neutral Powers with enemy colonies altogether; but that being abandoned, the next idea that occurred was to embarrass that trade, by forcing it through neutral countries. Here, then, arose a new question, which turned entirely on another principle; that a neutral Power had a right to carry on trade, from its own ports, in any articles, though of foreign produce, which had been incorporated into the stock of the country, not contraband of war, and to all countries, was not controverted. That point,

otherwise clear and indisputable in itself, had been long settled by the highest tribunals, and by the most eminent jurists in England. The circumstances which constituted such an incorporation of foreign articles into the stock of the country, had also been settled by the same authorities; still, the question which now arose turned on this latter point. In forcing this commerce through neutral ports with a view to embarrass it, it became necessary (to give the greatest effect to that expedient) to increase the difficulties in those ports, which was done in the manner already stated.

If the instructions of the British Government did not inhibit the trade in question, the adjustment contained in the article under consideration could not affect it. That article supposes a *difference* between the parties, relative to a trade with enemy colonies, and the *instructions* which interfere with it. The article could not operate on any trade to which the instructions did not extend, and concerning which there was no controversy. In the present case the conclusion is the more irresistible, because there did not exist even a possibility of controversy in regard to that trade.

But it is inferred that, because it is stipulated that the produce of enemy colonies may be carried to Europe from the United States, that the ports of Asia and Africa are shut on them; and, that because it is stipulated that the manufactures of Europe may be carried from the United States to the West Indies, that those of Asia and Africa are prohibited from being carried there. This objection has been already obviated. Had the instructions of the British Government inhibited that trade, and a controversy between the Governments arisen from the inhibition, as the article does not extend to the case, the most that could have been inferred would have been, that it was unprovided for, and that the rights of the parties would remain in the same state respecting it, as if the article had not been entered into. It is easy to explain the cause why the term "Europe" was introduced into the article, in reference to the ports to which colony produce might be carried, and "European," in reference to the manufactures which might be carried to enemy colonies, and to show that they were adopted with a view to open, on the widest scale, the ports which had been at any time shut on them by the British orders. Although the policy of these orders, as well as of the principle on which they are founded, is more particularly applicable to the direct trade between enemy colonies and their mother country, yet as the term "Europe" had been adopted in the modifications that were made in them, first, at the instance of the United States; and afterwards at that of the neutral European Powers, as the widest scale within which the inhibition operated, it was thought best to use that term to prevent the possibility of mistake, as to the extent of the adjustment. Had terms of more extensive import been adopted, they could not have been more effectual to the object, while they might have tended to enlarge the sphere of British pretensions, by extending it to cases to which it would be highly improper to give a sanction.

But it is supposed that, although the orders of the British Government may not have inhibited this trade, it is comprised in the general inhibition of the British principle. If the British principle inhibits such a trade, which I do not admit, it does not follow that a sanction to that inhibition is given by this article, for reasons already stated. If the provision of the article does not extend to that trade, the rights of the parties cannot be affected by it. They remain equally in force against the principle as against the instructions, had they inhibited it. But the claim to an exemption from that trade, from the operations of the British principle, rests on still stronger ground, admitting that it ever extended to it, which, however, I am far from admitting. It can be shown that the orders themselves take it completely from within the scope of that principle. By instructing the cruisers to seize vessels engaged in a particular trade, every other trade is allowed. It is in that mode, that what is called a relaxation of the British principle, is effected. The order reduces the principle to its own standard, or, in other words, becomes the principle itself. If this doctrine is not true, it is impossible to designate in what mode the relaxation, which is universally admitted of the British principle, is wrought; or to prove that there has been any relaxation of it whatever. If the orders have not that effect, of what avail are they? That they have that effect is proved by the decisions of the courts, and the practice under them. I am aware of the broad doctrine held by the courts on this subject, but that doctrine, necessarily ambiguous, from the dilemma in which the courts were placed by the inconsistent orders of the Government, if not reconcilable to this construction, (as I think it is, when the whole subject is taken into view,) is contradicted by the decisions of the same courts, and the explanations of the Government itself.

I say that this trade is not inhibited by the British principle, because it supposes a trade between enemy colonies and the mother country. But a trade between the United States and Asia and Africa, let the subject of it be what it may, is not a trade of that kind. It is a trade with independent Powers, at peace with Great Britain, with whom we have a right to trade, by all the rules which Great Britain has at any time insisted on. It would be of dangerous tendency to admit that Great Britain had a pretension to interfere with such a trade in any case. After the goods are received into the United States, no matter of what articles they consist, or from what quarter they came, they are the property of the country, and may, of right, be shipped to any other country. The British principle does not controvert this doctrine; it asserts, in its widest range, the right only to seize them on their route to the neutral country, and from it to the mother country of the colony, or some other enemy country of Europe, provided they be not incorporated into the stock of the neutral country. If they are, they may go under the arrangement made to the countries to which the British principle applies; but they require no sanction from the British Government to go to those to which it does not apply. The destination of the vessel alone would, as I presume, dispel every doubt of the legality of the trade, and preclude all further inquiry concerning it. The question of continuity of voyage could never arise in such a case. It is certain, that the arrangement alluded to gives no sanction to it, and for the best of all reasons, that the trade was not admitted, or even contended to be comprised, within the range of British principle.

I shall close my remarks on this point by observing, that as the arrangement of the acts to break the continuity of the voyage from the United States to the parent country, and other enemy countries of Europe, in the produce of their colonies, and from the United States to those colonies, in the manufactures of Europe, is confined strictly to that object; the rights of the parties remain unimpaired in every other circumstance relative to that trade; that, as the article contains no stipulation against the direct trade from the colony to the parent country, the right to carry on even that trade is not necessarily suspended by it; that if, in any view, it can be considered as suspended, it is by implication arising out of the whole transaction, rather than from the stipulation itself. How much stronger, then, is the conclusion already drawn from other premises, that nothing is to be deduced from that article to justify the construction which has been imputed to it.

The remarks above made refer more particularly to a trade between the United States and Europe in the produce of enemy colonies. They are, however, equally applicable to the other objection stated in your letter, of a trade between the United States and enemy colonies in the produce or manufactures of Africa or Asia. None of the orders alluded to inhibit that commerce, and it is most certain that the article alluded to gives no sanction to such a pretension.

As to the conditions by which it is agreed to break the continuity of the voyage, I have to observe that they are as favorable as you had expected. We were authorized to stipulate, if better conditions could not be obtained, that the goods should be landed, the duties paid, and the ship changed. We stipulated only that the goods should

be landed and the duty paid, making the duty on European goods one per cent., and on colony productions two. By exempting the party from the necessity of changing the ship, an important advantage was certainly secured. By fixing the duty at one per cent. in the one instance, and at two in the other, it was not possible that the slightest embarrassment should be thrown in the way of the trade. The duty payable on manufactures consumed in the country is about fifteen per cent., and on West India productions twenty-five; the trifling amount made payable to the country on the re-exportation of the articles could not be felt by the merchant; it would fall on the European consumer. It could not be felt as a heavy imposition on the trade itself; our only competitor in it would be Great Britain, whose merchants would labor under the disadvantages incident to war in a thousand shapes, more especially as the ports of the whole continent would be shut on them, in not being able to get their goods into those ports otherwise than by smuggling them, a mode which could not fail to be onerous if it succeeded, but which was likely to fail in most cases. It should be remembered, also, that the increased duties which would accrue to the country would tend in the highest degree to interest the whole community in support of a commerce in which the commercial part was most materially interested. It is the policy of the European Powers having colonies in the West Indies to make the parent country the *entrepôt* of the productions of the colonies. Is not that policy worthy the attention and imitation of the United States, in respect to the trade of the colonies in question? The duty received would make some recompense to the nation for the expenses incurred and sums expended in supporting our right to that trade. Besides, by making the ports of the United States the *entrepôts* for such productions, the country in general would derive some advantage from the measure. Every ship engaged in the commerce which entered an American port would bring something to and take something from it. The vast amount of Asiatic, European, and West India articles brought to our markets would cheapen the price of those articles at home; and each ship, while in port, and in the prosecution of her voyage, would require supplies in provision and other articles, which would raise the price of those articles, to the great advantage of the general interest of the country.

The limitation of the article to the term specified was a condition which we presumed might prove advantageous to the United States, while it could not possibly injure them. It is expressly stipulated that the right of both parties shall revive at the expiration of the term. Those of the United States, therefore, would then be in force, and to the full extent of their pretensions, in the same manner as if the stipulation had not been entered into. In another war they might insist on conditions which this stipulation did not secure; and if Great Britain did not yield to their demand, they might resort to any expedient to compel her which the wisdom of their councils might dictate. Any encroachment on the part of Great Britain on their rights, as heretofore contended for, might be considered by their Government an act of hostility, and treated accordingly. The least favorable conditions that she could offer would be those already settled, which the United States might accept or reject, as they thought best. As a youthful, prosperous, and rising nation, it could not be doubted that in the next war their situation would be more imposing than in the present one. The presumption is, that they would be able then to obtain better conditions than at present.

On the third article I have to observe, in addition to what is stated in our joint letter of January 3, 1807, that nothing would have been more easy than to have omitted any provision on the subject of it, and to have placed that trade on the footing of the most favored nation. To obtain better terms by treaty was utterly impossible. We were much inclined to omit any provision on the subject, because we were aware that the arrangement made would fall short of the expectation of our Government and country, and most probably subject us to censure. We acceded to that arrangement from a conviction that it secured us better terms than we should be likely to enjoy if left to depend on the pleasure of the British Government, stimulated as we knew that was to restrict us in it by the India Company and other interests of the country. It is impossible to conceive too high an idea of the jealousy which is entertained of the United States in a commercial view by that Government, and of the danger with which it thinks Great Britain is menaced by their extraordinary prosperity and rapid growth. The boldness of the projects, and the activity and ability with which they are prosecuted by our merchants and mariners, excite the admiration of Europe. Great Britain has seen that, wherever our citizens gained a foothold, they never lost it. Without distrusting her own means, or the hardness and activity of her people, she finds that our own position, remote from Europe, contiguous to the West Indies and the southern continent, and as near to India as herself, gives us advantages against which she cannot cope. The effort which we made and persevered in for several months to gain admission into British India on more favorable terms, and the disposition which was shown by the British commissioners to yield, excited a sensation (or, more properly speaking, an alarm) in the Board of India Directors, and of the commercial people in general, even among those who had no particular interest in the question, which was extremely obvious. Had we made no provision in the treaty to secure our admittance into India on certain conditions, we had much reason to believe that that commerce would have been fettered to an extreme degree, and in every form.

We were extremely anxious to provide that our citizens might make their shipments from Europe, to take specie from Spain and Portugal, goods from England, &c., and that they might touch at the Cape of Good Hope, at the Isle of Bourbon, at the Mauritius, &c.; that they might carry on the coasting trade in India, and be permitted to pass from Calcutta to China. These advantages were insisted on; but the pressure which we made produced reports from the Board of Directors, at the instance of the Government, and from political men conversant in these topics, which fixed the Government in its decision not to grant them. I repeat, however, that it would have been easy to have omitted the regulation from the treaty, and placed the trade on the footing of the most favored nation, as it would have been at any time afterwards had the state of affairs in other respects permitted it.

By your instructions, a provision in favor of indemnity was not made an indispensable condition of a treaty. We were authorized to conclude one without it; we were therefore persuaded that the ground on which that interest was placed could not fail to be approved. The arrangement which we made authorized a just claim to expect a dismissal of all the causes that were depending in the Courts of Admiralty, and even to an indemnity in the cases of condemnation. The documents which we forwarded to you in our joint letter of — give a full view of this subject, and to them I beg to refer.

Your fifth objection applies to the eighteenth and nineteenth articles of the treaty, and, in the first instance, to the prohibition it contains of extending the privileges which are made reciprocal between the parties to other nations, which is supposed to be a breach of neutrality. Had I conceived that those articles were justly exposed to that imputation, I should certainly not have assented to them; but I saw no foundation for the imputation. With Spain and Holland we have treaties which secure them all the rights to which they are entitled. It is usual, and certainly proper, for a nation, in estimating its claims on other Powers, to examine its treaties with them, and not to think of setting up a pretension beyond the limit of such treaties. By treaty, neither of those Powers have any right in the case in question, nor have we in the ports of either. By treaty, Great Britain had enjoyed those rights in the ports of the United States, as we had in her ports from the year 1794. Spain and Holland knew the conditions of that treaty, which was in force at the commencement of the present war, and some time afterwards, and would have been in force till late in the last year had a special condition of the twelfth article been carried into

effect. To renew the treaty in the express terms of the former one—a treaty which deprived no one Power of any existing conventional right; which subjected none to conditions to which they had not been always subjected; which allowed to Great Britain, on principles of reciprocity, a privilege which there was no reason to presume that any other Power, especially Spain, would consent to reciprocate with the United States—did not seem to be liable to the objection stated to it. The general principle which you advance, of extending those privileges to as small a number of Powers as possible, had also some weight in inducing us to accede to the arrangement. France is admitted to an enjoyment of them in the same extent with Great Britain; she therefore has no cause of complaint. I do not think that the stipulation forbids any arrangement of the Government relative to the number of ships of war that shall be admitted into the ports of the United States at one time, or any regulation relative to their conduct while within the ports of the United States, provided it be general and equally applicable to both Powers. A stipulation that the ships of war of each nation shall be hospitably received into the ports of the other does not necessarily imply that there is to be no rule as to the numbers to be admitted into the ports to which they shall be confined, or the order they shall observe while in port. All these topics have been at all times, as I have reason to believe, the object of regulation by Great Britain; and I have equal reason to believe that her Government did not consider itself as having abandoned its right to regulate them by this article.

Your next objection applies to the last paragraph of the nineteenth article taken in connexion with the twelfth article. By your construction of those parts of the treaty, the United States would be bound to claim redress, in favor of Great Britain, of her enemies, for any acts of hostility which they might commit on her ships of war or merchant vessels within the additional limit, while she might commit with impunity like acts of hostility on the ships of war and merchant vessels of her enemies in case they did not acknowledge it, and against their ships of war in case they did, although her own ships of war in both cases would be protected within it. I was decidedly of opinion, and still am, that while those articles secure to the United States an unconditional advantage, none whatever is stipulated by them in favor of Great Britain which must not of necessity be common to her enemies; that her privilege, on the contrary, whatever it may be, must be founded on their consent, follow, and terminate with it.

The twelfth article stipulates that Great Britain shall not stop the vessels of the United States within five marine miles of their coast, except for the purpose of examining whether they be American or those of another Power; and that she shall not stop the unarmed vessels of other Powers within the same limit, provided they acknowledge it, except to ascertain whether they belong to those who have acknowledged it. The vessels of the Powers who do not adopt the regulation are not affected by it. They remain under the ordinary protection of the law of nations, which extends to the distance of cannon shot, or three miles from the coast. Beyond that limit the enemies of Great Britain have a right to search and seize her vessels, without being amenable to the United States; and the same right is reserved to her by this article as if it had not been entered into. Vessels of war are expressly excluded from the advantage of the regulation.

It is the sole object of the twelfth article to secure to the United States an accommodation, by extending their jurisdiction on their coast, in what concerns themselves, from three to five miles. The stipulation is unconditional as to them, but conditional as to other Powers, dependent on their acknowledging the same limit. It is made reciprocal, by being extended to the British dominions northward of the United States; a circumstance which merits attention, as it precludes the idea that any other equivalent was expected or intended to be given for it. It would have been extended to the dominions of Great Britain in Europe and elsewhere had the British commissioners desired it; they declined it, from a fear that it might produce some innovation in the general doctrine of the law of nations on the subject. This is, I think, fairly to be inferred from the instrument itself.

The last paragraph of the nineteenth article stipulates that neither of the parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor within the jurisdiction described in the twelfth article, so long as the provisions of the said article shall be in force, by the ships of war of other Powers; but in case it should so happen, the party whose territorial rights shall thus have been violated shall endeavor to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

If any advantage is given to Great Britain by the arrangement proposed by the twelfth article and this clause of the nineteenth, to the prejudice of her enemies or of the United States, it must be by this clause. She can certainly claim none under the twelfth article. This clause consists of two distinct members of very different import. The first contains a general stipulation conformable to the law of nations, applicable to all the dominions of both parties, and equally so to their ships of war and merchant vessels. With respect to the latter, however, it is conditional. The second member applies to the arrangement made in the twelfth article, and in the sense and spirit of that article. If the twelfth article is carried into effect in favor of other powers, which can only be done by their consent, then the advantage which is secured to them by it will accrue likewise to Great Britain. What is that advantage? Protection to their merchant vessels within the additional two miles, and nothing else. It is obvious that the protection which is stipulated in favor of ships of war is provided for by the first member of the clause, and not by the second. It cannot be by both, for the distance defined by them is different, it being three miles in one and five miles in the other. It is equally obvious that the stipulation contained in the second member of the clause relative to the twelfth article, is intended to operate in the spirit of that article, and to be dependent on it. By the terms "nor within the jurisdiction described in the twelfth article so long as the provisions of the said article shall be in force," the stipulation contemplated is made conditional. In force in respect to whom? Not the United States, because it was unconditional as to them. It was conditional only with respect to other Powers. Other reasons might be given to show that the arrangement under consideration is not liable to the objection made to it, but I presumed that those stated will be satisfactory.

The difficulty to obtain the accommodation which was yielded in the twelfth article was extreme. We labored most earnestly to extend it to other Powers without their consenting to reciprocate it in favor of Great Britain, but that could not be accomplished. The British commissioners urged that as Great Britain predominated at sea, and must lose by the concession in any form, it would be unjust for her to make the concession in their favor, unless they would allow her the advantage of it. Finding that it was impossible to extend the additional limit to other Powers on other terms, we thought it advisable to adopt the arrangement in respect to them conditionally, putting it in their power to accept or reject it as they thought fit. We flattered ourselves that as they could not lose by it, they would not refuse their assent to an arrangement by which they might gain, especially as it would prove advantageous to a friendly Power. We deemed it highly important to establish the additional limit in favor of the United States, from the advantage it might afford to their commerce within it, and from the effect which the measure seemed likely to produce on the future conduct of the British squadrons on our coast, by whom it could not fail to be considered as a severe censure on the past.

It is readily admitted that more suitable terms might have been adopted to accomplish the object in view. But it ought to be recollected that as the right of jurisdiction imposes of necessity the obligation of protection, without a special exception to it, there was some difficulty in making an arrangement which should secure to the United States the advantage which they desired, and at the same time exempt them from the duty incident to it.

To your sixth objection little need be added to what is stated on the subject of it in our letter of January 3, 1807. As the paper of the British commissioners to which it relates had no sanction whatever from us, as was fully shown by that letter, the objection cannot be said to apply to any part of our conduct. The paper was produced by the decree of the Emperor of France of the 21st November, 1806, and was intended by the British commissioners to operate as a reservation of right in their Government not to ratify the treaty, or not to be precluded, under certain circumstances, in case it did not ratify it, from adopting such measures as it might find necessary to counteract the restrictions imposed by that decree. The exercise of the right reserved was made dependent on the abandonment of the principle of that decree by the French Government, or an assurance from the Government of the United States, or such conduct as would be equivalent, that the pretension would not be submitted to by it. We apprised the British commissioners that our Government would enter into no engagement whatever of what it would do in any case with another Power. Had the treaty been ratified even without any notice being taken of that paper, it could not have imposed the slightest obligation on the United States, either to perform any act on their part, or to submit to any on the part of Great Britain. I had supposed, however, in the case of ratification, that we should have been instructed to present to the British Government, with the instrument of ratification, a counter-declaration to that effect. The whole subject was before our Government with our strong and decided objection to the paper. All that we could do was to transmit it to you, with a correct statement of what had occurred in the negotiation respecting it, which we did. To the Government it belonged to take the step which the occasion required, not to us.

Having noticed the objections which are specially stated in your letter of May 20, 1807, and given our view of the several parts of the treaty to which they relate, I shall proceed to make explanatory remarks on the other articles, in order to do justice to the conduct of the American commissioners in regard to them.

Art. 5. You admit that this article is an essential improvement of that on the same subject in the treaty of 1794. It certainly improves it in two important interests: 1st, in that of the navigation of the United States; and 2d, in that of duties on American productions carried to the British market. The tonnage on American ships in British ports had been raised to — sterling per ton, while that on British ships in the ports of the United States was only fifty cents or two shillings and three-pence per ton; and the duty on the bulky productions of the United States in American bottoms had been raised to such a height under the countervailing regulations which the treaty allowed, as to secure, in time of peace, the entire carriage of those productions to British vessels, if indeed it did not materially affect the price of the articles themselves. What made it more unfortunate was, that the United States could not adopt any measure to remedy those evils without committing a direct and palpable violation of the treaty, as they were bound by it not to raise the existing duties higher than they were at the time the treaty was concluded. Those evils would, however, have been completely done away by this article. By it the United States would have had a right to raise the duty on British vessels to any height to which the British Government might raise it on theirs—a check which could not fail to prove adequate to the object; while they had also a right to give what preference they thought fit to their own vessels, which might be done by reducing the duty on them below the tonnage which was imposed on those of Great Britain. This arrangement secured to the United States an advantage which Great Britain could not countervail, as the necessity she is under to avail herself of every resource which she can command to raise revenue for indispensable purposes renders it impossible for her to make a like discrimination in favor of her own vessels. The inhibition of all discriminating duties on the production of the one and manufactures of the other party, whether they be carried in American or British bottoms, was a stipulation which it was presumed would also prove highly advantageous to the United States. The pernicious tendency of that principle was well known to you, and we were happy to be able to suppress it.

The objections which you urge to other parts of the article apply to clauses in the treaty of 1794, which it was impossible for us to change. I have, however, to observe that there is nothing in it to prevent the passage of a navigation act, provided it be adopted as a measure of general policy. Most of the nations of Europe, especially France, would be happy, in a general view, to see the United States resort to that expedient to counteract the restrictive system of England; and as it is one which could not essentially affect them, they could find no motive of that kind to inspire a wish to oppose it; nor could the United States, as I supposed, find one to exempt them from it.

We regretted that we could not obtain a stipulation which should compel Great Britain to repeal the laws which impose so high a duty on her manufactures when exported to the United States. Our letter showed that we did every thing in our power to obtain such a stipulation. I was, however, persuaded that the want of it would not expose us to all the evils which you seem to apprehend from it, admitting that the British construction of that clause in the former treaty was a sound one, and that nothing is contained in the twenty-third article of the present one to discountenance it. It is certain that no Government will ever tax exports higher than indispensable necessity compels it; because such a tax tends in all cases essentially to check industry, and to destroy the most productive source of national prosperity. The inhibition imposed by the constitution of the United States on the Congress to tax in the slightest degree their exports, affords a strong argument, drawn from the acknowledged wisdom of its framers, against the policy of such a tax in the abstract; and I am persuaded that the reasons against it are as strong with Great Britain, if not stronger, than with any other nation. Without taking a more comprehensive view of the subject, it is sufficient to observe that a tax on British exports must operate as a bounty in favor of American manufactures, which are already in an advanced state in certain ports in the Union. Great Britain must be sensible of this fact; and, aware of the encouragement which the present export duty gives them, and of the consequences attending it, I should presume that there was not much cause to apprehend that she would tax the export of her manufactures to the United States to prevent their being sent thence to other countries. The sole effect of such a tax would be to secure to her own vessels the carriage of the articles, if indeed that were attainable. In both cases, the manufactures of Great Britain would be the subject of the commerce. The supply of the great, the productive, and increasing markets of the United States must be a primary object of British policy, and Great Britain would doubtless be cautious not to hazard it for one comparatively of much less importance.

Art. 6. As this was approved, I shall only observe that I considered the reservation contained in it important, as it enabled the United States to counteract the British policy in respect to the trade with the West Indies, which is the object of it, by means the most efficacious, whenever they should be resorted to. The trade of Great Britain with the United States is carried on principally by circuitous voyages, in which her vessels pass from the ports of the United States to the West Indies. By suspending the intercourse between the United States and her West Indies in British vessels, the chain would be broken, and the whole commerce in such vessels be in a great measure suspended. The provision in the article obviously looks to such an object, and the time of carrying it into effect, unless the trade should be placed on satisfactory ground, would have depended altogether on the United States.

Having already noticed the subjects which are embraced by the following articles, I shall add but little more on any of them to what is said in our joint letter of January 3, 1807. The seventh was taken literally from the

treaty of 1794. The eighth and ninth amended, as you allow, the articles in that treaty on the same subject. The tenth, relative to blockade, taken in connexion with the British paper of December 31, 1806, placed, as I presumed, that interest on ground which would be satisfactory. The preamble cannot affect it unfavorably, as it does not alter the acknowledged law. The only effect which it could have would be to admonish the courts to be cautious in admitting evidence of notice, on account of the distance of the United States from the blockaded ports. It was supposed to give the United States a claim to a more favorable rule, in respect to evidence, than was allowed to Powers more contiguous to the theatre of action. The doctrine contained in Mr. Merry's note to you was not contested by the British commissioners. It is, on the contrary, maintained in their note to us of December 31, 1806, in which it is asserted to be notorious "that the King did not declare any ports to be in a state of blockade without allotting to that object a force sufficient to make the entrance into them manifestly dangerous." I quote the passage in their note, to observe that the doctrine is not made conditional on any other part of it, but is laid down as the established law. It justifies the additional remark, that the preamble was not intended, and cannot be construed, to alter the law. It follows that it cannot produce any other effect than that which is above imputed to it.

The thirteenth article relates to the search of merchant vessels, and differs from the nineteenth of the treaty of 1794 in the introductory sentence, which enjoins it on the commanders of ships of war and privateers to observe, in the course of the war which may then exist, as much as possible, the acknowledged rules and principles of the law of nations, and also in the penal sum (which it increases) to be given by the commanders of privateers before they receive their commissions, as a security for their good conduct under them. It was supposed that in this, as in the preceding case, the law remained untouched, and that the stipulation produced no other effect than to enjoin it on the Governments, respectively, to be particularly attentive to the conduct of its officers in the respect alluded to.

The thirteenth article and the paper of the British commissioners of the 31st of December, 1806, obviously look to the Russian convention as the standard of the acknowledged law respecting the search of merchant vessels and blockade. That instrument was held constantly in view on both sides, in every discussion on those subjects, and indeed on every other to which it extends, and its doctrine admitted, especially in those, to be the established law. We were extremely desirous, and used our best exertions, to introduce articles to the same effect into our treaty, but it was utterly impossible to accomplish it. It must, however, be allowed, that if engagements of the kind alluded to, especially in regard to blockade, for which there was a special document, would not be observed, that it would be useless to stipulate them by treaty.

On the subject of the seventeenth article I have already made some remarks under another head. I cannot think that a stipulation to receive the ships of war of each party hospitably into the ports of the other restrains them from limiting the number of ships to be admitted at one time, or from designating the ports to which they shall be admitted. A stipulation to admit them settles only, as I presume, the principle that they shall be admitted, and leaves open to arrangement the other points connected with it. This opinion is supported by a passage in the article itself, as to the ports, which secures to vessels which might be driven by stress of weather, &c. into ports not open to them in ordinary cases, an hospitable reception in such ports. Had the right to designate the ports been given up by the general stipulation, there would have been no necessity for that contained in this passage. The remark is equally applicable to the other case, that of the number to be admitted at one time, as that must be an affair of special and strict regulation; an exception which admitted none, by securing rights to them in case they entered, would necessarily defeat the limitation itself.

The stipulation which relates to the good treatment of the officers of each party in the ports of the other, being reciprocal, contains no reflection on one which is not applicable to the other, and I will venture to affirm that it is equally necessary in regard to Great Britain as to the United States. It is well known, in respect to the latter, that the passions which were excited by the revolution did not long survive the struggle; that the sword was no sooner sheathed than the calamities of the war were forgotten. The injured are always the first to forgive. It is, however, just to remark, that time has essentially effaced from the people of both nations the hostile impression which that arduous conflict produced. The twenty-third article was thought to contain a useful stipulation, by securing to the United States the advantages in navigation and commerce which Great Britain might afterwards grant to any other nation. That stipulation was obviously founded on the right of the most favored nation, and subject, of course, to the conditions incident to it. It amounts to this, that if Great Britain should concede any accommodation to another Power in commerce with her East or West India colonies, or any other part of her dominions, gratuitously, the United States would be entitled to it on the same terms; but if she made such accommodation in consideration of certain equivalents to be given her in return, that the United States would not be entitled to those advantages without paying equivalents. The doctrine is the same in its application to the United States. If they should grant any privileges in trade to France or Spain for admission into their West India colonies, Great Britain would be entitled to the same, provided she admitted the United States into her islands also, and not otherwise. I could not perceive, therefore, how it was possible that the United States should be injured by the stipulation contained in this article, while it was probable that they might derive some advantage from it. It could not restrain them from passing a navigation act to place them on an equal footing with Great Britain, especially if it was made general, or applied only to her and the other nations having such acts. The right to pass such an act was not taken away by any other stipulation in the treaty, and there was nothing in this article that had such a tendency. The terms, "shall continue to be on the footing of the most favored nation," &c. refer to the principles established by the preceding articles, and not to the existing laws or regulations of either party. If the latter was the case, it would follow that the tonnage duties, the discriminating duties, &c. would remain as they were. The preceding articles were intended, in the points to which they extended, to establish a standard of equality between the parties, to which the regulations of each, whether they exceeded or fell short of it, should be brought. It could not be doubted that the British export duty was of the first description; that it violated the principle of the most favored nation. The British commissioners admitted the fact, and did not pretend to justify it on that ground. They urged in its favor, only, that the same duty was imposed on exports to their own colonies in America; and that if any change was made in it, to satisfy the claim of the United States, on the principle of the right of the most favored nation, it would be to raise it on the goods exported to other countries, not to reduce it on those sent to the United States. The principle, however, established by this article, being applicable to that duty, it was to be presumed that it might fairly be relied on to obtain a modification of it, either by reducing the duty on exports to the United States, or raising it on those to other nations. There is nothing in this article to restrain the United States from adopting measures to counteract the British policy with respect to the West Indies. If that object had not been secured, by a special article, from a possibility of being affected by the others, the principle established by the present one could not have affected it otherwise than beneficially.

Having replied to your objections to the several articles of the treaty and the papers connected with it, and given our view of them, I shall proceed to make some remarks on the whole subject, to do justice to the conduct of the American commissioners in that transaction.

In every case which involved a question of neutral right, or even of commercial accommodation, Great Britain was resolved to yield no ground which she could avoid, and was evidently prepared to hazard war rather than yield much. There seemed to be no mode of compelling her to yield than that of embarking in the war with the opposite belligerent, on which great question it belonged to the national councils to decide. We had pressed the claims of the United States, in the negotiation, to the utmost limit that we could go, without provoking that issue. It is most certain that better terms could not have been obtained, at the time we signed the treaty, than it contains.

The state of the war in Europe suggested, likewise, the propriety of caution on our part. Russia was then on the side of England, and likely to continue so; and Austria, known to be in the same interest, was holding an equivocal attitude, and ready to take advantage of any favorable event that might occur. Prussia, lately powerful, had been defeated, but was not absolutely subdued; her King, the ally and friend of Alexander, kept the field with him, and made head against France. The Emperor of France, far removed from his dominions, was making the bold and dangerous experiment of the effect which his absence might produce in the interior, and in a situation to be compelled to risk every thing, if pressed by his adversary, on the precarious issue of a single battle. These were strong reasons why we should not throw ourselves too decisively into that scale.

The situation of the United States, always a respectable one, was then less imposing than it usually was. It was known that they were not on good terms with Spain, and that France was the ally of Spain. Their interior, too, was disturbed by a conspiracy of doubtful extent and dangerous tendency, the consequences of which were sure to be greatly magnified by all who were unfriendly to our happy system of Government. Those circumstances could not fail to be taken into view by any the most friendly administration in England, when pressed to make concessions which it was unwilling to make. Add to these considerations the important one, that the British ministry had become much impaired in its strength, especially in what concerned the United States, by the death of a very eminent and distinguished statesman, and had not the power, or thought that it had not, to pursue a liberal policy towards the United States, and that its power was evidently daily diminishing.

These considerations induced us to sign the treaty, and submit it to the wisdom of our Government, after obtaining the best conditions that it was possible to obtain. We were aware that, in several points, it fell short of the just claims of our country. But we were persuaded that such an arrangement was made of the whole subject as justified us in the part which we took. In the rejection or adoption of the treaty I felt no personal interest. Having discharged my duty with integrity and zeal, I neither wished applause nor dreaded censure. Having the highest confidence in the wisdom, the rectitude, and patriotism of the administration, I was satisfied that it would pursue the course which an enlightened view of the public interest and a just sensibility to the national honor might dictate.

Our letter of January 3 was written in haste, and was deficient in many of the explanations which would otherwise have been given of the treaty. I was happy, when at Washington, to find that you were perfectly willing to receive any explanation which I might now be disposed to give of that transaction, and to allow them the weight which they might deserve. In making this communication, I have indulged the freedom which belonged to it, in full confidence that it would be approved.

I cannot conclude this letter without adding my most ardent wish that the administration may succeed in conducting our affairs with every Power to the happiest result. My retirement, which had been long desired, and delayed only by the arduous and very important duties in which I was engaged, had become necessary as a relief to my mind, after much fatigue, and to the interest of my family, which had been neglected and greatly injured by my absence in the public service. It is still my desire to cherish retirement. Should it, however, be our unfortunate destiny, which I most earnestly hope will not be the case, to be involved in foreign war or domestic trouble, and should my services be deemed useful, I will not hesitate, at the desire of the administration, to repair again to the standard of my country.

I have the honor to be, with great consideration and esteem, your very obedient servant,
JAMES MONROE.

Mr. Madison to Mr. Monroe.

Sir:

DEPARTMENT OF STATE, *May 22, 1807.*

In my letter of March 18th to the joint commission, it was signified that, in a conventional arrangement on the subject of boundaries, it would be inconsistent with the views of the President to open any part of Louisiana to a British trade with the Indians. From the evident solicitude of the British Government on this point, it is highly probable that the determination of the President will be a bar to any adjustment of that part of the differences between the two countries; nor is it very probable, considering the jealousy and want of information on the British side, that, independently of that obstacle, the adjustment would, at this time, be concluded. That you may not, however, be without any information which might contribute to its accuracy, or put you on your guard against propositions militating against any of our just pretensions, I transmit herewith copies of a communication from the Governor of New York, and of another from the Governor of Vermont. With respect to the last, it may be sufficient merely to save the right of correcting the alleged error at a future day. With respect to the subject of the former, it may be proper either to leave that also open to future discussion, or rather to provide for a joint examination and report relative to the islands and channels in the St. Lawrence, &c. The most obvious and convenient demarcation would seem to be the channel best fitted for navigation. But as a more equal division of the islands might possibly be made, without losing sight of a sufficient channel for common use, and as military positions may be involved in the case, it may be most safe and satisfactory to both parties to proceed on more thorough and impartial information than is now possessed by either. I address these communications to our ordinary minister at London, merely because the subject has not been formally transferred to the joint commissioners. They will, of course, be for the use of the latter, if this branch of the negotiation should remain in their hands.

Mr. Madison to Mr. Monroe.

Sir:

DEPARTMENT OF STATE, *July 6, 1807.*

The documents herewith enclosed, from No. 1 to No. 9, inclusive, explain the hostile attack, with the insulting pretext for it, lately committed near the capes of Virginia by the British ship of war the *Leopard* on the American frigate the *Chesapeake*.

No. 10 is a copy of the proclamation issued by the President, interdicting, in consequence of that outrage, the use of our waters, and every other accommodation, to all British armed ships.

This enormity is not a subject for discussion. The immunity of a national ship of war from every species and purpose of search on the high seas, has never been contested by any nation. Great Britain would be second to none in resenting such a violation of her rights and such an insult on her flag. She may bring the case to the test of her own feelings by supposing that, instead of the customary demand of our mariners, serving compulsively even on board her ships of war, opportunities had been seized for rescuing them, in like manner, whenever the superiority of force, or the chance of a surprise, might be possessed by our ships of war.

But the present case is marked by circumstances which give it a peculiar die. The seamen taken from the Chesapeake had been ascertained to be native citizens of the United States, and this fact was made known to the bearer of the demand, and doubtless communicated by him to his commander previous to the commencement of the attack. It is a fact, also, affirmed by two of the men with every appearance of truth, that they had been impressed from American vessels into the British frigate from which they escaped, and by the third, that having been impressed from a British merchant ship, he had accepted the recruiting bounty under that duress, and with a view to alleviate his situation till he could escape to his own country: add, that the attack was made during a period of negotiation, and in the midst of friendly assurances from the British Government.

The printed papers herewith sent will enable you to judge of the spirit which has been roused by the occasion. It pervades the whole community; is abolishing the distinctions of party; and, regarding only the indignity offered to the sovereignty and flag of the nation, and the blood of citizens so wantonly and wickedly shed, demands, in the loudest tone, an honorable reparation.

With this demand you are charged by the President. The tenor of his proclamation will be your guide in reminding the British Government of the uniform proofs given by the United States of their disposition to maintain faithfully every friendly relation; of the multiplied infractions of their rights by British naval commanders on our coasts and in our harbors; of the inefficacy of reiterated appeals to the justice and friendship of that Government; and of the moderation, on the part of the United States, which reiterated disappointments had not extinguished; till at length no alternative is left, but a voluntary satisfaction on the part of Great Britain, or a resort to means depending on the United States alone.

The nature and extent of the satisfaction ought to be suggested to the British Government, not less by a sense of its own honor than by justice to that of the United States. A formal disavowal of the deed, and restoration of the four seamen to the ship from which they were taken, are things of course, and indispensable. As a security for the future, an entire abolition of impressments from vessels under the flag of the United States, if not already arranged, is also to make an indispensable part of the satisfaction. The abolition must be on terms compatible with the instructions to yourself and Mr. Pinkney on this subject; and, if possible, without the authorized rejection from the service of the United States of British seamen who have not been two years in it. Should it be impossible to avoid this concession on the part of the United States, it ought, as of itself more than a reasonable price for future security, to extend the reparation due for the past.

But beyond these indispensable conditions, the United States have a right to expect every solemnity of form, and every other ingredient of retribution and respect, which, according to usage and the sentiments of mankind, are proper in the strongest cases of insult to the rights and sovereignty of a nation. And the British Government is to be apprised of the importance of the full compliance with this expectation, to the thorough healing of the wound which has been made in the feelings of the American nation.

Should it be alleged as a ground for declining or diminishing the satisfaction in this case, that the United States have themselves taken it by the interdict contained in the proclamation, the answer will be obvious. The interdict is a measure not of reparation, but of precaution, and would, besides, be amply justified by occurrences prior to the extraordinary outrage in question.

The exclusion of all armed ships whatever from our waters is, in fact, so much required by the vexations and dangers to our peace, experienced from these visits, that the President makes it a special part of the charge to you to avoid laying the United States under any species of restraint from adopting that remedy. Being extended to all belligerent nations, none of them could of right complain, and with the less reason, as the policy of most nations has limited the admission of foreign ships of war into their ports to such numbers as being inferior to the naval force of the country, could be readily made to respect its authority and laws.

As it may be useful, in enforcing the justice of the present demand, to bring into view applicable cases, especially where Great Britain has been the complaining party, I refer you to the ground taken and the language held by her in those of Falkland's island and Nootka sound, notwithstanding the assertion of Spain, in both cases, that the real right was in her, and the possessory only in Great Britain. These cases will be found in the Annual Registers for 1771 and 1790, and in the parliamentary debates for those years. In the latter you will find also two cases referred to, in one of which the French King sent an ambassador extraordinary to the King of Sardinia, in the most public and solemn manner, with an apology for an infringement of his territorial rights in the pursuit of a smuggler and murderer. In the other case, an ambassador extraordinary was sent by the British Government to the court of Portugal with an apology for the pursuit and destruction, by Admiral Boscawen, of certain French ships on the coasts of this last kingdom. Many other cases, more or less analogous, may doubtless be found, (see particularly the reparation by France to Great Britain for the attack on Turk's island in 1764, as related in the Annual Register and in Smollett's continuation of Hume, vol. 10; the proceedings in the case of an English merchantman which suffered much in her crew and otherwise from the fire of certain Spanish xebecs cruising in the Mediterranean, and the execution of the lieutenant of a privateer for firing a gun into a Venetian merchantman, which killed the captain, as stated in the Annual Register for 1784, page 94.) The case of an affront offered to a Russian ambassador in the reign of Queen Anne, though less analogous, shows, in a general view, the solemnity with which reparation is made for insults having immediate relation to the sovereignty of a nation.

Although the principle, which was outraged in the proceedings against the American frigate, is independent of the question concerning the allegiance of the seamen taken from her, the fact that they were citizens of the United States, and not British subjects, may have such an influence on the feelings of all, and, perhaps, on the opinions of some unacquainted with the laws and usages of nations, that it has been thought proper to seek more regular proofs of their national character than were deemed sufficient in the first instance. These proofs will be added by this conveyance, if obtained in time; if not, by the first that succeeds.

The President has an evident right to expect from the British Government, not only an ample reparation to the United States in this case, but that it will be decided without difficulty or delay. Should this expectation fail, and, above all, should reparation be refused, it will be incumbent on you to take proper measures for hastening home, according to the degree of urgency, all American vessels remaining in British ports, using for the purpose the mode least likely to awaken the attention of the British Government. Where there may be no ground to distrust the prudence or fidelity of consuls, they will probably be found the fittest vehicles for your intimations. It will be particularly requisite to communicate to our public ships in the Mediterranean the state of appearances, if it be such as ought to influence their movements.

All negotiation with the British Government on other subjects will, of course, be suspended until satisfaction on this be so pledged and arranged as to render negotiation honorable. Whatever may be the result or the prospect, you will please to forward to us the earliest information.

The scope of the proclamation will signify to you that the President has yielded to the presumption that the hostile act of the British commander did not pursue the intentions of his Government. It is not indeed easy to suppose that so rash and so critical a step should have originated with the admiral, but it is still more difficult to believe that such orders were prescribed by any Government, under circumstances such as existed between Great Britain and the United States.

Calculations founded on dates are also strongly opposed to the supposition that the orders in question could have been transmitted from England. In the same scale are to be put the apparent and declared persuasion of the British representative, Mr. Erskine, that no orders of a hostile spirit could have been issued or authorized by his Government, and the coincidence of this assurance with the amicable professions of Mr. Canning, the organ of the new administration, as stated in the despatch of April 22 from yourself and Mr. Pinkney.

Proceeding on these considerations, the President has inferred that the justice and honor of the British Government will readily make the atonement required; and, in that expectation, he has forborne an immediate call of Congress, notwithstanding the strong wish which has been manifested by many that measures depending on their authority should without delay be adopted. The motives to this forbearance have, at the same time, been strengthened by the policy of avoiding a course which might stimulate the public cruisers, in this quarter, to arrest our ships and seamen now arriving, and shortly expected in great numbers from all quarters. It is probable, however, that the Legislature will be convened in time to receive the answer of the British Government on the subject of this despatch, or even sooner, if the conduct of the British squadron here, or other occurrences, should require immediate measures beyond the authority of the Executive.

In order to give the more expedition and security to the present despatch, a public armed vessel, the *Revenge*, is specially employed, and Doctor Bullus is made the bearer, who was on board the *Chesapeake*, on his way to a consulate in the Mediterranean, and will be able to detail and explain circumstances which may possibly become interesting in the course of your communications with the British Government.

The vessel, after depositing Doctor Bullus at a British port, will proceed with despatches to a French port, but will return to England with a view to bring the result of your transactions with the British Government. The trip to France will afford you and Mr. Pinkney a favorable opportunity for communicating with our ministers at Paris, who, being instructed to regulate their conduct on the present occasion by the advices they may receive from you, will need every explanation that can throw light on the probable turn and issue of things with Great Britain.

I have the honor to be, &c.

JAMES MADISON.

Mr. Madison to Mr. Monroe and Mr. Pinkney.

DEPARTMENT OF STATE, July 30, 1807.

GENTLEMEN:

Your letter of April 25th, enclosing the British project of a convention of limits, and your proposed amendments, has been duly received. The following observations explain the terms on which the President authorizes you to close and sign the instrument.

1st. The modification of the 5th article (noted as one which the British commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the proviso to both should be omitted. This is in no view whatever necessary, and can have little other effect than as an offensive intimation to Spain that our claims extend to the Pacific Ocean. However reasonable such claims may be compared with those others, it is impolitic, especially at the present moment, to strengthen Spanish jealousies of the United States, which it is probably an object with Great Britain to excite by the clause in question.

2d. The privileges of British trade and intercourse with the Indians, allowed by existing stipulations, are not to be extended to Indians dwelling within the limits of the United States as determined by the treaty of peace.

The motives for excluding foreign traders from the territories of the United States westward of the Mississippi, have been heretofore stated to you. These motives gain strength daily. It is manifest, also, that the proposition on the part of Great Britain fails essentially in the point of real and fair reciprocity; first, as it excepts the possessions of the Hudson Bay Company, without any equivalent exception on our side of the boundary; secondly, as the use of the privilege by our traders on the British side of the boundary is known to be attended with danger and secret obstructions, to which British traders on our side of the boundary are in no degree exposed; 3dly, as all chance of competition with British traders on the British side would be completely frustrated by the disparity of duties and of prices, under which the American and British traders would respectively carry their merchandise to the Indian market on that side. The British Government now complains of the disadvantage resulting to their Indian traders on the eastern side of the Mississippi, from an excess of duty amounting to about six per cent. In the Indian trade within the British territory, the difference against our traders is equal to the difference between the duties imposed in the United States and those imposed in Canada, or rather, as no duties are probably imposed in Canada, equal to the full amount imposed in the United States, that is, to 15 or 20 per cent. It is enough to be under this inequality, as it relates to the existing stipulation. To extend it as proposed is more than can be fairly expected. The bargain would be still far worse on our side, if the British proposals contemplate a free access to the waters westward of the Mississippi, with goods free of duty for the Indians of Louisiana.

Having already transmitted to Mr. Monroe sundry documents throwing light on our relations with the Indians in the northwest quarter, I add a few others not a little curious as well as not uninteresting.

3d. Access by land or inland navigation from the British territories, through the territory of the United States, to the river Mississippi, is not to be allowed to British subjects with their goods or effects, unless such articles shall have paid all the duties, and be within all the custom-house regulations, applicable to goods and effects of citizens of the United States. An access through the territory of the United States to the waters running into the western side of the Mississippi, is under no modification whatever to be stipulated to British subjects.

There can be no good reason with Great Britain for wishing an access to the Mississippi for goods free of duty, because the river can never be a highway to any other market than the consumption of our citizens; and as this cannot be attained without a previous payment of the usual duties, it must be the same thing whether the duties be paid on or after entering the limits of the United States; or rather the only difference would be in the greater facility of evading the duties in the latter than in the former case; a facility which cannot be supposed to be approved by Great Britain, or admissible by the United States.

4th. It may be agreed that the ad valorem duties now payable on goods imported into the United States from the neighboring territories of Great Britain shall be regulated according to the value thereof, estimated in the same manner as if directly imported from beyond sea, and that licences to Indian traders, and passes for their canoes and carriages, shall be freely granted; but that the British traders shall in all respects be subject to the restrictions and precautions with respect to the articles to be supplied to the Indians as are imposed on citizens of the United States engaged in the same trade.

I have only to express the President's approbation of the idea of keeping open, for future decision, our right to the island of Grand Manan, and to suggest as a desirable addition to the eighth article, a clause providing "that in the mean time British vessels shall not be restrained from carrying plaster, &c. to any ports of the United States." It appears that a disposition exists to compel the British vessels to trade to the more distant ports of the United States, instead of resorting to the nearer ones, whence the plaster, &c. is now conveyed by vessels of the United States. To the spirit and outrages which prevail in that quarter, I refer to the communications from the collector of Passamaquoddy, herewith enclosed. Affidavits of the facts stated by the collector have also been transmitted by him.

I have the honor to be, &c.

JAMES MADISON.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, August 4, 1807.

I avail myself of the opportunity afforded by Mr. Biddle to communicate to you a copy of a correspondence, and the substance of a conference between Mr. Canning and myself, relative to the late aggression on the peace and sovereignty of the United States by the British ship *Leopard*, in an attack on the Chesapeake, off the capes of Virginia.

Mr. Canning's private letter of July 25, which gave the first intelligence of the occurrence, left it doubtful whether the British officers had been culpable in it; and as I knew how very reprehensible their conduct had been on our coast on many other occasions, and to what height the sensibility of our citizens had been excited by it, I thought it not improbable that something might have occurred to divide the blame between the parties. It was under that impression that my answer was written. On the next day, the leading features of the transaction were presented to the public through the medium of the gazettes, which were taken from private accounts received directly from Halifax, by a vessel which had been despatched by Admiral Berkeley with the official one. By these it was evident that the British officer was completely the aggressor in an outrage of great enormity, attended with circumstances which increased the offence. It was understood, likewise, from good authority, that the official intelligence which the Government had received corresponded with and confirmed the other accounts already before the public.

On full consideration of these circumstances, I concluded that it would be highly improper for me to leave the affair on the ground on which Mr. Canning had placed it. I could see no other motive in him to obtain further information relative to the transaction than for the purpose of ascertaining whether the men said to be deserters, and for whom the attack was made, were American citizens or British subjects; to which it was impossible for me to give any countenance. I thought it indispensable, therefore, to call on the Government to disavow the principle, and to engage such other reparation to the United States as their injured honor obviously required. It appeared to me that any delay in taking that step, which depended on an abstract principle, and required no argument to illustrate or facts to support it, would have a tendency to weaken a claim which was unquestionable, and to countenance the idea that it would not be supported with suitable energy.

I had, before the knowledge of this event, obtained the appointment of an interview with Mr. Canning, on other business, to take place on the 29th ultimo. We met according to the appointment. I observed, in opening the conference, that, although the topics which had brought us together were important, the late occurrence, at the entrance of the Chesapeake, had, in a great measure, put them out of sight. He expressed his regret that such an event, which would at all times furnish cause of concern, should have happened at the present time. He asked if the men in question were American citizens or British subjects? I replied that that was a point which could not come into view in the case; that it was one which, according as the fact might be, would make the cause more or less popular in either country, but could not affect the principle; that, on principle, a ship of war protected all the people on board, and could not be entered to be searched for deserters, or for any purpose, without violating the sovereignty of the nation whose flag she bore; that, in the present case, I had been assured that the men were American citizens, and that the British minister at Washington had been made acquainted with it. He said little on the subject, but, by the tendency of what he did say, seemed to imply that his Government could not lose sight of the consideration above alluded to; nor indeed did he admit, by any thing that escaped him, that the abstract principle itself would not be insisted on. His remarks, however, were generally of a conciliatory and friendly character. Without pledging himself on any point, he seemed desirous to satisfy me that no new orders had been issued by the present ministry to the commandant of the British squadron at Halifax. I observed that, as the notes which had passed between us were informal, and on a very limited view of the subject on my part, it would be proper for me, now that the circumstances were better known, to present him an official note on it. He admitted the propriety of it.

I then drew Mr. Canning's attention to the subjects on which I had asked the interview, being the case of the *Impetueux*, Captain Love's correspondence, the conduct of Captain Douglas, and of the British squadron, generally, on our coast. I observed that I had heretofore postponed any official communication on these points, from a desire to connect them with the greater object depending between our Governments, and, of course, from motives the most friendly; that I brought them to his view at this time in consequence of Mr. Pinkney and myself having commenced the other business, as he knew had been done. He promised to attend to them.

On the 29th of July I wrote Mr. Canning the note which I had promised him in the late interview. I addressed it in terms which I thought suitable to the occasion, observing to state in it that I took the step from a sense of duty applicable to my station, as the resident minister, and without authority from my Government. I considered the act as that of the British officer, in which the Government had no agency, was not bound to support, and which it would be honorable for it to disavow. I flattered myself that some advantage might arise from the measure, and that, under the circumstances in which it was taken, no injury possibly could. His reply is dated on the 3d instant, which, though addressed in rather a harsh tone, may be considered as conceding essentially the point desired. It is my intention to say nothing more to him on the subject till I hear from you, and in the mean time to observe the most conciliatory conduct that circumstances will admit.

Such is the state of this country at the present crisis, that it is impossible to foresee what will be its course of conduct towards the United States. There has been, at all times since the commencement of the present war, a

strong party here for extending its ravages to them. This party is composed of the ship owners, the navy, the East and West India merchants, and certain political characters of great consideration in the state. So powerful is this combination, that it is most certain that nothing can be obtained of the Government on any point but what may be extorted by necessity. The disasters to the north ought to inspire moderation, but, with respect to the northern Powers, it seems to have produced directly the opposite effect. A fleet of about twenty-five ships of the line, with a suitable number of frigates, &c., and above twenty thousand men, has been lately equipped and sent to the Baltic, as it is said, to take possession of the Danish and Russian navies. This measure is imputed to an understanding which, it is supposed, has been established between the cabinets of Russia and Paris by the late peace, and which has for its object a concert of measures for the purpose of attempting to force on this country a maritime code more favorable to neutral nations. The motive assigned for the expedition is that of taking possession of the Danish fleet, to keep it out of the hands of the French. That the Russian fleet is one of the objects is not so generally believed, though perhaps not less probable.

Mr. Pinkney and myself have taken the first step in our business; we will write you in a few days the state of it. You may be assured that we shall do every thing in our power to promote, in the mode most likely to succeed, the object of our instructions and the interests of our country. Want of time prevents my going into further detail.

I have the honor to be, with great consideration, sir, your most obedient servant,

JAMES MONROË.

JAMES MADISON, *Secretary of State, Washington.*

[Referred to in Mr. Monroe's despatch of August 4.]

Mr. Canning to Mr. Monroe.

(Private.)

FOREIGN OFFICE, *Saturday, July 25, 1807.*

Mr. Canning presents his compliments to Mr. Monroe, and, with sentiments of the deepest regret, hastens to inform him that intelligence has just been received of a transaction which has taken place, off the coast of America, between a ship of war of His Majesty and a frigate belonging to the United States; the result of which has been the loss of some lives on board the American frigate.

The particulars of this transaction, and the grounds of the justification of the British officer, and of the admiral under whose orders he acted, Mr. Canning is not at present enabled to communicate to Mr. Monroe.

If Mr. Monroe should have received any accounts of it, Mr. Canning trusts that he will lose no time in communicating them to Mr. Canning.

But whatever the real merits and character of the transaction may turn out to be, Mr. Canning could not forbear expressing without delay the sincere concern and sorrow which he feels at its unfortunate result, and assuring the American minister, both from himself and on the behalf of His Majesty's Government, that, if the British officers should prove to have been culpable, the most prompt and effectual reparation shall be afforded to the Government of the United States.

JAMES MONROE, Esq., &c.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, *Monday, July 27, 1807.*

Mr. Monroe presents his compliments to Mr. Canning, and is much obliged to him for the information communicated in his note of Saturday. Mr. Monroe has heard with extreme regret the account it contains of a rencounter between a British ship of war and an American frigate, off the coast of the United States. He has no knowledge of the subject, except what Mr. Canning's note has furnished, but will not fail to communicate the earliest intelligence which he may receive of an event so deeply to be lamented. Mr. Monroe derives, in the mean time, much satisfaction from the friendly assurance of Mr. Canning that this unfortunate occurrence was not authorized by His Majesty's Government, and that suitable reparation will be made for the injury, if, on inquiry, the British officer shall be found the aggressor.

The Right Honorable GEORGE CANNING, &c.

Mr. Monroe to Mr. Canning.

SIR:

PORTLAND PLACE, *July 29, 1807.*

Although I have no instruction from my Government on the subject, it is my duty to request the attention of His Britannic Majesty's Government to a late aggression on the sovereignty of the United States of a very extraordinary nature. The circumstances of the transaction are too distinctly marked to leave any doubt of the extent of the outrage, or of the reparation which it obviously claims. By accounts, which are entitled to full confidence, it appears that, on the 23d of June last, His Majesty's ship the *Leopard* attacked an American frigate off the coast of the United States, with a view to assert and enforce the unfounded and most unjustifiable pretension to search for deserters; and, after having killed and wounded a number of her men, entered on board and carried away forcibly several of the crew. The conduct of the British officer, which in itself forms an act of complete hostility, is rendered more reprehensible from the consideration that, just before this aggression, he held a station within the jurisdiction of the United States, in the waters of the Chesapeake, where, while he enjoyed the rights of hospitality, he projected this attack against the ship of a neutral Power, whose commander, relying on the good faith of His Majesty's Government and the friendly relations subsisting between Great Britain and the United States, could not have suspected the design. I might state other examples of great indignity and outrage, many of which are of recent date, to which the United States have been exposed off their coast, and even within several of their harbors, from the British squadron; but it is improper to mingle them with the present more serious cause of complaint. I have called your attention to this subject, in full confidence that His Majesty's Government will see, in the act complained of, a flagrant abuse of its own authority, and that it will not hesitate to enable me to communicate to my Government, without delay, a frank disavowal of the principle on which it was made, and its assurance that the officer who is responsible for it shall suffer the punishment which so unexampled an aggression on the sovereignty of a neutral nation justly deserves.

I have the honor to be, with great consideration, sir, your very obedient servant,

JAS. MONROE.

The Right Hon. GEORGE CANNING, &c.

From Mr. Canning.

SIR:

FOREIGN OFFICE, August 3, 1807.

I have the honor to acknowledge the receipt of your official note of the 29th ultimo, which I have lost no time in laying before the King.

As the statement of the transaction to which this note refers is not brought forward either by the authority of the Government of the United States, or with any precise knowledge of the facts on which it is founded, it might have been sufficient for me to express to you His Majesty's readiness to take the whole of the circumstances of the case, when fully disclosed, into his consideration, and to make reparation for any alleged injury to the sovereignty of the United States, whenever it should be clearly shown that such injury has been actually sustained, and that such reparation is really due.

Of the existence of such a disposition on the part of the British Government, you, sir, cannot be ignorant: I have already assured you of it, though in an unofficial form, by the letter which I addressed to you on the first receipt of the intelligence of this unfortunate transaction; and I may, perhaps, be permitted to express my surprise, after such an assurance, at the tone of that representation which I have just had the honor to receive from you.

But the earnest desire of His Majesty to evince, in the most satisfactory manner, the principles of justice and moderation by which he is uniformly actuated, has not permitted him to hesitate in commanding me to assure you, that His Majesty neither does nor has at any time maintained the pretension of a right to search ships of war, in the national service of any State, for deserters.

If, therefore, the statement in your note should prove to be correct, and to contain all the circumstances of the case, upon which complaint is intended to be made, and if it shall appear that the act of His Majesty's officers rested on no other grounds than the simple and unqualified assertion of the pretension above referred to, His Majesty has no difficulty in disavowing that act, and will have no difficulty in manifesting his displeasure at the conduct of his officers.

With respect to the other causes of complaint, (whatever they may be,) which are hinted at in your note, I perfectly agree with you, in the sentiment which you express, as to the propriety of not involving them in a question, which of itself is of sufficient importance to claim a separate and most serious consideration.

I have only to lament that the same sentiment did not induce you to abstain from alluding to these subjects on an occasion which you were yourself of opinion was not favorable for pursuing the discussion of them.

I have the honor to be, with great consideration, your most obedient, humble servant,

GEORGE CANNING.

JAMES MONROE, Esq., &c.

Mr. Monroe to the Secretary of State of the United States.

SIR:

LONDON, August 14, 1807.

I had the honor to transmit you, with my letter of the 4th instant, a copy of a correspondence with Mr. Canning, relative to the late aggression in the case of the Chesapeake frigate. You will receive with this a copy of a more recent one on the same subject.

By Mr. Canning's queries in his last note, I was led to consider them as preparatory to an embargo on American vessels. I could not conceive why he should request information of me, whether the President's proclamation was authentic, and when it would be carried into effect, if it was not intended to found some measure on my reply of an unfriendly nature. The information desired was not necessary to remove any doubts of his Government on the points to which it applied, or to enable it to do justice to the United States in regard to the aggression of which they complained. The presumption that an embargo was intended gained strength from the circumstance that most of the gazettes had recommended, and that the public mind seemed to be essentially prepared for it. It was my most earnest wish to prevent, as far as in my power, so unjust and pernicious a procedure. As the measure contemplated, whatever it might be, seemed to be suspended for my answer, I was extremely solicitous, by the manner, to deprive this Government of all pretext for any of the kind alluded to. By replying generally that I had no instructions from my Government, and could state nothing on its part respecting the late occurrence, I avoided giving a direct answer to Mr. Canning's queries; and by drawing his attention to the application, which it was to be presumed would soon be made on the part of my Government on that subject, I endeavored to show more strongly the impolicy and injustice which would stamp any such measure on the part of Great Britain in the present stage.

No step has yet been taken by this Government of an unfriendly character towards the United States, and, from the communication which Mr. Canning made to the House of Commons on the day he received my last note, which you will find in the gazettes sent, I am persuaded that things will remain in the state in which they are, till your despatch is received. I trust that a disposition exists to make such reparation on the point in question, as will be satisfactory to the United States, and that it will be practicable and not difficult to preserve the friendly relations subsisting between the two countries. The party, however, in favor of war, consisting of the combined interests mentioned in my last, is strong and active, so that it is impossible to foresee the result.

I have the honor to be, &c.

JAS. MONROE.

[Referred to in Mr. Monroe's despatch of August 14.]

From Mr. Canning to Mr. Monroe.

SIR:

FOREIGN OFFICE, August 8, 1807.

Having received from His Majesty's minister in America an unofficial printed paper, purporting to be a copy of a proclamation of the President of the United States, I have to request that you will be pleased to acquaint me whether you have received any communication from your Government which enables you to pronounce if such paper be authentic.

In the event of your being empowered to admit its authenticity, I have further to request of you, that you will inform me whether you are also authorized to announce it to be the intention of the Government of the United States to carry into effect the measures stated in the proclamation of the President, without requiring or waiting for any explanation, on the part of the British Government, with respect to the late unfortunate transaction, upon which the determination to resort to these measures is professed to be founded.

I have the honor to be, &c.

GEORGE CANNING.

P. S. I have the honor to enclose an American newspaper containing a copy of the paper in question.

Mr. Monroe to Mr. Canning.

SIR:

PORTLAND PLACE, August 9, 1807.

I have the honor to acknowledge the receipt of your note of yesterday, and should not hesitate to communicate the information which you have desired, if I possessed it; but as I have not heard from my Government on the subject of the unfortunate occurrence alluded to, it is not in my power to state to you any thing on the part of my Government respecting it. I have no doubt that I shall be instructed, in a very few days, to make a communication to His Majesty's Government on that highly interesting event, in which I shall be enabled to furnish a full and just view of all the circumstances attending it. As soon as I receive instructions, I shall hasten to apprise you of it.

I have the honor, &c.

JAMES MONROE.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, September 16, 1807.

I had the honor to receive your letter of July 6th, by Doctor Bullus, on the 31st ultimo, and did not lose a moment in entering on the business committed to me by it in the manner which seemed most likely to obtain success. The details shall be communicated to you in my next despatch. All that I can state at present is, that the whole subject has been placed fully before this Government, in as strong an appeal to its interest and judgment as I could make; and that as a week has elapsed since my official note was presented, I am in daily expectation of receiving its decision on it. The moment is in many views very favorable to a satisfactory result, but still it is not in my power, from any thing that has occurred, to speak with confidence of it. The joint negotiation committed to Mr. Pinkney and myself was suspended by the intelligence of the affair with our frigate, and has never been revived since. That intelligence reached this about a week after Mr. Purviance, so that we had only been able, with the utmost diligence, to take the preliminary step of presenting to Mr. Canning, in conformity to our instructions, a project, and of explaining to him, in the most minute and comprehensive manner that we could, every circumstance appertaining to it. No answer was given to our communication; the suspension, therefore, of the negotiation was imputable to Mr. Canning; had he answered our communication, and proposed to proceed in the negotiation, it would have become a question for the commission to have decided how far it would have been proper, under existing circumstances, to comply with the invitation. His silence, however, relieved us from that dilemma.

Permit me to present to you Mr. Joseph A. Smith, of South Carolina, and to refer you to him for much information of a general nature on the subject of our affairs with this country. Having been long in Europe, and visited almost every part, he possesses great information of the political state of its several Powers, especially of Russia, from whose sovereign he received very distinguished marks of attention. In much communication which I have had with Mr. Smith for a year past, I have found him to be animated with strong sentiments of patriotism towards his country; and as he has expressed a desire of being personally known to the President and yourself, I have been happy to promote his object by giving him this introduction.

I am, with great respect, sir, your most obedient servant,

JAMES MONROE.

JAMES MADISON, *Secretary of State.*

P. S. A copy of my note to Mr. Canning is enclosed.

No. 10.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, September 1, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and has the honor to inform him that he has just received instructions from his Government relative to the late attack on the United States' frigate Chesapeake by His Majesty's ship Leopard, off the coast of the United States.

Mr. Monroe requests that Mr. Canning would have the goodness to give him an early interview on that subject.

Mr. Monroe requests Mr. Canning to accept the assurances of his high consideration.

No. 11.

From Mr. Canning to Mr. Monroe.

FOREIGN OFFICE, September 1, 1807.

Mr. Canning presents his compliments to Mr. Monroe, and requests the honor of seeing him at the Foreign Office on Thursday next, at twelve o'clock.

Mr. Canning would have proposed to see Mr. Monroe to-morrow, if he had not been under the necessity of attending the levee and council at the Queen's palace.

Mr. Canning requests Mr. Monroe to accept the assurances of his high consideration.

No. 12.

Mr. Monroe to Mr. Canning.

SIR:

PORTLAND PLACE, September 7, 1807.

By the order of my Government, it is my duty to request your attention to the aggression lately committed on the peace and sovereignty of the United States, by His Britannic Majesty's ship of war Leopard, in an attack on an American frigate, the Chesapeake, off the capes of Virginia. The object of this communication is to obtain

of His Majesty's Government a suitable reparation for that outrage, and such an arrangement of the great interest which is connected with it, as will place the future relations of the two Powers on a solid foundation of peace and friendship.

In bringing this subject again to the view of His Majesty's Government, it is unnecessary to dwell on circumstances which are already so well known to you. By the documents which I have the honor to transmit to you, it is shown, that while the outrage was unprovoked and unexpected on one side, there was nothing to extenuate it on the other. The commander of His Majesty's squadron on the coast of the United States appears to have acted on a presumption that he possessed the power to make war, and to decide on the causes of war. It will be difficult to explain the conduct of that officer on any other principle, and equally so to find an example of an aggression marked with such high indignity and injustice to a friendly Power.

The pretext for this aggression could not fail to heighten the sense of injury which the act itself was so signally calculated to excite. My Government was taught to infer from it, that there was no limit to a pretension which had already produced so much mischief, and against which so many remonstrances had been presented, in its application to merchant vessels. But I find, with great satisfaction, that this pretension forms no topic for discussion between us in respect to ships of war; and I trust that the just and enlightened policy which produced the decision in one instance will surmount the obstacle which has hitherto embarrassed it in the other.

The national character of the men who were taken thus violently from on board the Chesapeake makes no part of the question. It is impossible that it should come into view in estimating the injury which the United States have received. The outrage involved a great and uncontested principle, which ought not, in any view, to be affected by appealing to national sensibilities on either side. I have, however, the honor to transmit you documents, which will, I presume, satisfy you that they were American citizens.

With respect to the reparation which my Government ought to receive for this outrage, it will only be necessary to appeal to those sentiments which Great Britain would be sure to indulge, under like circumstances, to that sensibility to national honor which has distinguished so many epochs of her history. It will be recollected that the injury, which in itself was great, was much aggravated by the circumstances which attended it; that the peaceful relations of the United States were violated, and their unsuspecting confidence surprised. But I forbear to recite details which it is painful to contemplate. You will, I am persuaded, be satisfied, that in every light in which the subject can be seen, the honor of my Government, and of the whole nation, has been greatly outraged by the aggression, and that it becomes the honor of His Majesty's Government to make a distinguished reparation for it.

In presenting, in this friendly manner, this important subject to the consideration of His Majesty's Government, I am particularly instructed to request its attention to the great cause to which this and so many other injuries of a like kind may be traced—the impressment of men from the merchant vessels of the United States. In many essential circumstances, the objections which are applicable to impressments from ships of war, are equally applicable to those from merchant vessels. To the individuals who suffer by the practice, the injury is the same in either case. Their claim on their Government for protection is in both cases equal; every maxim of public law, and private right, which is violated in one, is equally violated in the other. The relation of the belligerent to the neutral Power extends to certain objects only, and is defined in each by known laws. Beyond that limit the rights of the neutral are sacred, and cannot be encroached on without violence and injustice. Is there a question of contraband, is the vessel destined to a blockaded port in violation of established principles, or does she contain enemies' property, the greatest extent to which the maritime law is carried by any nation? In these cases she is conducted to port for trial; the parties are heard by an impartial and responsible tribunal, and are heard again by appeal, if they desire it. Are any of the passengers on board the neutral vessel in the naval or military service of the enemy? If such are found, they are made prisoners; but, as prisoners, they have rights which the opposite belligerent is bound to respect. This practice, however, looks to other objects than are here recited. It involves no question of belligerent on one side, and of neutral on the other. It pursues the vessel of a friend for an unlawful purpose, which it executes in a manner equally unlawful. Every commercial vessel of the United States that navigates the ocean is liable to be invaded by it, and not an individual on board any of them is secure while the practice is maintained. It sets up every officer of His Majesty's navy as a judge, from whose decision there is no appeal. It makes him a judge, not of property, which is held most sacred, nor of the liberty of his fellow subjects only, however great the trust, and liable to abuse on the main ocean, but that of the citizens of another Power, whose rights as a nation are trampled on by the decision; a decision, in rendering which, every rule of evidence is violated, as it puts the proof of innocence on the accused; and is further highly objectionable, as there is too much reason to believe that it has been often guided more by the fitness of the party for service than any other circumstance. The distressing examples of this system of aggression, as it has effected individuals, on a scale of vast extent, it is unnecessary to recount here; they may be easily imagined. Voluminous documents, which prove them, are in the possession of both Governments.

It is possible that this practice may, in certain cases, and under certain circumstances, have been extended to the vessels of other Powers; but with them there was an infallible criterion to prevent error. It would be easy to distinguish between an Englishman and a Spaniard, an Italian, or a Swede; and the clear and irresistible evidence of his national character, and perhaps of his desertion, would establish the British claim to the individual, and reconcile the nation into whose service he had entered to his surrender. But the very circumstances which would constitute an infallible criterion in those cases, would be sure to produce endless error in the other. Who is so skilful in physiognomy as to distinguish between an American and an Englishman, especially among those whose profession and whose sea-terms are the same? It is evident that this practice, as applied to a foreign nation, to any great extent, has grown out of the American revolution, and that it is impossible for the United States not to see in it the assertion of a claim which is utterly incompatible with that great event. When the character of this claim, and the pernicious tendency of the practice, are maturely weighed, it must furnish cause for surprise that some just and friendly arrangement has not long since been adopted, to prevent the evils incident to it.

My Government is aware that His Majesty's Government has also an interest of importance to attend to in this delicate concern, and I am instructed to state on its part, that the best disposition exists to provide for it. The United States are far from desiring to profit of a resource which does not belong to them, especially to the prejudice of a friendly Power. In securing them against the practice, which is found to be so highly injurious to their dearest rights, and most valuable interests, every suitable provision will be made to give equal security to those of Great Britain. On this point I am authorized to enter into such an engagement as will, I am persuaded, be adequate to the object.

This great interest of impressment has been blended in all its relations, as you will perceive, by no act of the United States. Its connexion with the late disastrous incident has been produced by an extraordinary act of violence, of which they were the victims only. That act, which exhibits the pretensions in its widest range, has become identified with the general practice, in the feelings and sympathies of the nation, and in the sentiments of the Government. I trust, therefore, that His Majesty's Government will be equally disposed to take up the whole

subject at this time, and, in making the reparation which the particular injury claims, provide a remedy for the whole evil. My Government looks to this complete adjustment with confidence, as being indispensably necessary to heal the deep wound which has been inflicted on the national honor of the United States by so great and unjustifiable an outrage.

I avail myself, with great satisfaction, of the opportunity which this communication affords, to acknowledge the prompt assurance which you gave me of the disposition of His Majesty's Government to make a suitable reparation to the Government of the United States, for the injury of which, by its order, it is now my duty to complain; and for the frank disavowal of the pretension on which it was founded. I hastened to transmit copies of those documents to my Government, by whom, I trust, they are by this time received.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

JAMES MONROE.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, September 9, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and has the honor to inform him that he called at his office yesterday, for the purpose of making some remarks on the subject treated in the note which he addressed on the — instant to Mr. Canning. Mr. Monroe regrets that he had not the pleasure of seeing Mr. Canning at that time, and requests that he will be so good as to give him an interview to-morrow, at such hour as may be most convenient to him. Mr. Monroe will be happy to attend Mr. Canning in the country, should it be more agreeable to Mr. Canning to receive him there.

From Mr. Canning, in answer.

BURLINGTON HOUSE, Wednesday, September 9, 1807, 8 $\frac{3}{4}$ P. M.

Mr. Canning presents his compliments to Mr. Monroe, and will be happy to have the honor of seeing him at the Foreign Office, to-morrow, at 12 o'clock.

Mr. Canning has but this minute received Mr. Monroe's note.

Mr. Monroe to Mr. Madison.

SIR:

LONDON, October 10, 1807.

I have the honor to transmit you, by Doctor Bullus, a copy of my correspondence with Mr. Canning, on the subject which was committed to my care by your letter of the 6th of July last. You will find by it, that the pressure which has been made on this Government, in obedience to the instruction contained in that letter, has terminated in a decision to send a minister to the United States to adjust the business there. What the powers of that minister will be, whether it is intended to confine them to the sole object of reparation for the special outrage, or to extend them, in case the proposed separation of that from the general topic of impressment is admitted, to the latter object, it is not in my power to state. Mr. Canning has given me no information on that head in conference, and his note is not explicit on it. It states that the minister, who shall be sent to the United States, to bring the dispute relative to the attack on the Chesapeake to a conclusion, shall not be empowered to entertain, as connected with that subject, any proposition respecting the search of merchant vessels; a presumption is authorized, by those terms, that the minister will have power to treat on the general topic after the special one is arranged. But it is possible that that presumption may have been raised for some other purpose, or that the terms which excite it were introduced merely to convey the idea that the mission should be confined to the special object.

In the discharge of this delicate and important trust, I thought that I should be able more effectually to promote its object, by opening the subject to Mr. Canning in conference, than by an official note. As the attitude taken by my Government, which was evidently supported by the whole nation, was of a very impressive nature, it seemed probable, from the feverish state of the public mind here in regard to us, that a tone of conciliation, which should not weaken the pressure, would be more likely to succeed in obtaining the reparation desired, than an official and peremptory demand. Under this impression, I had several conferences with Mr. Canning, the substance of which in each I will endeavor to state with precision. A knowledge of what passed in these interviews, in aid of that which is afforded by the correspondence, will enable you to form the most correct idea of the object of the proposed mission that present circumstances will admit of.

The first interview was on the 3d of September, as soon as it could be obtained after the receipt of your letter of July the 6th, which was on the 30th of August. I informed Mr. Canning, that as I wished the discussion in which we were about to enter to terminate amicably and honorably to both our Governments, I had asked the interview for the purpose of promoting that desirable end; that by explaining to each other fully, in friendly conference, the views of our respective Governments relative to the late aggression, I was persuaded that it would be more easy for us to arrange the business to the satisfaction of both parties, than by any other mode which we could pursue. He expressed his sensibility to that which I had chosen, and his readiness to concur in it. I then stated in detail, in explicit terms, the reparation which my Government thought the United States entitled to, and expected that they should receive, for the injury and indignity offered by the late aggression: that the men taken from the frigates should be restored to it; that the officers who had committed the aggression should be exemplarily punished; that the practice of impressment from merchant vessels should be suppressed; and that the reparation consisting of those several acts should be announced to our Government, through the medium of a special mission, a solemnity which the extraordinary nature of the aggression particularly required. I observed, that as the aggression, and the principle on which it was founded, had been frankly disavowed as soon as known, by his Government, I was persuaded that there could be no serious objection on its part to any of the acts which it was desired should constitute the proposed reparation; that to the first act, the restoration of the men, there could doubtless be none, as the least that could be done after such an outrage would be to replace the United States, as far as it might be practicable, on the ground they held before the injury was received; that the punishment of the officers followed, as a necessary consequence, to the disavowal of the act; that the suppression of the practice of impressment from merchant vessels had been made indispensable by the late aggression, for reasons which were sufficiently well known to him. I stated to him that the mode in which it was desired that the reparation should be made, by a special mission, was that which had been adopted by other Powers, and by Great Britain herself, for injuries less severe than the one alluded to, of which I gave him the examples furnished me in your letter of July 6th. Mr. Canning took a note of what I had stated, and made some general remarks on the whole subject, which were intended to give his view of it, on each point, but without compromising

himself in a positive manner on any one. He said that, by the proclamation of the President, and the seizure and detention of some men who had landed on the coast to procure water, the Government seemed to have taken redress into its own hands; he complained of the difference, which he said had been made between France and England, by restoring deserters to the vessels of the former, and not the latter; he insisted that the late aggression was an act different in all respects to the former practice, and ought not to be connected with it, as it showed a disposition to make a particular incident, in which they were in the wrong, instrumental to an accommodation in a case where his Government held a different doctrine. I urged, in reply, that the proclamation could not be considered as an act of hostility or retaliation for injuries, though the aggression had provoked, and would have justified any the strongest act of reprisal, but as a mere measure of police, which had become indispensable for the preservation of order within the limits of the United States. I informed him that the men who had landed from the squadron, in defiance of the proclamation, and of the law on which it was founded, had been restored to it; that with respect to the other point, the difference said to be made in the case of deserters from British and French ships, I was unacquainted with the fact, but was satisfied, if the statement was correct, that the difference was imputable to the local authorities, and not to the national Government, because, as the United States were not bound by treaty to restore deserters from the service of either nation, it was not presumable that their Government would interfere in the business. I observed, however, that if such a preference had been given, there was a natural and justifiable cause for it, proceeding from the conduct of the squadrons of France and England on the coast of the United States, and on the main ocean; it being a well known fact, that the former did not maintain as a right, or adopt in practice, the doctrine of the latter to impress seamen from our merchant vessels. I then discussed at length, and urged with great earnestness, the justice and policy of his terminating at this time all the differences which had arisen between our Governments from this cause, by an arrangement which should suppress the practice on the part of Great Britain, and remedy the evil of which she complained. In aid of those reasons which were applicable to the merits of the question, I urged the example given by the late ministry, in the paper of November 8th, presented to Mr. Pinkney and myself by the British commissioners, which had, as I thought, laid the foundation of such an arrangement. I stated that, as it was stipulated by that paper that the negotiation should be kept open for the purpose of arranging this great interest, without prejudice to the rights of either Power, it was fairly to be understood, as the sense of both parties, that our rights were to be respected, until that arrangement was concluded; whence it would follow that the same effect would be produced in practice, as if it had been provided for by treaty. I relied on this paper, and the construction which I thought it admitted, with which, however, the practice had since in no degree corresponded, to show the extent to which the former ministry had gone in meeting the just views of our Government, and thereby to prove that the present ministry, in improving that ground, had nothing to apprehend from the preceding one. Mr. Canning admitted that the view which I had taken of this paper derived much support from its contents, and the time and circumstances under which it was presented, but persisted in his desire to keep the subject separate. I proposed, as an expedient to get rid of his objection, that we should take up and arrange both points informally; in which case, provided it was done in a manner to be obligatory, I offered to frame my note, which should demand reparation for the outrage, in general terms, so as that it should not appear, by official document, that the subjects had any connexion in the negotiation. I urged that unless it was intended to make no provision against impressment from merchant vessels, I could see no objection to his meeting me on that ground, as, after what had passed, it was impossible to take up either subject without having the other in view, and equally so to devise any mode which should keep them more completely separate, than that which I proposed. Mr. Canning still adhered to his doctrine of having nothing to do with impressment from merchant vessels till the affair of the Chesapeake was disposed of, after which he professed his willingness to proceed to the other object. In this manner the conference ended without having produced the arrangement which I had hoped for it. Mr. Canning's conduct was in all other respects conciliatory.

My note to Mr. Canning was founded on the result of this conference. As it had not been in my power to come to any agreement with him on the general subject of impressment from merchant vessels, I considered it my duty to combine it with the affair of the Chesapeake, in the paper which I presented him to claim reparation for the outrage. I thought it best, however, to omit the other acts of which it was desired that the reparation should consist. It seemed probable that specification of each circumstance, in the note, would increase the indisposition of the ministry to accommodate, and give it support with the nation, in a complete rejection of the demand. I expressed myself, therefore, in regard to the other acts, in general and conciliatory terms, but with all the force in my power. The details had been communicated to Mr. Canning in conference too recently to be forgotten. Still it was just that no improper inference should be drawn from the omission of them. To prevent it, I obtained an interview of Mr. Canning immediately after my note was presented, in which, after reminding him of the omission alluded to, the motive to which, I presumed, he could not mistake, I added that my object in asking the interview had been to repeat to him informally, what I had stated in the former one, the other acts of which my Government expected that the reparation should consist. In this interview nothing occurred without the limit of the special object for which it had been obtained. Mr. Canning did not lead the conversation to any other topic, and I could not invite it.

Mr. Canning's answer to my note was delayed more than a fortnight. Having refused to treat the subjects in connexion, and intimated in plain terms that if I was not authorized to separate them, it would be useless to prolong the discussion, I thought it improper to press it. My reply was equally explicit, so that with it the negotiation ended. The measure which he announced, as being determined on by the King in case I could not agree to the separation, is completely the act of his Government. You will observe that it is announced in a form which precludes, in a great degree, the idea of its being adopted, at my suggestion, as an act of reparation, and in a tone of decision which seemed equally to preclude my holding any communication with him on it.

My mission, being thus brought to an end, has afforded an opportunity for me to return to the United States, as I have long desired. Nothing but the great interest which I take in the welfare of my country, and my earnest desire to give all the aid in my power to the present administration, in support of the pure principles of our most excellent constitution, would have detained me here so long. In the present state, however, it is not possible, if in any it would be, for me to render any service by a longer continuance here. As soon, therefore, as I had answered Mr. Canning's note, I communicated to him my intention to return, and requested that he would be so good as to obtain for me an audience of the King for the purpose of taking my leave of him. This was granted on the 7th of this month, in which I renewed the assurance of the sincere desire of my Government to preserve the most friendly relation between the United States and Great Britain, which sentiment was reciprocated by His Majesty. Mr. Pinkney succeeds me by an arrangement with Mr. Canning, which will appear in the enclosed copy of my correspondence with him, and which I have full confidence the President will approve. I regret that, in transferring the business into his hands, I do not leave him altogether free from difficulty.

I have the honor to be, with great respect, sir, your most obedient servant,

JAMES MONROE.

P. S. Not being satisfied with the undefined character of the proposed mission to the United States, and Mr. Canning having communicated nothing new to me on the subject in my interview with him on the day I was presented to the King, although an opportunity was afforded for the purpose, I wrote him a note, after the commencement of this letter, to make certain inquiries on that head, a copy of which note and of his answer is herewith enclosed. You will observe that he still holds himself aloof on it. I thought it my duty, and that it comported with strict delicacy, to make the inquiry, and I cannot but consider his reserve as affording cause for an unfavorable inference. It is probable, however, as the door is left open for further communication between us until the moment of my departure, that he will take some other occasion to explain himself more fully on the subject. You may be assured that I will seek every favorable opportunity to obtain such explanation of him.

[Enclosed in the preceding letter.]

From Mr. Canning.

SIR:

FOREIGN OFFICE, *October 22, 1807.*

Having seen in the American newspapers an official article, (of which I have the honor to enclose a copy,) prohibiting all intercourse between the inhabitants of the United States and His Majesty's ships of war, *universally*, I have the honor to request that you will have the goodness to inform me whether this prohibition will extend to the ship of war in which a minister, accredited from His Majesty, and charged with a mission to the American Government, shall arrive in any of the ports of the United States? Or whether you or Mr. Pinkney can undertake to furnish Mr. Rose with such documents as shall ensure his admission into the American ports, and a reception therein suitable to the character with which he is invested?

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

GEORGE CANNING.

JAMES MONROE, Esq., &c.

To Mr. Canning.

SIR:

PORTLAND PLACE, *October 23, 1807.*

I have the honor to state, in reply to your letter of yesterday, that the case to which you alluded is specially provided for by the proclamation of the President. You will observe, on a view of that document, that an exception is made, from the prohibition it contains on other vessels, in favor of such ships of His Majesty as may enter the ports of the United States with despatches from His Majesty's Government. Had the case of a public minister, employed in a special mission to my Government, not been comprised in that exception, as it clearly is, I have no hesitation in stating that he would be received without delay at any port at which he might arrive. I have the honor to add, that Mr. Pinkney and myself will be happy to give to His Majesty's minister every facility in our power to secure him the reception at the port of his destination which is due to his public character, and promote his speedy arrival at the seat of the Government of the United States.

I have the honor to be, with great consideration, &c.

JAMES MONROE.

The Right Hon. GEORGE CANNING, &c.

From Mr. Canning.

SIR:

FOREIGN OFFICE, *October 23, 1807. Half past 10, P. M.*

I have to acknowledge the honor of your answer to my letter of yesterday evening. It appears to me to be so important to have a clear understanding on the subject to which that letter refers, that I cannot forbear requesting you to have the goodness to call at the Foreign Office to-morrow at two o'clock, if that hour should suit your convenience.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

GEORGE CANNING.

JAMES MONROE, Esq., &c.

Mr. Monroe and Mr. Pinkney to Mr. Madison.

SIR:

LONDON, *October 10, 1807.*

We avail ourselves of the opportunity afforded by the return of the schooner *Revenge*, to give you a brief account of the transactions of the joint mission, from the time of Mr. Purviance's arrival in England until the receipt of intelligence here of the late outrage in the American seas upon the sovereignty of our country.

Your letter of the — day of May was delivered to us on the — day of July, and we lost no time in obtaining an interview with Mr. Canning on the subjects to which it relates. In the course of that interview, we entered at large into the explanations required by our instructions, and, at the same time, recalled to Mr. Canning's attention the statement, which we had made to him at former conferences, relative to our want of power to bind our Government by a treaty which should not provide in a satisfactory manner for the subject of impressment. That we might be enabled to give to Mr. Canning a more complete view of the grounds of the President's disapprobation of the instrument signed in December last, and of the alterations in that instrument which we had to propose, we thought it advisable to suggest these alterations in the margin of a copy of it, and to prepare moreover separate clauses relative to impressments and indemnity. Of these papers, copies are herewith transmitted.

We had scarcely finished our explanations, when Mr. Canning intimated the propriety of putting them into the form of a note. He expressed, however, his readiness and his wish, for the purpose of saving time, to receive immediately the papers above mentioned, which, as containing the project of such an arrangement as would be acceptable to the President, we did not hesitate to deliver to him. An official note being required by Mr. Canning, we had no choice but to consent to that course, and, as you will find in the copy of the note itself, a brief recapitulation of the substance of what we thought it prudent to say to him, in that stage of the transaction, upon the principal points embraced by it, it is unnecessary to repeat it here. It is proper, however, to observe, that, although nothing was said by Mr. Canning which authorized us to calculate with certainty on the ultimate success of renewed negotiation, there was nothing in his language or manner of an unfriendly character.

Our note was prepared with as much expedition as the importance and delicacy of its topics would permit, but, before it was possible to send it to Mr. Canning, he reminded us of it by a note, of which a copy is enclosed. Our note, which we hope will meet with the President's approbation, was delivered to Mr. Canning on the next day. We did not think it proper, for obvious reasons, either in conversation or in our note, to enter into any argument in support of the different alterations suggested by our project to the proposed treaty. This it was thought would be more regularly as well as advantageously attempted when negotiation should be resumed. It is only necessary to add, that before Mr. Canning had replied to our note, information was received of the outrage committed by the Leopard, and that our proceedings were in consequence suspended.

We have the honor to enclose the copy of a bill delivered to us some time ago by Lord Auckland for permitting an intercourse, by sea, between the British North American colonies and the United States. This bill was brought into the House of Commons, during the last session of Parliament, by Mr. Rose and Mr. Eden, and has passed into a law. You will perceive that it has in view the eighth article of the project of a convention of limits, already transmitted to you. A copy is also enclosed of the communication which we have thought it our duty to make to General Armstrong and Mr. Bowdoin.

We have the honor to be, with the highest respect and consideration, sir, your most obedient, humble servants,

JAS. MONROE,
WM. PINKNEY.

JAMES MADISON, Esq., &c.

P. S. We have the honor to acknowledge the receipt of your letters of the 17th and 30th of July. There not being time to prepare a copy of the project presented Mr. Canning for Dr. Bullus, it will be forwarded by another opportunity without delay.

WILLIAM PINKNEY.

[Transmitted in Messrs. Monroe and Pinkney's despatch of October 10, 1807.]

Mr. Monroe and Mr. Pinkney to Mr. Canning.

LONDON, July 24, 1807.

The undersigned, ministers extraordinary and plenipotentiary of the United States of America, have the honor to inform Mr. Canning that they are instructed by the President of the United States to propose to His Majesty's Government a renewal of negotiation, relative to the objects of the mission of the undersigned, with a view to a more satisfactory result than is found in the instrument signed on the 31st of December last, by His Majesty's plenipotentiaries and those of the United States.

The undersigned are persuaded that His Majesty's Government will see in this measure an unquestionable proof of the sincere desire of the President to place the friendly relations of the two countries beyond the reach of those misunderstandings which either the absence or the inadequacy of precise arrangements on subjects of the greatest delicacy and importance might from time to time occasion.

It is under the influence of this solicitude, that the President has charged the undersigned to express to His Majesty's Government his unfeigned regret that the instrument above mentioned does not appear to him to be such as he can approve, and, at the same time, to declare his entire confidence that the just and liberal sentiments which animate His Majesty's Government, corresponding with those which belong to the Government of the United States, cannot fail to lead, without delay or difficulty, to such an issue of the negotiation, which is now proposed, as shall be suited, in all respects, to the rights and interests of both nations, and, therefore, calculated to ensure a long continuance of the friendship which so happily subsists between them.

The undersigned have already had the honor to present to Mr. Canning a paper, which, taken in connexion with a project on the subject of impressment, and another on the subject of certain claims to compensation by American citizens, presented by the undersigned at the same time, will be found to exhibit a complete view of the alterations which the instrument above mentioned is deemed by the President to require. They forbear to trouble Mr. Canning with a recapitulation of the details which these papers contain; but there are some explanations upon the topics of impressment and compensation which they do not furnish, and which it is, therefore, incumbent upon the undersigned to avail themselves of this occasion to give.

It was one of the primary objects of the mission of the undersigned to adjust with His Majesty's Government a formal and explicit arrangement relative to a practice by British ships of war, which has excited in a very great degree the sensibility of the American people, and claimed the anxious attention of their Government. The practice alluded to is that of visiting on the main ocean the merchant vessels of the United States, navigating under the American flag, for the purpose of subjecting their crews to a hasty and humiliating inquisition, and impressing as British seamen such of the mariners as upon that inquisition the visiting officer declares to be so. The effect of this practice is, that the flag of an independent Power is dishonored, and one of the most essential rights of its sovereignty violated; that American citizens, either mistaken for British subjects, or assumed to be such without sufficient inquiry, are forced from the quiet pursuits of a lawful commerce into the severe and dangerous service of a foreign military navy, to expose their lives in fighting against those with whom their country is at peace; and that the merchant vessels of the United States are frequently thus stripped of so large a portion of their hands, before their voyages have been performed, as to bring into the most imminent peril, and sometimes to produce the actual loss of the vessels, their cargoes, and their remaining crews. It cannot be thought surprising that a practice like this should act with peculiar force upon the feelings of those whom it oppresses, and that the sensation should extend itself to their countrymen and their Government.

The Government of the United States has accordingly made this pretension the subject of frequent discussion with Great Britain, and, when an extraordinary mission to His Majesty's Government was last year determined on, it was one of the instructions to the undersigned, to whom the duties of that mission were confided, to make no treaty which should not provide for that object. In the first stages of the negotiation which followed that mission, the undersigned were led to indulge a confident expectation that such a provision would be obtained. At length, however, the rejection by His Majesty's Government of a project of an article on this point, which, without touching the question of right, offered on the part of the United States an effectual equivalent for the mere forbearance of the practice, having extinguished all hope of an immediate adjustment of this subject by treaty, the undersigned felt that they were called upon by candor, as well as by their duty to their Government, to inform the British commissioners, that the project relative to impressment having failed, they had no power to conclude a treaty upon the other points which had been discussed between them, so as to bind the Government of the United States. The undersigned did accordingly give them this information in the most explicit terms, and the negotia-

tion was, in consequence, for a short time suspended. It was soon afterwards, however, suggested by His Majesty's commissioners, that if this topic should be expressly reserved for future conventional arrangement, and a pledge given to the United States for resuming the consideration of it, at a convenient season, with that view; and if in the mean time such an informal understanding should be substituted as in its practical effect would remove the vexation complained of, it might, perhaps, be yet possible to conduct the negotiation to a result which would not be unacceptable to the respective Governments; and in pursuance of this suggestion the British commissioners presented to the undersigned, on the 8th day of November last, the official note, of which a copy is herewith enclosed. The undersigned transmitted to their Government for its consideration a copy of this note, together with a statement of the circumstances connected with it, and, without giving it their sanction, agreed in the mean time to concur with the British commissioners, as they were invited to do, in an effort to adjust the stipulations of a treaty upon the remaining objects of their mission, and to leave the effect of what should be so adjusted to their Government.

It appears that the President of the United States considers this collateral proceeding upon a concern of such paramount importance as unsuitable to the nature of it, as well in the mode as in its terms. In this opinion the President does but continue to respect the considerations which heretofore induced him to believe that an arrangement upon this point ought to stipulate with precision against the practice in question, and that the manner of it would properly be that which should be chosen for the arrangement of the other points of discussion; and in the instructions which, in conformity with that opinion, he has now given to the undersigned, he does but manifest his reliance upon the spirit of justice and amity which he is assured His Majesty's Government will bring to the renewed consideration of a subject, so interesting to the rights and feelings of a friendly nation, for such an adjustment of this, as well as of every other question belonging to the relations of the two countries, as shall confirm their dispositions to mutual kindness and promote the happiness of both.

The subject of compensation will perhaps be sufficiently explained by the enclosed copies of two notes from the undersigned to Lord Holland and Lord Auckland, and to Lord Howick. It will appear, from the last of these notes, that this subject, for which the projected treaty did not provide, was not to be affected by it; but on the contrary that the rights of the United States, and the claims of their citizens, were understood to be reserved for future adjustment, as completely as if no treaty had been made; and it will occur to Mr. Canning that the project of an article on this point which they had the honor to leave with him at their late interview is in the spirit of that understanding, and is besides so entirely free from objection, that no motive is likely to exist against the adoption of it.

There is another subject to which the undersigned have the orders of the President to invite the attention of His Majesty's Government, as affecting materially and giving a new and unexpected character to the proposed treaty. They allude to the written declaration, relative to the French decree of the 21st of November last, by which His Majesty's plenipotentiaries accompanied their signature of the treaty; a declaration which, in its actual form creates unnecessary embarrassments in the way of an acceptance of the treaty by the United States.

The undersigned persuade themselves that, as this proceeding, to which no sanction was given on their part, imposed on the United States no new obligation, and could only be intended to declare that, in signing or ratifying the treaty, it was understood by Great Britain that nothing contained in it would be a bar to any measure, which, if no such treaty had been signed, would be lawful as a measure of retaliation against her enemy, and as the occasion which produced it does not now appear to exist as then supposed, it will not be thought that any thing is sacrificed by withdrawing it as unnecessary.

The undersigned request Mr. Canning to accept the assurances of their distinguished consideration.

JAMES MONROE,
WILLIAM PINKNEY.

[Received in Mr. Monroe and Mr. Pinkney's despatch of October 10.]

Copy of proposed alterations.

Article 3. Omit the words "and sailing direct from the ports of the said States."

Omit the words "between the said territories and the United States," and substitute "with the said territories."

After the words near the end of the first paragraph, "where the same shall be unladen," insert "or to some port or place, or ports or places, in China, or the Indian, or other seas beyond the Cape of Good Hope, from whence the said vessel shall proceed as aforesaid to some port or place in America, and there unlade their cargoes."

After the words "British territories," near the beginning of the second paragraph, insert "without the special permission of the British Government there."

After the words "St. Helena," near the end of the article, insert "or at such other places as may be in the possession of Great Britain in the African or Indian seas."

At the end of the article add, "and it is further agreed that if any other trade in and with the said British territories in the East Indies than is hereby authorized, or any other, or greater rights, or advantages in respect thereof shall be granted or permitted to the citizens or subjects of any European nation, the same shall be common to the citizens of the United States."

Article 5. At the end of the first paragraph insert, "nor shall any higher duties or charges be imposed in one country on the exportation of any articles to the ports of the other, than such as are payable on the exportation of the like articles to every other foreign country."

Article 7. Propose to strike out the last paragraph.

Article 8. Omit the words "on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war."

Omit the word "other," immediately following these words, and substitute "any."

Omit the words "if any property of an enemy should be found on board such vessel."

Omit the words "belonging to an enemy or."

Omit the word "otherwise."

Article 9. After "tar and pitch," add "turpentine and rosin."

Article 10. At the end of the first paragraph introduce a definition of the blockade, "In order to determine what characterizes a blockade, that denomination is given only to a port where there is, by the disposition of the Power which blockades it with ships stationary, an evident danger in entering."

Article 11. Omit "during the present hostilities."

After the word "Europe," which immediately follows the above words, insert "or elsewhere."

Insert the same words after the word "Europe," in the second branch of the provision.

After the word "paid," insert "or secured to be paid."

After the words "and shall," in the proviso about duties, insert "except only mahogany and fustic."

At the end of the paragraph which precedes the last proviso, introduce the following: "It is understood that no inference is to be drawn from this article, to affect any question now or hereafter to be judicially depending, touching the legality or illegality of a direct trade from Europe or elsewhere, by citizens of the United States, with enemies' colonies beyond the Cape of Good Hope."

Article 12. Omit the last paragraph.

And the following words in the first paragraph, "except for the purpose hereafter mentioned."

Article 13. In the first paragraph of the article omit the words, "as favorably as the course of the war then existing may possibly permit, towards the most friendly Power that may remain neuter," &c. and the words, "as much as possible." So as to make it read thus: "According to the acknowledged principles and rules of the law of nations, and as favorably moreover as the course of the war then existing may possibly permit, towards the most friendly Power that may remain neuter."

Article 17 to be struck out, and the following to be substituted: "The ships of war and privateers of the two nations, as well as their prizes, shall be treated in their respective ports as those of the nation most favored."

Article 19. The two last paragraphs to be struck out.

Article 23 to stand thus: "It is agreed that, in case either party shall hereafter grant any additional advantages in navigation or trade to any other nation, the subjects or citizens of the other party shall fully participate therein freely, where it is freely granted to such other nation, or on yielding the same compensation where the grant is conditional."

Article 26. Period to be five years.

INDEMNITY ARTICLE.

Complaints having been made by divers merchants and others, citizens of the United States, that during the war in which His Majesty is engaged, they have sustained loss and damage by reason of the irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commission from His Majesty, contrary to the tenor of a communication from Lord Hawkesbury to Mr. King, of the 11th April, 1801, of which a copy is annexed to this treaty; or contrary to the tenor of a letter from Mr. Merry to Mr. Madison, of the 12th April, 1801, of which, also, a copy is hereto annexed; or otherwise, contrary to the known and established rules of the law of nations; and the said merchants and others having further complained that full and complete redress for the said losses and damages has not been, and cannot be, for various causes, had and obtained in the ordinary course of judicial proceedings, His Majesty agrees, that he will, without delay, cause the most effectual measures to be taken, in concert with the United States, for an impartial examination of the said complaints; and that he will cause full and complete reparation to be made thereupon to the parties entitled, as justice, and equity, and the nature of the respective cases shall appear to require.

Messrs. Monroe and Pinkney to Mr. Madison.

Sir:

LONDON, October 22, 1807.

We have the honor to transmit, enclosed, a duplicate of our joint letter to you by Dr. Bullus, together with a copy of the project of alterations to which it refers, and which could not be prepared in time to be sent with the original. We also enclose a printed copy of the act of Parliament relative to an intercourse by sea between the United States and the British North American colonies, of which a manuscript copy has already been transmitted.

Since the departure of Dr. Bullus, communications have taken place between Mr. Canning and ourselves, with which it is proper that you should be made acquainted.

On the 15th instant we received from Mr. Canning a note, requesting a conference on the following Saturday, (the 17th,) accompanied by a note, of which a copy is enclosed, explanatory of the purpose for which the conference was desired. Our reply was merely that we should wait on him at the time proposed. Mr. Canning opened this conference by observing, that before he stated the view which his Government had taken of the subject to which his note alluded, he had to request, if we saw no objection to it, an explanation of that part of our official note of the 24th of July, which, speaking of the written declaration of the British commissioners of the 31st of December last, suggests an opinion, that the occasion which produced it "does not now appear to exist as then supposed." He then read the concluding paragraphs of the declaration, and observed, that it was with a view to the reservation contained in them, that his inquiry, which we might be assured had the most friendly motive, was made. We replied, by stating with exactness the real foundation of the opinion in question, which, as he seemed to wish it, we promised to repeat in a note, to be sent to him without delay. A copy of the note afterwards delivered to him, in pursuance of this engagement, being among the enclosures, we beg leave to refer to it for the substance of what was stated by us upon this point in conversation.

Mr. Canning closed this interview by saying, that he feared it would be necessary to postpone what he had further to communicate until another opportunity; and requested us to meet him again on Monday, the 19th. Supposing that he was not in town on Sunday, and that nothing would be gained by sending in our promised note before the time appointed for our adjourned conference, we took the note with us, and delivered it ourselves, on Monday. Mr. Canning appeared to be satisfied with the explanation, to which we thought it our duty strictly to confine ourselves; but he did not seem to be prepared to proceed with the conference, and intimated that he would be glad to meet us again for that purpose on the Thursday or Friday following, and would give us notice which of those days would be most convenient.

A proclamation relative to the searching of the national and merchant vessels of neutral Powers for British seamen, having appeared in the London Gazette on the 17th, (with which the newspapers, already forwarded, and now sent, will make you acquainted,) we thought this a suitable occasion, of which it was incumbent on us to take advantage, for leading to an explanation of that proceeding. We began by expressing a hope that this paper was not intended to shut the door against negotiation and concession on the subject of impressment on board the merchant vessels of the United States, upon which Mr. Canning already knew the opinion and feeling of our Government. Mr. Canning replied, that the proclamation was not intended to have that effect; that it was simply a statement of the principles and practice upon the points to which it relates, which the British Government understood to be warranted by public law and long established usage; that such a statement did not exclude the idea of amicable discussion and adjustment with a Power which favored a different doctrine, and sought for the introduction of a dif-

ferent practice; that, as it did no more than declare with truth and precision the past and actual state of their rules upon these interesting points, no more was done by it to shut the door against negotiation and arrangement with the United States, than would have been done without it by the mere operation of the rules themselves, of which it was declaratory; that, while in this view, it could have no inconvenient effect, it was manifestly useful, and imperiously required in another; that it was indispensably necessary, for the information of their naval commanders, especially upon distant stations, who, after what had lately happened, would, without some such guide, be at a loss to know how to regulate their conduct, and would thus be exposed to the perpetual hazard, either of falling short of their duty or of exceeding it, in matters of the highest moment; that it was so far from being meant to wear an unfriendly appearance, or to increase the difficulties in the way of a good understanding with our country, that it was believed by His Majesty's Government to exhibit their disposition to conciliation in a way not to be mistaken, and to facilitate the establishment of such an understanding; that the proclamation had been prepared nearly three months ago, but had not been published until it was ascertained that the subject of it could not be affected by any negotiation, of which the result could soon be known; that the effect of Mr. Rose's mission, whatever might be hoped, could not appear for some months, and that, in the mean time, it seemed to be proper, that without changing the state of things to the prejudice of either party, their navy should not be left to conjecture their duty on subjects of such delicacy and importance, upon which so much had occurred to produce misconception and irritation; that it was impossible to consider in connexion his (Mr. Canning's) first note to Mr. Monroe, upon the receipt of intelligence of the affair of the *Leopard* and *Chesapeake*, the promptitude with which the King's Government had disavowed the intention of asserting a claim to search national ships for deserters, the explicit prohibition of such a practice in the proclamation, at a time when it was very generally maintained by the press, and notoriously countenanced by public opinion as lawful, expedient, and essential; and the mission, which was about to proceed to the United States, without being persuaded that, in the transaction in question, the views of Government were of the most friendly character.

These explanations were followed by others of a less satisfactory description. He said, in the progress of the conversation, that he ought not to leave us under the impression that there was any prospect that the Government of Great Britain could recede from its declared pretensions relative to searching on the high seas the merchant ships of neutral nations for British seamen; that the present state of the world, and the nature and mode of that hostility which France was now waging against this country, of which the great instrument was avowed to be the systematic exclusion of the trade, productions, and manufactures of Great Britain and her colonies from their usual markets, rendered it to the last degree hazardous, if not absolutely impracticable, to stipulate for the abandonment of a practice to which the navy and the people of England attached so much importance, even although the Government should itself be persuaded that it might be done with safety.

We endeavored to impress upon Mr. Canning the unfortunate influence which such views and sentiments could not fail to have upon any negotiation which might be attempted, in whatever form, between the two countries; but although his manner was as conciliatory as it could be, he did not allow us to believe that these sentiments would be relinquished, or, consequently, that Mr. Rose would have powers upon the general topic of impressment.

We have not since heard from Mr. Canning, but are every moment in expectation of an appointment for another interview.

We deem it to be so important that you should be in possession of the foregoing details before the Government of the United States takes its course relative to Mr. Rose's mission, that we have determined to send this despatch by Mr. Rose himself, who is so good as to offer to take charge of our letters. As he sails immediately in a frigate now at Portsmouth, the presumption is that he will arrive before Mr. Monroe, who will sail in a few days in the *Augustus* for Norfolk.

We shall add in a postscript any thing that shall occur before Mr. Rose leaves town.

We have the honor to be, with the highest respect and consideration, sir, your most obedient, humble servants,
 JAMES MONROE,
 WILLIAM PINKNEY.

P. S. Mr. Canning's note, (erroneously dated on the 17th instead of the 15th instant,) of which a copy is enclosed, states the existence of a mutual understanding between him and us, "by which, on the receipt of the first accounts of the unfortunate encounter between the *Leopard* and the *Chesapeake*, we agreed to confine our official discussions to that single subject until it should be finally adjusted." It may not be improper to mention, although the fact is of no real importance, that this statement is inaccurate. Upon the receipt of intelligence that the proposed treaty of December last was not likely to be accepted by our Government, there was an understanding (as heretofore explained to you) that it might be necessary to suspend our proceedings until the arrival of more precise information upon that point, and perhaps until the arrival of our instructions. Mr. Canning confounds that epoch with the more recent one to which he alludes. His conduct in forbearing to press our negotiation after the affair of the *Chesapeake* was known was undoubtedly such as we approved and desired, but it did not arise out of any agreement with us.

P. S. October 24th. We received yesterday evening a note from Mr. Canning dated the 22d, transmitting the answer of this Government to our note of the 24th July. Copies of these papers are enclosed.

JAS. MONROE,
 WM. PINKNEY.

JAMES MADISON, Esq., &c.

[Referred to in the preceding despatch.]

Mr. Canning to Mr. Monroe and Mr. Pinkney.

GENTLEMEN:

FOREIGN OFFICE, *October 17, [15,] 1807.*

The mutual understanding, by which, on the receipt of the first accounts of the unfortunate encounter between the *Leopard* and the *Chesapeake*, we agreed to confine our official discussions to that single subject until it should be finally adjusted, has alone prevented me from returning long ago an official answer to your note of the 24th of July.

The nature of Mr. Monroe's instructions has unfortunately precluded that settlement, which His Majesty's Government so anxiously desired, of the question respecting the *Chesapeake*, by negotiation, between that gentleman and myself. But that question being now put into a train of separate adjustment, by the appointment of a minister on the part of His Majesty to proceed to America for that special purpose, and the return of Mr. Monroe to America making it necessary that you should be apprised of the sentiments of His Majesty's Government as to the state

in which the treaty signed by you and His Majesty's commissioners on the 31st of December last is left, by the refusal of the President of the United States to ratify that instrument, I have to request a conference with you for that purpose previous to Mr. Monroe's departure.

I have the honor to be, with the highest consideration, gentlemen, your most obedient, humble servant,
GEORGE CANNING.

Messrs. MONROE and PINKNEY, &c.

Messrs. Monroe and Pinkney to Mr. Canning.

SIR:

LONDON, October 18, 1807.

In our interview of yesterday you requested that we would explain the ground of the opinion (that which is expressed in our letter to you of July 24th,) that the occasion which induced the British commissioners to present to us the note of the 31st of December preceding had ceased to exist.

We hasten to comply with that request, as we shall do to give an explanation of any other passage in that letter which you may desire.

We were of opinion, at the time when the British commissioners presented to us that paper, that the decree of the Government of France, to which it related, ought not to be considered applicable to the United States, because such a construction was plainly repugnant to the treaty subsisting between the United States and France, and likewise because the decree might be understood to relate only to France and the dominions subject to her arms. We alluded, however, in our letter of July 24th, to circumstances which had occurred since the date of the decree, as fixing unequivocally an interpretation of it which we at first supposed to be reasonable.

Great anxiety having been excited by a different construction which many believed the decree to be susceptible of, the minister of the United States at Paris requested of the Minister of Marine, who was charged with its execution, an explanation of the sense in which it was understood by his Government, who assured him that it was not intended that it should in any degree interfere with the provisions of the treaty of 1800 between the United States and France.

We relied also upon the fact, not only that no countenance had been given by any practice or judicial decision in France to a different construction, but that the practice was in precise conformity with the view above suggested; and that, in a cause in which the question had been formally brought into discussion, the court had sanctioned the conclusion that the treaty between the two nations was to be exactly fulfilled, and that the decree was to be so construed as not to infringe it.

We think it proper to confine ourselves to the explanation which you have desired of the passage alluded to in our former letter, and not to enter in this communication, in any other respect, on the subject of the paper with which it is connected.

We have the honor to be, with the highest consideration, sir, your most obedient, humble servants,
JAS. MONROE,
WM. PINKNEY.

Right Hon. GEORGE CANNING, &c.

Mr. Canning to Messrs. Monroe and Pinkney.

GENTLEMEN:

FOREIGN OFFICE, October 22, 1807.

The considerations which have hitherto suspended our communication on the subject of the treaty returned from America having ceased by the termination of the discussion between Mr. Monroe and myself respecting the encounter between the Leopard and the Chesapeake, I have now the honor to transmit to you the answer which I have been commanded by His Majesty to return to your note of the 24th of July.

I have the honor to be, with high consideration, gentlemen, your most obedient, humble servant,
GEORGE CANNING.

Messrs. MONROE and PINKNEY, &c.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, in returning an answer to the official note with which Messrs. Monroe and Pinkney have accompanied their communication of the copy of the treaty which has been sent back unratified from America, is commanded, in the first place, to inform the American commissioners that His Majesty cannot profess himself to be satisfied that the American Government has taken any such effectual steps with respect to the decree of France, by which the whole of His Majesty's dominions are declared in a state of blockade, as to do away the ground of that reservation which was contained in the note delivered by His Majesty's commissioners at the time of the signature of the treaty; but that, reserving to himself the right of taking, in consequence of that decree, and of the omission of any effectual interposition on the part of neutral nations to obtain its revocation, such measures of retaliation as His Majesty might judge expedient, it was nevertheless the desire and determination of His Majesty, if the treaty had been sanctioned by the ratification of the President of the United States, to have ratified it on His Majesty's part, and to have given the fullest extent to all its stipulations.

Some of the considerations upon which the refusal of the President of the United States to ratify the treaty is founded, are such as can be matter of discussion only between the American Government and its commissioners; since it is not for His Majesty to inquire, whether, in the conduct of this negotiation, the commissioners of the United States have failed to conform themselves in any respect to the instructions of their Government.

In order to determine the course which His Majesty has to pursue in the present stage of the transaction, it is sufficient that the treaty was considered by those who signed it as a complete and perfect instrument. No engagements were entered into on the part of His Majesty, as connected with the treaty, except such as appear upon the face of it. Whatever encouragement may have been given by His Majesty's commissioners to the hope expressed by the commissioners of the United States, that discussions might thereafter be entertained with respect to the impressment of British seamen from merchant vessels, must be understood to have had in view the renewal of such discussions, not as forming any part of the treaty then signed, (as the American commissioners appear to have been instructed to assume,) but separately, and at some subsequent period more favorable to their successful termination.

But the alterations proposed by the President of the United States in the body of the treaty thus formally concluded, appear to require more particular observations.

The undersigned is commanded distinctly to protest against a practice altogether unusual in the political transactions of States, by which the American Government assumes to itself the privilege of revising and altering agreements concluded and signed on its behalf by its agents duly authorized for that purpose; of retaining so much of those agreements as may be favorable to its own views, and of rejecting such stipulations, or such parts of stipulations, as are conceived to be not sufficiently beneficial to America.

If the American Government has a right to exercise such a revision, an equal right cannot be denied to others; and it is obvious that the adoption of such a practice by both parties to a treaty would tend to render negotiation indefinite, and settlement hopeless; or rather to supersede altogether the practice of negotiation through authorized commissioners, and to make every article of a compact between State and State the subject of repeated reference and of endless discussion. The alteration of particular articles in a treaty, after the whole has been carefully adjusted and arranged, must necessarily open the whole to renewed deliberation. The demands of one party are not to be considered as absolute, nor the concessions of the other as unconditional.

What may have been given on the one hand, in consideration of advantage to be derived in return from accompanying stipulations, might have been refused if those stipulations had been less favorable, and must necessarily be withdrawn if they are changed.

It cannot be admitted that any Government should hold those with whom it treats to all that has been granted by them in its favor, relaxing at the same time on its part the reciprocal conditions for which its own faith has been engaged; or that, after having obtained by negotiation a knowledge of the utmost extent of concession to which the other contracting party is prepared to consent in the conclusion of a treaty, it should require yet further concession without equivalent as the price of its ratification.

The undersigned is therefore commanded to apprise the American commissioners that, although His Majesty will be at all times ready to listen to any suggestions for arranging in an amicable and advantageous manner the respective interests of the two countries, the proposal of the President of the United States for proceeding to negotiate anew upon the basis of a treaty already solemnly concluded and signed, is a proposal wholly inadmissible. And His Majesty has therefore no option, under the present circumstances of this transaction, but to acquiesce in the refusal of the President of the United States to ratify the treaty signed on the 31st December, 1806.

The undersigned requests Messrs. Monroe and Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Mr. Monroe to Mr. Madison.

LONDON, October 28, 1807.

SIR:

I have the honor to send you a copy of a correspondence with Mr. Canning, touching a difficulty which he supposed Mr. Rose might experience in entering the bay of Chesapeake, in consequence of the proclamation of the President. In the interview invited by his last note I expressed my surprise that any doubt should exist on the subject of it, and assured him that Mr. Pinkney and myself would be responsible for Mr. Rose's prompt admission into our harbors, and arrival at Washington, without suffering the slightest molestation; on the contrary, that he should receive every attention and facility on the route which he might require. I told him that no document from us would be necessary for that purpose; but that, to put the question beyond all doubt, we would give him a passport, which should go to every object in detail, and that we would also give him letters of introduction to the Governors of Maryland and Virginia, the States through which he would pass, to be taken advantage of if he found that they would be useful. With this explanation and arrangement Mr. Canning was satisfied.

I also send you a copy of a letter from Mr. Rose, Sen., and my answer relative to the mission of his son to the United States. Although Mr. Rose's letter is unofficial, I have thought it proper, in consideration of his near connexion with the minister and station in the Government, to communicate it.

I leave this to-morrow to meet in the channel the Augustus, the ship in which I propose to sail with my family to the United States. She has left this port, and is on her way to Portsmouth, where she will receive us. Mr. Rose, by going in a frigate, will most probably arrive before me, and even before Doctor Bullus. It is important that you should possess all the information which I can give respecting the business in which I have been lately engaged with Mr. Canning, and of Mr. Rose's mission, at the moment of his arrival. I have therefore thought it advisable to commit to him this letter, and a copy of my correspondence with Mr. Canning, as Mr. Pinkney and I have done our joint despatch. I expect to be at sea in a week from this date, and shall proceed to Washington immediately after my arrival in the United States, to communicate to you such further information as I may have relative to the important concerns of our country in which I have been employed.

I have the honor to be, with great respect, &c.

JAMES MONROE.

No. 16.

[Enclosed in Mr. Monroe's despatch of October 28.]

Mr. Canning to Mr. Monroe.

SIR:

FOREIGN OFFICE, September 23, 1807.

I have laid before the King my master the letter which I had the honor to receive from you on the 8th of this month.

Before I proceed to observe upon that part of it which relates more immediately to the question now at issue between our two Governments, I am commanded in the first instance to express the surprise which is felt at the total omission of a subject upon which I had already been commanded to apply to you for information—the proclamation purported to have been issued by the President of the United States. Of this paper, when last I addressed you upon it, you professed not to have any knowledge beyond what the ordinary channels of public information afforded, nor any authority to declare it to be authentic.

I feel it an indispensable duty to renew my inquiry on this subject. The answer which I may receive from you is by no means unimportant to the settlement of the discussion which has arisen from the encounter between the Leopard and the Chesapeake.

The whole of the question arising out of that transaction is, in fact, no other than a question as to the amount of reparation due by His Majesty for the unauthorized act of his officer: and you will therefore readily perceive that, in so far as the Government of the United States have thought proper to take that reparation into their own hands, and to resort to measures of retaliation, previously to any direct application to the British Government or

to the British minister in America for redress, in so far the British Government is entitled to take such measures into account, and to consider them in the estimate of reparation which is acknowledged to have been originally due.

The total exclusion of all ships of war belonging to one of two belligerent parties, while the ships of war of the other were protected by the harbors of the neutral Power, would furnish no light ground of complaint against that neutral, if considered in any other point of view than as a measure of retaliation for a previous injury: and, so considered, it cannot but be necessary to take it into account in the adjustment of the original dispute.

I am, therefore, distinctly to repeat the inquiry whether you are now enabled to declare, sir, that the proclamation is to be considered as the authentic act of your Government? And, if so, I am further to inquire whether you are authorized to notify the intention of your Government to withdraw that proclamation, on the knowledge of His Majesty's disavowal of the act which occasioned its publication?

The light in which you are directed to represent Admiral Berkeley's conduct, and the description which you give of the character of the measure imputed to him, that "he acted as if he had the power to make war, and to decide the causes of war," sufficiently evince the necessity of comprehending in this discussion all the circumstances which have led to or have followed the action with the Chesapeake.

Undoubtedly the attack upon a national ship of war is an act of hostility, and the very essence of the charge against Admiral Berkeley, as you represent it, is the having taken upon himself to commit an act of hostility without the previous authority of his Government.

The provocation which may have led to such an act without such previous authority, if it cannot justify, may possibly extenuate it; as the steps which have been taken in reprisal, though they cannot alter the character of the original act, may and do materially affect every question concerning the reparation claimed for it.

On this ground it is, that, while I am commanded to repeat to you (what you consider so satisfactory) that the general and unqualified pretension to search ships of war for deserters is not asserted by this country, I am precluded from concurring in the inference, that therefore the national character of the men who were violently taken from on board the Chesapeake makes no part of the present question.

If the right to search ships of war for deserters is not insisted upon by this country, it is not because the employment and the detention of British mariners on board the national ships of any State are considered as less injurious towards Great Britain than their employment on board of merchant vessels, (a proposition which would be manifestly absurd.) It is not intended to allow that the sailors of Great Britain would be justly employed against her consent in foreign ships of war, but merely that redress is, in that case, to be sought for by Government from Government, and not to be summarily enforced by the unauthorized officer of any of His Majesty's ships of war.

It follows from this reasoning, that not only the national character of the men taken out of the Chesapeake is matter for consideration, but that the reparation to be made by the British Government to that of the United States would depend, among other circumstances, on the question, whether an act, which the British Government would be justified in considering as an act of hostility, had been committed by the Government of the United States (in refusing to discharge British seamen in their national service) previously to the commission of an act of hostility of an officer of His Majesty?

The act of the British officer would still be an unauthorized act, and, as such, liable to complaint and disapprobation; but the case, as between Government and Government, would be materially varied.

At the same time that I offer to you this explanation of the principles upon which His Majesty has authorized me to discuss with you the subject of your representation, and that I renew to you the assurances of the disposition to conduct that discussion in the most amicable form, and to bring it to a conclusion satisfactory to the honor and to the feelings of both countries, it is matter of regret that you should have been instructed to annex to the demand of reparation for the attack of the Leopard upon the Chesapeake any proposition whatever respecting the search for British seamen in merchant vessels; a subject which is wholly unconnected with the case of the Leopard and the Chesapeake, and which can only tend to complicate and embarrass a discussion in itself of sufficient delicacy and importance.

In stating the grounds upon which your Government expect with confidence that "the whole subject of impressment shall be taken up at this time," and that, in making the reparation which is claimed for the particular injury alleged to have been sustained by the United States in the late unfortunate transaction off the capes of Virginia, "a remedy shall be provided for the whole evil," you appear to have been directed to assume that this act of violence (such as you describe it) is the natural and almost necessary result of the practice of impressment of British seamen from the merchant vessels of other States; and to represent the particular transaction, and the general question of impressment, as "identified in the feelings and sympathies of your nation, as well as in the sentiment of your Government."

With every attention due to the feelings of the people of the United States, I am sure you will readily allow that those feelings cannot properly be considered as affecting the merits of the case.

The first ebullitions of national sensibility may very naturally have communicated an impulse to the proceedings of the American Government, but it cannot be expected that they should guide the deliberate opinions and conduct of the Government with which you have to treat. I would further observe to you, that your Government cannot reasonably claim any advantage in argument from the expressed sense of its own people, unless it be prepared at the same time to take upon itself a responsibility (which there is no desire of attributing to it) for the outrage and indecency with which, upon the late occasion, that expression has in too many instances been accompanied. It is better for temperate reasoning, and, assuredly, it is more advantageous for the Government of the United States, that the consideration of popular feeling should be wholly omitted in this discussion.

The right and the practice of which you are instructed to complain as irreconcilable with justice, and intolerable in all their parts, have been exercised by Great Britain from the earliest ages of the British naval power, even without any qualification or exception in favor of national ships of war.

The grounds upon which such a distinction has been admitted in later times, and upon which, for the course of nearly a century, the Crown has forborne to instruct the commanders of its ships of war to search foreign ships of war for deserters, I have already had the honor to explain to you; and you will have perceived that those grounds are wholly inapplicable to ships in the merchant service.

That a foreign Power will not, knowingly, retain in its national service mariners, the natural born subjects of His Majesty, who have been recalled by public proclamation, may be regarded as a presumption arising out of the hostile nature of the act, and out of the probable consequences to which such an act of hostility must lead.

But with respect to merchant vessels there is no such presumption.

When mariners, subjects of His Majesty, are employed in the private service of foreign individuals, under private civil contracts, the King's subjects and the foreign individuals with whom they serve enter into engagements inconsistent with the duty of His Majesty's subjects towards him; but to those engagements the Government of the foreign nation has not made itself a party.

In such cases, the species of redress which the practice of all times has admitted and sanctioned, is that of taking those subjects at sea out of the service of such foreign individuals, and recalling them to the discharge of that previous and paramount duty which they owe to their sovereign and to their country.

That the exercise of this right involves some of the dearest interests of Great Britain, your Government is ready to acknowledge; and has accordingly authorized you to propose certain regulations which you apprehend would be equivalent in their effect for the preservation of the interests concerned.

There will be no indisposition here to entertain, at a proper time, the discussion of such proposed regulations. But when you recollect that many proposals to this effect have already been brought forward, and have been found wholly inadmissible; when you have yourself recently had occasion to experience the difficulty of framing any satisfactory arrangement upon the subject, with all the anxiety which is properly felt by both Governments for the speedy adjustment of the difference between them, and for the "healing of that deep wound" which you state to have been "inflicted on the national honor of the United States," surely it is not well advised to make the termination of that difference, and the healing of that wound, dependent wholly on the complete success of an attempt which has already been made so often, and which has hitherto uniformly failed.

Your own reasoning shows that you are aware of the more than ordinary difficulty which must attend any arrangement for the prevention of desertion between two nations, whose similarity of manners and habits and whose identity of language interpose so many impediments to the discrimination of "national character."

To these circumstances, and not (as you almost seem to insinuate) to any peculiar harshness towards the United States, it is owing, that the exercise of this right, as with respect to them, is necessarily more frequent than with respect to any other nation; and it is felt by them to be more rigid and vexatious. But those circumstances cannot furnish an argument for the suspension of the exercise of the right with respect to America, unless it be contended that multiplicity of frauds and difficulty of detection are reasons against suspicion or motives for acquiescence.

As little foundation is there for the complaint, that the practice has grown out of the recognition of American independence, and that the character of that event is affected by its continuance.

It is needless to repeat that these rights existed in their fullest force for ages previous to the establishment of the United States of America as an independent Government; and it would be difficult to contend that the recognition of that independence can have operated any change in this respect, unless it can be shown that, in acknowledging the Government of the United States, Great Britain virtually abdicated her own rights as a naval Power; or unless there were any express stipulations by which the ancient and prescriptive usages of Great Britain, founded in the soundest principles of natural law, though still enforced against other independent nations of the world, were to be suspended whenever they might come in contact with the interests or the feelings of the American people.

I would now recall your attention to the consideration of the question respecting the late transaction between the Leopard and the Chesapeake, which, till the receipt of your letter, I imagined to be the only question actually in discussion between us, and in consideration of the delicacy and pressing importance of which we had, by common consent, waived the consideration of all other matters pending between our two Governments.

Into the discussion of this question I am prepared to enter, with what disposition on the part of His Majesty's Government to consult the feelings and the honor of the Government of the United States it is not necessary for me here to declare, for you have yourself done justice to the sincerity of that disposition.

The difficulties in the way of such adjustment are already smoothed by the disavowal, voluntarily offered at the very outset of the discussion, of the general and unqualified pretension to search ships of war for deserters. There remained only to ascertain the facts of the particular case, and to proportion the reparation to the wrong.

Is the British Government now to understand that you, sir, are not authorized to enter into this question separately and distinctly, without having obtained, as a preliminary concession, the consent of this country to enter into discussion with respect to the practice of searching merchant vessels for deserters?

Whether any arrangement can be devised by which this practice may admit of modification, without prejudice to the essential rights and interests of Great Britain, is a question which, as I have already said, the British Government may at a proper season be ready to entertain; but whether the consent of Great Britain to the entering into such discussion shall be extorted as the price of an amicable adjustment, as the condition of being admitted to make honorable reparation for an injury, is a question of quite a different sort, and one which can be answered no otherwise than by an unqualified refusal.

I earnestly recommend to you, therefore, to consider whether the instructions which you have received from your Government may not leave you at liberty to come to an adjustment of the case of the Leopard and the Chesapeake, independently of the other question, with which it appears to have been unnecessarily connected.

If your instructions leave you no discretion, I cannot press you to act in contradiction to them. In that case there can be no advantage in pursuing a discussion which you are not authorized to conclude; and I shall have only to regret that the disposition of His Majesty to terminate that difference amicably and satisfactorily is for the present rendered unavailing.

In that case, His Majesty, in pursuance of the disposition of which he has given such signal proofs, will lose no time in sending a minister to America, furnished with the necessary instructions and powers for bringing this unfortunate dispute to a conclusion consistent with the harmony subsisting between Great Britain and the United States. But, in order to avoid the inconvenience which has arisen from the mixed nature of your instructions, that minister will not be empowered to entertain, as connected with this subject, any proposition respecting the search of merchant vessels.

It will, however, be far more satisfactory to His Majesty to learn that, upon reconsideration, you think yourself authorized to separate the two questions.

I hope you will allow me to express, at the same time, the sincere pleasure which I should feel in having to treat with you, sir, personally, for the re-establishment of a good understanding between our two countries.

I have the honor to be, &c.

GEORGE CANNING.

Mr. Monroe to Mr. Canning.

SIR:

PORTLAND PLACE, *September 29, 1807.*

I have had the honor to receive your letter of the 23d of this month, and shall transmit it without delay to my Government.

I perceive by it, with great regret, that His Britannic Majesty's Government is not disposed to enter into an arrangement, at this time, of all the differences that have arisen between our Governments, respecting the impressment of seamen from American vessels by British cruisers; that it is willing to look to one object only, the late

aggression, and provide for it, while the other is left to depend on future adjustment. My Government had presumed that His Majesty's Government would have seen, in the recent and greater injury, a strong motive for bringing the whole subject into one view, and providing for it at the same time. The excess of the latter outrage could not fail to revive, in the minds of the suffering party, a high sense of former injuries; and it was reasonable to infer that the great injustice, inseparable from the practice, of which the incident furnished so striking an example, would have produced between our Governments the most prompt and friendly co-operation in the means of suppressing it. That the United States have suffered a greater injury by a recent occurrence than they had done before, cannot be a good reason, and ought not to be a motive, for delaying redress of the others, especially when it is considered that they were already in a train of amicable accommodation and arrangement. Since, however, you inform me that His Majesty's Government is unwilling to take up the subject in a combined view, it is unnecessary for me to press it.

You ask whether I am authorized to separate this latter incident from the general practice, and to treat it as a distinct topic? On this point I have to state, that my instructions, which are explicit, enjoin me to consider the whole of this class of injuries as an entire subject; and, indeed, so intimately are they connected in their nature, that it seems to be difficult, if not impossible, to separate them for any useful purpose to either party. My Government, being sincerely desirous to place the relations of the two Powers on the solid basis of permanent friendship, is satisfied, as well by what has occurred in the general practice as by the more awful admonition derived from the late incident, that that can only be done with effect, by mounting to the source of the evil, and providing an adequate remedy for it. In pursuing this great object, it is my duty to repeat that my Government does not seek to confine the remedy proposed to the injuries which the United States have suffered, and continue to suffer, but is desirous to extend it to those also which are complained of by Great Britain. Experience has shown that both parties complain of injuries, though certainly of a very different character and less urgent nature. How much more advisable, then, is it not, in every view, for them to enter into an arrangement which shall provide an adequate remedy for their respective injuries; which shall bind the honor of each Government to do what is just and right in respect to the other, and enlist the feelings of each nation on its side, than to suffer things to remain longer in their present state? How much more advantageous would not such an arrangement be likely to prove to Great Britain, in the particular object which she has in view, than her adherence to a practice which rejects a means which could not fail to be more productive; a practice which cannot be maintained in principle; which leads by immutable causes, that ought to inspire different sentiments in the parties to each other, to great and constant abuse; and which is also considered by the United States as subversive of their rights, and degrading to their character as an independent Power?

So much I have thought it proper to state, in order to place in a just light the conduct of my Government on the present occasion, on this great and very interesting subject of impressment. Well knowing its desire to cultivate the most friendly relations with Great Britain, on just and honorable conditions, it would be highly improper that any doubt should be suffered to exist on that point.

You inform me that His Majesty has determined, in case my instructions do not permit me to separate the late aggression from the general practice of impressment, to transfer the business to the United States, by committing it to a minister, who shall be sent there with full powers to conclude it. To that measure I am far from being disposed to raise any obstacle, and shall immediately apprise my Government of the decision to adopt it. Under such circumstances, I perfectly agree with you in the opinion, that it would be useless to pursue a discussion which it would be impossible for me to bring to a satisfactory conclusion.

It is still my duty to give the explanation which you have desired of the motives which induced the President to adopt the measures announced in his proclamation of the 2d of July last. However great the injury which the United States had received, by the aggressions complained of, it is just that it should be shown that the President did not lose sight in those measures of the friendly relations subsisting between the two Powers. When the hostile nature of the attack on the Chesapeake is taken into view, and the general conduct of the British squadron, within the waters of the United States, before and after the attack, I am persuaded that there was no limit to which the President would not have been justified in going, which he might have thought essential to the honor and safety of the nation. Before the attack, the British squadron had violated the jurisdiction of the United States, by the impressment of men within it, whom the commander had refused to surrender; and, after the attack, the attitude which he assumed continued to be of a very menacing and hostile character. An act of hostility, it must be admitted, justifies any act of a like nature towards the party who commits it. The President, however, did not believe that His Majesty's Government had authorized the conduct of the British squadron, and his measures were evidently founded on that belief. They were marked by no circumstance of hostility or of retaliation towards Great Britain; but were intended simply to preserve order within the jurisdiction of the United States, to which end the removal of the British squadron without their limits became indispensable. After the acts of violence which had been committed by that squadron, it was impossible that it should remain longer there without increasing the irritation and widening the breach between the two nations, which it was the earnest object of the President to prevent. There certainly existed no desire of giving a preference in favor of the ships of war of one belligerent party to those of another. Before this aggression it is well known that His Britannic Majesty's ships lay within the waters of the Chesapeake, and enjoyed all the advantages of the most favored nation; it cannot, therefore, be doubted that my Government will be ready to restore them to the same situation as soon as it can be done consistently with the honor and rights of the United States.

I cannot conclude this communication without expressing my earnest hope that the differences, which have unhappily arisen between our Governments, may soon be settled on conditions honorable and satisfactory to both the parties. To have co-operated with you, in the accomplishment of so great and useful a work, would have been highly gratifying to me. The disposition which you have brought to the discussion, and the sentiments which you communicated on the principal transaction, when the first intelligence of it was received, have inspired me with great confidence that we should soon have been able to bring it to such a conclusion. To have been a party to it, would have terminated my mission to His Majesty in the mode which I have long and sincerely desired.

I have the honor to be, &c.

JAS. MONROE.

Mr. Monroe to Mr. Canning.

PORTLAND PLACE, October 9, 1807.

Mr. Monroe presents his compliments to Mr. Canning, and requests that he will be so good as to inform him whether it is intended that the minister, whom His Majesty proposes to send to the Government of the United

States, shall be employed in a special mission, without having any connexion, immediate or eventual, with the ordinary legation. Mr. Monroe has inferred from Mr. Canning's note that the mission will be of the special nature above described; but he will be much obliged to Mr. Canning to inform him whether he has taken a correct view of the measure. Mr. Monroe would also be happy to know of Mr. Canning at what time it is expected that the minister will sail for the United States. Mr. Canning will be sensible that Mr. Monroe's motive in requesting this information is, that he may be enabled to communicate it without delay to his Government, the propriety of which he is persuaded Mr. Canning will readily admit.

Mr. Monroe requests Mr. Canning to accept the assurance of his high consideration.

From Mr. Canning.

FOREIGN OFFICE, October 10, 1807.

Mr. Canning presents his compliments to Mr. Monroe; and, in acknowledging the honor of his note of yesterday, has great pleasure in assuring him that he is at all times ready to answer any inquiries to which Mr. Monroe attaches any importance, and which it is in Mr. Canning's power to answer with precision, without public inconvenience. But it is not in Mr. Canning's power to state with confidence what may be the *eventual* determination of His Majesty in respect to the permanent mission in America. The mission of the minister whom His Majesty is now about to send will certainly be limited *in the first instance* to the discussion of the question of the Chesapeake.

Mr. Pinkney to Mr. Madison.

LONDON, November 23, 1807.

SIR:

I have the honor to transmit a duplicate of my letter of the 17th, enclosing a copy of the orders of council, lately issued by this Government relative to neutral trade.

When I was about to ask a conference with Mr. Canning on the subject of these orders, I received a note from him requesting an interview. Although it was to be presumed that the purpose of this interview would appear to be the mere explanation of certain ambiguities in the details of this extraordinary measure, it seemed to furnish the opportunity, which I was preparing to seek, of remonstrating against the measure itself. It had occurred to me that it would not be proper that, by appearing to interest myself in its subordinate provisions, I should unnecessarily compromise with a transaction, of which the whole scheme and principle were so hostile to the incontestable rights of my country, and of which, however modified, the effect could not fail to be in the last degree injurious to its commerce. Under this persuasion I was disposed to leave that part of the subject, at least in the first instance, to the committee of merchants trading to the United States, of whose proceedings I was kept constantly informed, and from whose communications with the Board of Trade more useful results were, in this view, to be expected than from mine with the Foreign Department. It was, besides, not unnatural to hope that, while this respectable body of men were employed in demanding explanations of what was supposed to be doubtful in the phraseology of the orders, some of them, with whose opinions I was acquainted, would disclose to Government, with advantage to the discussion I had in contemplation, their conviction of their fatal tendency in a commercial, if not in a political sense. In the hope of such a disclosure I was not wholly disappointed; but the administration had decided irrevocably on their new system, which now appears to have been long meditated in secret. The only effect of the interference of the committee will be found in their printed report herewith transmitted. It will be seen that the explanations which this report contains are far from softening the harsh spirit of the orders, or furnishing any evidence of a disposition on the part of Government to make them more respectful to neutral rights, or less inconvenient in their execution. On the contrary, the blockade, which the orders institute against the ports of France and her allies, and against such other ports as the British flag may be excluded from, is, by these explanations, extended to the ports of the allies of Great Britain, so far as to prevent our carrying to them from the United States colonial productions.

In some respects, too, they have put a precise negative upon a favorable interpretation of the orders, adopted on their first publication by several intelligent merchants, by which much of their pernicious character would have disappeared in practice; and it is declared by them, contrary to all expectation, and with a wonderful disregard of justice, that one of the great agricultural products of the United States, after being forcibly drawn into Great Britain as the commercial vortex of the world, is, upon re-exportation, to go charged with a British duty.

My interview with Mr. Canning took place two days ago. He commenced the conversation by saying that he had requested to see me, not with the intention of discussing the general propriety of the late orders of council, for that, being already adopted, discussion could now answer no valuable purpose; but with the view of explaining to me such of their provisions as had been supposed to be liable to misconstruction, or might appear to me to be doubtful. He then read to me a paper, which was the same in substance with the report of the committee of merchants. It was not, however, stated in this paper, as he read it, that re-exported cotton was not to be exempt from duty, in common with our other native commodities. And when I remarked to him that the prohibition contained in his paper, of the direct carriage of colonial produce from neutral ports to the ports of His Majesty's allies, was not warranted by any thing in the orders of council, he struck it out as a mistake, after having examined the orders, and satisfied himself that they did not comprehend the case. The truth is, however, that this prohibition is supposed here to be a necessary part of the system, and that upon that ground, or as being justified by the rule of the war of 1756, it is the intention of the Government to enforce it.

As soon as Mr. Canning had finished the reading of this paper, I told him that as he had intimated a wish to decline the present discussion of the principle and propriety of the orders, I certainly would not urge it at this time; but that as the explanations which he had just given relative to their details had not, in any degree, served to diminish the deep concern and extreme astonishment with which I had at first perused them, I would take the liberty in the course of a few days to trouble him with a note, in which should be given a view of the entire subject, as it presented itself to me. He replied, that there could be no objection to such a note.

To an observation of mine, that the orders menaced with absolute ruin the trade of the United States in all its important branches, and would probably exclude from the European seas, and drive back upon our shores, even the produce of our own soil, Mr. Canning answered that they had not appeared to him to be at all likely to produce these effects; and he invited me to state my ideas upon that point. This led insensibly to a conversation upon the whole subject, in which I endeavored to show that the orders were unjust, ill-timed, and impolitic; destructive at once of all the great maxims in which the civilized world have a common interest, (and Great Britain

more than the rest,) and of the prosperity of the nations at war, as well as of those at peace, and rested by Great Britain upon grounds which were not correct in fact, or sufficient if the facts were admitted.

To prove that the effect of the orders upon American commerce would be such as I had suggested, it was only necessary to compare their provisions with the known law of France, which had been adopted by her allies, and extended to the countries subject to her arms. The decrees of France, and of the States in alliance with her, exclude from their respective ports all vessels coming from a British port; and the British orders declare that no neutral vessel shall go to an enemy port, unless from a port of the United Kingdom, from Gibraltar or Malta, or from a port of His Majesty's allies; under such regulations, too, as His Majesty shall think fit to prescribe.

As the communication with enemy ports, through the "ports of His Majesty's allies," under the British licenses, can be little more than nominal, (and if it were not so would probably soon be prohibited by the other parties to the war,) it is difficult to imagine, even if there were nothing more in the orders of council, in what way, consistently with them, an American vessel, with whatsoever cargo she should be freighted, could, to any other effect than that of confiscation, find her way to a port of any of the enemies of Great Britain.

Before these orders were issued, it was possible that a neutral, going from a British port, might evade the laws of some of the opposite belligerents, at the hazard of seizure and forfeiture, by fictitious papers and declarations as to the port of her departure; but, if such an evasion was difficult, as undoubtedly it was, before the issuing of these orders, it is now become impossible. The obligation now attempted to be imposed upon all neutral vessels to take their departure for a belligerent port upon the continent from a British port, (with the single unavailing exception above mentioned,) coupled with the known power of the British navy to render that obligation effectual, will make deception upon this point no longer practicable, if it were even to be desired; and thus, such of the staple commodities of the United States, as have heretofore had all Europe for their market, will, by the operation of this new article in the law of prize, be made to depend almost wholly on British consumption.

The trade of American citizens in the surplus of colonial productions, imported from the colonies of the parties to the war, will be yet more completely discouraged. To bring them here for consumption would be absurd, if indeed it should be allowed; and, once brought here, they could only go elsewhere in search of seizure and confiscation.

But even if it should be admitted that the laws of one or more of the opposite belligerents may be eluded, so far as respects the touching at or coming from a British port; or that the ports of His Majesty's allies may, in that view, afford some facility to the transportation of American commodities to France, or the countries connected with her; the orders of council meet this ill-fated trade with another obstacle, for which it is not easy to find a motive, but which cannot be surmounted. "Certificates of origin" are necessary to the admission and safety of neutral cargoes in the ports of France, and, it is believed, in those of her allies, and in the ports of the countries which, not being the allies of France, she controls by her arms. The British orders subject to capture and condemnation, as prize of war, any neutral vessel carrying such a document, and the cargo to which it applies. How is this to be evaded, unless by a most hazardous concealment by the neutral of the interdicted document, of which the consequence would frequently be the loss of vessel and cargo by the sentence of a British Court of Admiralty; while, if the concealment should be successful, and the British regulations, hereafter to be made, should not counteract its effect, (as they easily may, and probably will, either wholly or partially,) the introduction of the cargo into the enemy port would still have to contend with the impediment already mentioned?

With difficulties so formidable and so multiplied, no trade can struggle with success. The consequence must be that our merchants can have no inducement to send to this country cargoes of any description much beyond the internal demand, which, for some of our productions, exists but in a slight degree, for others to an inadequate extent, and for colonial productions not at all. And even with a view to British consumption, the obstacles and discouragements to American commerce will be great and destructive. The new system cannot fail to produce the necessary consequence of all such invasions of the rights and interests of mankind—a disposition to evade it. The attempts which will arise out of that disposition will be encountered by intolerable inquisitions, by seizures, detentions, and confiscations upon arbitrary presumptions, involving the innocent with the guilty. And if these alarming hazards should not be sufficient to beat down the enterprising spirit of our people, so as to banish from this commerce, thus limited in its range, the usual competition, it will follow that it must be overdone, to the ruin of those who embark in it, and finally of the commerce itself. In this work of destruction Great Britain will not only act, but suffer. The wound which she inflicts upon a Power, hitherto her best customer, will be deeply felt by herself, without the prospect of a single advantage, within the reach of imagination to suggest, to atone for it.

In the course of my remarks upon this branch of the subject I had called those parts of the French decrees, which require certificates of origin, and refuse admission into the ports of France to such neutral vessels as come from Great Britain, mere municipal regulations. Mr. Canning observed, upon this phrase, that it was inapplicable to the provision which prescribes certificates of origin; erroneously supposing that the want of that document subjected a neutral vessel and cargo to French capture on the high seas. I assured him that this was a misapprehension; and finding that he was not unwilling to attend to an explanation of the whole of the French system, as I understood it, and of its bearing upon the British orders of council in the light of a justification of those orders, I went at some length into such an explanation. Mr. Canning received it in a very friendly manner; but did not give me any reason to believe that it was likely to produce an effect upon the measure against which it was directed. It may not, perhaps, be improper to trouble you with a hasty sketch of what I thought it my duty to urge on this topic. I am conscious that I have not done justice to the subject; but it will be recollected that it is an extremely delicate one, and that the necessity for discussing it was sudden and unforeseen.

I introduced my explanations with a brief analysis of the British measure. Its great feature is the establishment, by the sole operation of an order of council, an unexampled blockade, not existing, or pretended to exist, in fact, of all the ports and places of France and her allies, and all other countries at war with His Majesty; of all other ports and places in Europe from which the British flag is excluded; and of all ports and places in the colonies belonging to His Majesty's enemies. It does more than this, however. The first order declares, "that all trade in articles of the produce or manufacture of the said countries or colonies shall be deemed unlawful," &c.

Upon these two provisions, connected with that which relates to certificates of origin, the measure relies for its whole efficacy. The rest is but gratuitous exception and qualification, which may at any time be withdrawn.

In the preamble to the first order we are in substance referred, for the inducements to this measure, to the French decree of November, 1806, coupled with an imputed acquiescence in that decree by the nations at peace. That decree contains provisions which seem, at first sight, to be of different characters. The British orders point to the first article, which declares the British islands in a state of blockade; and to the fifth, which prohibits all trading in English merchandise, &c., as trenching upon neutral rights by setting up new rules of maritime capture. The remaining articles seem to be admitted to be, and undoubtedly are, municipal laws, resting upon the foundation of territorial sovereignty.

If the first article be considered in an abstract state, it would be difficult to avoid the conclusion that it was intended to affect the rights of neutrals upon the ocean. It is not in that state, however, that it ought to be considered; since it is found, in fact, in a state of connexion with other provisions. So connected, it appears to be susceptible of an interpretation consistent with neutral rights. Without going into an argument upon this point, it may be allowable to infer that it was not meant to give to the declaration contained in this article, unaccompanied by the shadow of an actual blockade, the incidents which only belong to such a blockade, from the single consideration that some of the subsequent articles are not to be reconciled with that intention. The seventh and eighth articles are particularly important in this view, and are fortified by the municipal scope and tendency of the whole decree.

The fifth article is yet more evidently than the first a municipal rule. Its terms can be completely satisfied by such a construction; while, without it, no office can be assigned to the seventh and eighth.

It is to be admitted, however, that the phraseology of the decree, especially of the first article, was such as very naturally to excite the attention of the nations at peace, as being liable to an exposition hostile to their just neutral claims. The minister of the United States at Paris was, accordingly, among the first to demand of the Minister of Marine, (who was charged, in what concerned his department, with the execution of it,) "the official explanation which may have been given to this decree, so far as it involves the rights of neutral nations." The answer was prompt and explicit. Here I read General Armstrong's letter of the 10th of December last to the French Minister of Marine, and the reply of that minister of the 24th of the same month, as communicated by the President to Congress, in February, 1807. I relied particularly on the following passages in that reply.

"I consider the imperial decree of the 21st of November last as thus far conveying no modification of the regulations at present observed in France with regard to neutral navigators, nor consequently," &c.

"That the declaration expressed by the first article not at all changing the present French laws concerning maritime capture," &c.

"That an American vessel cannot be taken at sea for the mere reason that she is going to a port of England, or is returning from one; because, conformably with the seventh article, we are limited," &c.

"That the provisions of articles second and fifth naturally apply to foreign citizens *domiciliated* in France," &c.

It is obvious that these explanations, which cannot be evaded by the suggestion that they are not sufficiently precise, or that the Minister of Marine, who undertook to give them, was not the regular organ of such a communication, impress upon all the obnoxious parts of this decree the character of domestic rules, operating, not on the seas, but in the interior of France, against which, however inconvenient, neutral nations could offer neither resistance nor remonstrance as infringements of their neutral rights. Nor, in that light, could Great Britain be justified in complaining of them. In peace, as well as in war, she has her navigation and other laws, modifying the intercourse of other nations with her ports, with an exclusive view to her own advantage; and it was not to be expected that, in the contest in which she is engaged, her enemy would, if he could do without them, encourage her manufactures by consuming them, or her colonies by purchasing their productions.

As domestic regulations, then, it is impossible to maintain that the articles of the French decree form any apology for the British orders, upon any intelligible notion of the right of retaliation. The British orders annihilate the whole public law of Europe relative to maritime prize, and substitute a sweeping system of condemnation and penalty in its place. The French decree produced no change at all in that law. The last was no more than a legitimate, though possibly an ungracious exercise of the rights of local sovereignty; while the former can be referred only to force, and look for the scene of their operation to the ocean.

But the decree of France has been explained, not only by the French Minister of Marine, but by the practice under it, to which, more than to those explanations, or even to the decree itself, the states at peace were to look for its real importance to their rights and their prosperity. And here I read an extract from a letter to Mr. Monroe and myself from General Armstrong, of the 8th of February last, confirmed by all subsequent information, in which he states that the practice under this decree "is entirely that of the old regulations. Its operation is accordingly confined to neutral ships passing from British ports to those of France or her allies."

Now, let the mere theory of the decree be what it may, if in effect it does not violate the rights of neutral nations, it furnishes no foundation for a real, extensive, practical measure on the part of Great Britain, which sweeps from the seas every thing to which those rights can apply.

But the orders of council rely (as they ought to do) not merely on the provisions of the French decree, but on the forbearance of neutral nations "to interpose with effect to obtain their revocation."

So far as respects the United States, (who could only be bound to take care of their own rights,) it has been seen that their minister lost no time in doing what only he could properly do. He required official explanation of those parts of the decree upon which Great Britain founds her retaliating system, at the expense of the United States; and the answer to his demand removed all real ground of complaint—an answer with which he had the more reason to be satisfied, as the contemporaneous and subsequent practice corresponded with it. This he communicated to his Government; and it cannot be imagined that, without even the pretext of an actual grievance, the United States were called upon "to interpose" against a mere form of words, by which none were injured, lest Great Britain should construe their forbearance into a surrender of the rights of their neutrality, and build upon that imputed surrender the ruin of their lawful commerce.

It is suggested in the orders that the parts of the French decree which it recites "have recently been enforced with increased rigor." To this I might reply that I have no knowledge of any such fact, as respects the provisions in question. But, be the fact as it may, it is obvious that the United States cannot be said to acquiesce in that of which they have not yet been apprised. They have met the transaction, as it presented itself to them, with effect; and, if it has lately taken a new shape, they cannot be made responsible for it by Great Britain, even upon her own principles, until they shall have had an opportunity of being informed of this recent change, and of dealing with it as their honor and interests may require.

It appeared that Mr. Canning had supposed it to be understood by me that the French decree had always operated, according to the British construction of it, against all neutral nations, with an exception in favor of the United States. Upon this supposition, he intimated that such a peculiar exemption might (although he was far from saying or intending to imply that it was so) have been purchased by sacrifices, when it was perhaps incumbent on the nation enjoying it, instead of thus withdrawing itself from the common cause of neutrals, to insist upon its rights as identified with theirs, and to obtain the recantation of what was hostile to them. To this I replied that the answer of the French Minister of Marine did not turn upon any such peculiar exemption, nor did the French practice rest upon it; nor did the view which I had taken of the decree itself suppose it. But, if it were otherwise, it would be recollected that any peculiar immunity which American commerce might enjoy from the effect of this decree must stand, not upon subsequent compromise, but upon an antecedent treaty, with which the decree, as understood here, was certainly inconsistent, and which, so far as they conflicted, might well be allowed to create exceptions not expressed in the decree itself. I added, although the observation could not be important

to the United States, that, if any neutral state had even obtained an exemption from the decree after it was promulgated, and if, moreover, this exemption was not common to all neutral nations, it was not to be admitted that the exemption (not being purchased by unequal means) would give to Great Britain a just pretence for retaliating against France, through the rights of the nation thus exempted. I forebore, however, from enlarging upon this topic, as wholly inapplicable to the case under consideration; as I did from touching at all upon the general right of retaliation, as, under all circumstances, unimportant to it.

Upon the subject of certificates of origin I made but few remarks. The French decree of November last does not require them. They are prescribed by a former *arrêt*, and are intended solely to prevent the introduction into France of British merchandise or colonial produce. The decree requiring them is, in form, as well as effect, a perfectly domestic law. The British orders, however, affect to consider it as part of a "new system of warfare," directed against the trade of this country; and Mr. Canning had imagined, as I have already stated, that it operated upon the high seas. It was only necessary to rectify this error, and to show, in few words, the inadmissible nature of a measure, whether combined with others or not, which, founding itself upon an extravagant claim by one belligerent to force its commodities upon the other, whether it will have them or not, retaliates upon neutrals with maritime capture, if, in their ordinary trade, they attempt a compliance with such of the local regulations of that other belligerent as have for their object the exclusion of those enemy commodities from its own territories.

Towards the close of our interview, I asked Mr. Canning if Mr. Rose was authorized to mention to the Government of the United States the determination of His Majesty's Government to adopt a measure which could not but be viewed by it as of the highest moment, and for which nothing that had hitherto passed could be supposed in any degree to prepare it. He told me that Mr. Rose had no authority to mention this step, and was, as he believed, ignorant of the intention of Government to take it; that his mission had, as I knew, a special purpose; and that it was not meant that his functions should interfere with those of Mr. Erskine, to whom a communication of the orders would be made; that they had delayed that communication until the judgment of practical men had been exercised upon the orders, so as to lead to the explanation and complete amendment of their ambiguities and defects, and until he should have had an interview with me; but that it would certainly be made with very little further delay, and that, instead of waiting for the packet, he believed they should send out a vessel for that sole object, of which he intended to apprise me, as presenting the means of forwarding my despatches also.

I have only to add to this very hasty letter, that, as I had more opportunity of discussing the British orders of council with Mr. Canning than, at the commencement of our interview, was likely to be afforded, I am at present inclined not to send him a note, as I should otherwise, perhaps, have thought it my duty to do. I am not aware that such a step can now be of any utility. Remonstrance before the measure was adopted might have been useful; but the studied secrecy with which it was prepared made that impracticable. I can say little in a note which I have not already suggested in conversation, and the reports which reach me from the continent render it prudent to pause. The President may be assured, however, that, if any chance should occur of doing good, either by personal representations or otherwise, I will not omit to avail myself of it.

An attempt will, I think, be made by some of the merchants trading to the United States to prevail upon their whole body in the different parts of the kingdom to urge the Government, if not to an abandonment, at least to a considerable modification of the orders, so as, perhaps, to leave the trade of our country in its native productions free. I do not believe that the attempt will succeed. The orders, in their present shape, are more popular than could have been expected. There are, indeed, many who are at a loss to conceive the policy which has dictated them, and are convinced that they cannot be vindicated upon principle. But they have the appearance of vigor suited to the crisis, and gratify, moreover, many passions and peculiar interests.

The peril of the moment is truly supposed to be great beyond all former example; and it is therefore believed to require efforts of a new and extraordinary character, which, in common times, would be admitted to threaten the dangers which now they are intended to prevent. Experience only will teach them that moderation and justice would still be the best foundations of their power, and the surest means of defence.

This measure will not, probably, and indeed cannot, be long persisted in. Its injurious consequences to their own trade and manufactures will soon be perceived. The speculation is said to be, that it will create a pressure upon the Government of France, which will compel it to emancipate neutral commerce from the thralldom of its late restrictions; but it does not seem to be considered that the greater pressure will be here, with the smaller capacity to bear it.

I have the honor to be, with the highest respect and consideration, sir,
your most obedient, humble servant,

WILLIAM PINKNEY.

Extract.—Mr. Madison to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, December 23, 1807.

Mr. Erskine having been so good as to let me know that the mail of this evening will carry his despatches for a British packet, which will sail from New York immediately on their arrival there, and other conveyances now failing, I avail myself of the opportunity to enclose you a copy of a message from the President to Congress, and their act in pursuance of it, laying an immediate embargo on our vessels and exports. The policy and the causes of the measure are explained in the message itself. But it may be proper to authorize you to assure the British Government, as has been just expressed to its minister here, that the act is a measure of precaution only, called for by the occasion; that it is to be considered as neither hostile in its character, nor as justifying, or inviting, or leading to hostility with any nation whatever, and particularly as opposing no obstacle whatever to amicable negotiations and satisfactory adjustments with Great Britain, on the subjects of difference between the two countries.

The suddenness of the present opportunity does not allow me time to add more than a newspaper containing a part of the proceedings of Congress in relation to the embargo.

P. S. As you may be able to find conveyances to Paris, whither none will for some time offer hence, I request the favor of you to communicate to General Armstrong the contents of this letter, and, through him, or otherwise, to Mr. Erving, at Madrid.

Extract.—Mr. Pinkney to Mr. Madison.

LONDON, January 26, 1808.

I had the honor to receive this morning your letter of the 23d of last month enclosing a copy of a message from the President to Congress, and of their act in pursuance of it laying an embargo on our vessels and exports.

It appeared to be my duty to lose no time in giving such explanations to the British Government of this wise and salutary measure as your letter suggests, and accordingly I went to Downing-street immediately, and had a short conference with Mr. Canning, who received my explanations with great apparent satisfaction, and took occasion to express the most friendly dispositions towards our country. I availed myself of this opportunity to mention a subject of some importance connected with the late orders of council. I had been told that American vessels, coming into British ports, under warning, could not obtain any document to enable them to return to the United States in the event of its being found imprudent either to deposit their cargoes here, or to resume their original voyages. Although they are not prohibited from returning, yet, as the warning is endorsed on their papers, the return may be hazardous without some British document to prove compliance with it, and give security to the voyage. Mr. Canning took a note of what I said, and assured me, that whatever was necessary to give the facility in question would be done without delay; and he added that it was their sincere wish to show, in every thing connected with the orders of council, which only necessity had compelled them to adopt, their anxiety to accommodate them, so far as was consistent with their object, to the feelings and interests of the American Government and people. I was induced by these observations to mention, and to make several strong remarks upon the duty intended to be imposed on our cotton when re-exported to the continent, and the adherence to the determination not to allow to our vessels warned into British ports any change of destination. He told me that these subjects (with which, however, it was evident he was very little acquainted) should be taken into immediate consideration, and that he would let me know the result. I am to have another interview with him in the course of a few days.

Mr. Pinkney to Mr. Madison.

SIR:

LONDON, February 2, 1808.

I had an interview this morning with Mr. Canning, at his own request. One object of the interview related to the message of the President of the 27th of October last, of which a newspaper copy had been received from Mr. Erskine. A call for a copy of this message was expected in Parliament, and Mr. Canning wished to be in a situation to produce it. I could not assist him, and I suppose the newspaper copy will be considered sufficient.

As soon as this subject was disposed of, Mr. Canning observed that he had requested to see me principally for the purpose of conversing with me privately and extra officially upon the duty proposed to be laid, in consequence of their late blockading orders, upon cotton intended for re-exportation to enemy ports upon the continent. The very few occasional remarks which I had made upon this subject at our last interview (already mentioned in my letter of the 26th ult.) had led him to suppose that it was only to the mode of excluding our cotton from France that the United States would be likely to object, and that if their object could be accomplished in another way, the measure would cease to be offensive. Having admitted (what, indeed, was sufficiently obvious before) that they looked to the intended duty upon cotton as a complete prohibition, he said that, if it would be more acceptable to the United States, the form of the proceeding should be changed, so as to leave the exclusion of cotton from the continent to the mere effect of the blockade; their desire to consult our feelings and wishes, in whatever did not entirely counteract the great end of the measure, would dispose them to adopt such a modification of their plan. In the course of his explanations upon this point, he introduced professions of good will towards our country, of regret that France had imposed upon them the necessity of resorting to a step which might be supposed to press with severity upon our interests, and of an anxious desire that a return to a system of equity and moderation on the part of her enemies, would speedily enable Great Britain to abandon (as she would in that case instantly do) the whole of the recent orders in council. He stated that it was peculiarly important towards the just effect of the orders (of which it was the object to compel France to relieve the commerce of the world from the oppression of her late decrees) that considerable supplies of cotton should not be introduced into the continent; that it had been hoped and believed that the United States would not view as harsh or unfriendly a constrained attempt by Great Britain to prevent such supplies from being received by the other parties to the war, especially as it was certain that Great Britain could herself consume almost the whole of the cotton which we were in the habit of sending abroad; and that they had preferred the imposition of a duty upon cotton to a direct prohibition through the operation of the blockade, because it was consistent with the various and extensive modifications of the blockade to which they had been led, not merely by views of advantage to themselves, but by a respect for the convenience and feelings of other nations, and particularly of America. In fine, he wished to know my private opinion, before the subject came before Parliament, whether an alteration in this respect, from a prohibitory duty to an absolute interdict, would be likely to be acceptable to us. I replied, in as conciliatory a manner as I could, that, as soon as I had understood that a duty was to be proposed on re-exported cotton, I had been disposed to take for granted that the object was not revenue, but prohibition; that, whether the object were the one or the other, it was, as he knew, my opinion that the United States would hold that object, as well as the means, and the whole system connected with them, to be utterly inadmissible; and that I did not feel myself authorized to say to which of the courses he had suggested, my Government would give the preference, or that it would feel any preference for either.

Mr. Canning at length asked me if I should think it worth while to consult my Government on this subject, observing, at the same time, that he would not wish it to be done if there was the least danger of giving offence; and assuring me that what he had said proceeded from motives the most amicable and respectful towards us. He added, that, upon reflection, this would perhaps be the most convenient mode, as it would give them a good deal of trouble to accommodate their plan, as prepared for Parliament, to a change of so much importance, in season to be acted upon.

I answered, in substance, (as I saw it was his wish) that I would mention what had passed to you, and that I did not doubt that the motives of his proposal, whatever might be thought of the proposal itself, would be acceptable to the President. He requested me to say to you, that, although the necessary bills would be proposed, and would pass in Parliament, according to their first project of a duty, yet that the alteration above suggested would be adopted whenever it should be known that it would be agreeable to us.

I need not trouble you with any reflections upon this conversation. But it is my duty to say, that, although Mr. Canning's manner was extremely conciliatory, not a word escaped him to encourage a hope that the orders of council would be in any degree abandoned, or that I should gain any thing by urging a reconsideration of them. I threw out some intimations with that tendency, but soon perceived that it could not be useful to follow them up.

I have the honor to be, &c.

WM. PINKNEY.

HON. JAMES MADISON.

Extract.—Mr. Madison to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, *February 19, 1808.*

A vessel having been engaged to carry from the port of New York public despatches and mercantile letters to Europe, I avail myself of the opportunity of forwarding you a series of gazettes which contain the proceedings of Congress, and such current information as will give you a view of our internal affairs. They will be put, with this letter, into the hands of Mr. Nourse, a passenger in the despatch vessel, who will deliver them at London; and as the vessel, which will have previously touched at L'Orient, will, after waiting ten or twelve days at Falmouth, return to that port, and thence to the United States, you will have an opportunity of sending thither any communications you may wish to make to Paris, as well as of transmitting to your Government such as may follow up your correspondence, which, at the present period, will be the more acceptable the more it be frequent and full.

My last, which was committed to the British packet, enclosed a copy of the act of embargo, and explained the policy of the measure. Among the considerations which enforced it, was the probability of such decrees as were issued by the British Government on the 11th of November; the language of the British gazettes, with other indications, having left little doubt that such were meditated. The appearance of these decrees has had much effect in reconciling all descriptions among us to the embargo, and in fixing in the friends of the measure their attachment to its provident guardianship of our maritime interests.

Mr. Erskine communicated, a few days ago, the several late decrees of His Government, with expressions of the regret felt by His Britannic Majesty at the necessity imposed on him for such an interference with neutral commerce, and assurances that His Majesty would readily follow the example, in case the Berlin decree should be rescinded, or would proceed, *pari passu*, with France, in relaxing the rigor of their measures. Mr. Erskine was asked whether his Government distinguished between the operation of the French decree, municipally on land, and its operation on the high seas. On this point he was unable to answer; as he also was to an inquiry whether the late British decrees had reference to the late extension of the French decree with respect to the United States. He seemed also, as is perhaps the case with his Government, to have taken very little into consideration the violations of neutral commerce, and, through them, the vast injury to France, antecedent to the Berlin decree. It is probable that something further is to pass between us on this subject.

Mr. Pinkney to Mr. Madison.

SIR:

LONDON, *February 23, 1808.*

Mr. Canning has just sent me a note, of which a copy is enclosed, relative to an intended alteration, upon the subject of cotton, in their bill for carrying into execution the late orders in council. You will perceive that he lays some stress upon the accidental observations which (as already explained to you in my letter of the 26th of last month) were drawn from me, some time since, upon the singularly offensive project of imposing a transit duty upon our cotton. I mentioned to you, in my letter of the 2d instant, that he appeared to have misapprehended the tendency of these observations, and that, in a subsequent conversation, he showed a disposition to remove this obnoxious feature from their plan, for the purpose of substituting an absolute interdict of the export of that article, under an idea that we should cease then to object to it; but that I thought it my duty to decline to give him any encouragement to do so, although I agreed, as he seemed to wish it, to mention his disposition to you. A few days ago he sent for me again, and renewed his proposal of an immediate change, with respect to cotton, from a prohibitory duty to a direct prohibition. My answer was the same in substance as it had been before. He then suggested the alternative arrangement which you will see stated in his note; but, adhering to the determination I had formed, upon the first appearance of the orders in council, to make no compromise (without precise directions from my Government) with the system which they announce, by becoming a party to its details, I received this proposal as I had done the other.

The British Government, however, had resolved to adopt this last mentioned plan, whether it received my concurrence or not, upon a presumption that it would be more acceptable to us, and, perhaps, too, under the idea that it was more defensible than their original scheme; and the purpose of Mr. Canning's note is merely to signify to me, in a manner as friendly and respectful as possible to the United States, their intention to propose it to Parliament. One object of all this is certainly to conciliate us, although it may be another to free their system, as far as they can, from the disadvantage of one of the formidable reproaches which their opponents cast upon it. But the wise and magnanimous course would be at once to tread back their steps upon the whole of this ill-judged measure, instead of relying upon small and unsubstantial modifications, which neither produce an effect upon its character and principle, nor mitigate the severity of its practical consequences. I might, if I thought it advisable, take the occasion, which Mr. Canning's note undoubtedly furnishes, to press upon him once more the policy as well as the justice of such a course. But I believe it, under all circumstances, to be more prudent to wait for your instructions, which must, I think, be very soon received.

I have already had the honor to send you two copies of the resolutions moved in the House of Commons by the Chancellor of the Exchequer, as tables of export duties, to which their bill should refer. I have enclosed in another letter, with which this will be accompanied, a copy of the bill itself, which will, however, undergo several alterations. These will be found to be explained (as far as I am acquainted with them) in the letter above mentioned.

I have the honor to be, &c.

WM. PINKNEY.

HON. JAMES MADISON, *Secretary of State.*

Mr. Canning to Mr. Pinkney.

SIR:

FOREIGN OFFICE, *February 22, 1808.*

I have already had the honor of assuring you, in conversation, of the disposition which is felt by the British Government, to give due weight to the observations which you have made to me, respecting the unfavorable impression likely (in your opinion) to be excited in the United States, by the duty proposed to be levied upon cotton, destined for the use of the enemy, but brought into the ports of this country, conformably to the tenor of the orders of council of the 11th November last.

You are already apprised that the principle, upon which the whole of this measure has been framed, is that of refusing to the enemy those advantages of commerce which he has forbidden to this country.

The simple method of enforcing this system of retaliation would have been to follow the example of the enemy, by prohibiting altogether all commercial intercourse between him and other States.

It was from considerations of indulgence to neutral trade, that the more mitigated measure of permitting intercourse under the restraints and regulations of a duty *in transitu* was adopted; and, being adopted with this view, it was not immediately felt by the British Government that there might be a distinction taken by neutral States, with respect to articles the produce of their own soil; and that while the commutation of prohibition into duty was acknowledged as an indulgence, when applied to articles of foreign commerce, of which they were only the carriers, it might be considered as an invidious imposition when applied to their own productions.

From the moment that this distinction has been explained to the British Government, they have been desirous of manifesting every attention to it; and if you, sir, had been possessed of the necessary authority from your Government, there would have been no difficulty in entering into a specific agreement with you upon the subject. In order, however, to obviate the objection in a great degree, I have the honor to inform you that it is intended to be proposed to Parliament, that all cotton, brought into this country, in conformity to the orders of council, should be absolutely prohibited from being exported to the territories of the enemy. But as you are not prepared to take upon yourself to say that in no case the option would be acceptable, an option will still be left to the neutral owner, either to acquiesce in the total prohibition, or to re-export the article, on the payment of such a duty as Parliament may judge it expedient to impose.

I flatter myself, sir, that this alteration in the legislative regulations, by which the orders of council are intended to be carried into execution, will be considered by you as a satisfactory evidence of the disposition of His Majesty's Government to consult the feelings as well as the interests of the United States, in any manner which may not impair the effect of that measure of commercial restriction, to which the necessity of repelling the injustice of his enemies has obliged His Majesty reluctantly to have recourse.

I have the honor to be, &c.

GEORGE CANNING.

WILLIAM PINKNEY, Esq. &c.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, February 23, 1808.

Mr. Pinkney presents his compliments to his excellency Mr. Canning, and has the honor to acknowledge the receipt of his note of yesterday, relative to an alteration on the subject of cotton, in the legislative regulations, by which the late orders in council are intended to be carried into execution, which Mr. Pinkney will hasten to transmit to his Government.

Mr. Pinkney requests Mr. Canning to accept assurances of his high consideration.

Mr. Erskine to Mr. Madison.

SIR:

WASHINGTON, February 23, 1808.

I have the honor to transmit to you the copies of certain orders of council which His Majesty has thought proper to issue in consequence of the hostile conduct of France towards the navigation and commerce of Great Britain and of neutral States.

His Majesty has been induced hitherto to forbear recurring to measures of this nature, by the expectation that the Government of the neutral States, who have been the objects of the French decrees, would have been awakened to a just sense of what they owe to their interests and own rights, and would have interposed with effect either to prevent the execution of the French decrees, or to procure their abrogation.

But His Majesty having been disappointed in this just expectation, and perceiving that the neutral nations, so far from opposing any effectual resistance, have submitted to whatever regulations France may have prescribed for giving effect to her decrees, can no longer refrain from having recourse to such measures as, by retorting on the enemy the inconveniences and evils produced by his injustice and violence, may afford the only remaining chance of putting an end to a system, the perseverance in which is no more injurious to His Majesty's dominions than to nations not parties to the war between Great Britain and France.

The principle upon which His Majesty finds himself compelled to proceed would justify a complete and unqualified retaliation on this part of the system, announced and acted upon by France, in respect to His Majesty's dominions; and His Majesty might, therefore, have declared in a state of rigorous and unmitigated blockade all the coasts and colonies of France and her allies. Such a measure the maritime power of Great Britain would have enabled His Majesty to enforce; nor would those nations which have acquiesced without effectual remonstrance in the French decree of blockade, have derived any right from the more perfect execution of a corresponding determination, on the part of His Majesty, to complain of His Majesty's enforcing that measure, which the enemy has executed imperfectly only from the want of the means of execution.

His Majesty, however, actuated by the same sentiments of moderation by which His Majesty's conduct has been uniformly governed, has been desirous of alleviating as much as possible the inconveniences necessarily brought upon neutral nations by a state of things so unfavorable to the commercial intercourse of the world, and has therefore anxiously considered what modifications it would be practicable to apply to the principle upon which he is compelled to act, which would not, at the same time that they might afford relief from the pressure of that principle upon neutral or friendly nations, impede or enfeeble its operation upon the enemy.

In pursuance of this desire, the order in council, which, if it had ended with the sixth paragraph, would have been no more than a strict and justifiable retaliation for the French decree of November, 1806, proceeds, as you will observe, sir, to provide many material exceptions which are calculated to qualify the operation of the order upon neutral nations in general, but which must be considered as most peculiarly favorable to the particular interests of the United States.

It will not escape you, sir, that by this order in council, thus modified and regulated, the direct intercourse of the United States with the colonies of the enemy is unrestrained; an indulgence, which, when it is considered to be (as it really is) not only a mitigation of that principle of just reprisal upon which the order itself is framed, but a deviation in favor of the United States, from that ancient and established principle of maritime law by which the intercourse with the colonies of an enemy in time of war is limited to the extent which that enemy was accustomed in time of peace to prescribe for it, and which, by reference to the conduct of France in a time of peace, would amount to a complete interdiction, cannot fail to afford to the American Government a proof of the amicable disposition of His Majesty towards the United States.

You will observe, sir, also, that the transportation of the colonial produce of the enemy from the United States to Europe, instead of being altogether prohibited, which would have been the natural retaliation for the rigorous and universal prohibition of British produce and manufactures by France, is freely permitted to the ports of Great Britain, with the power of subsequently re-exporting it to any part of Europe, under certain regulations.

The object of these regulations will be the establishment of such a protecting duty as shall prevent the enemy from obtaining the produce of his own colonies at a cheaper rate than that of the colonies of Great Britain. In this duty it is evident that America is no otherwise concerned than as being to make an advance to that amount for which it is in her own power amply to indemnify herself at the expense of the foreign consumer.

Another most important relaxation of the principles upon which His Majesty's orders proceed is, that which licenses the importation of all flour and meal, and all grains, tobacco, and other articles, the produce of the soil of America, with the exception of cotton, through the ports of His Majesty's dominions into those of his enemies, without the payment of any duty on the transit. This is, I beg leave to observe, an instance in which His Majesty has deprived this measure of its most efficacious and hurtful operation against the enemy, through motives of consideration for the interests of America. The reason why His Majesty could not feel himself at liberty, consistent with what was necessary for the execution of his purpose in any tolerable degree to allow this relaxation to apply to cotton, is to be found in the great extent to which France has pushed the manufacture of that article, and the consequent embarrassment upon her trade, which a heavy impost upon cotton, as it passes through Great Britain to France, must necessarily produce.

I cannot refrain from calling the attention of the Government of the United States to the contrast between the different modes in which His Majesty's orders and those of France are carried into execution. By His Majesty's, the utmost consideration is manifested for the interests of those nations whose commerce he is reluctantly compelled to impede, and ample time allowed for their becoming acquainted with the new regulations and conforming to them; whereas France, without any previous notice, and without any interval, applies her orders to trade already entered upon in ignorance of any such orders, and subjects to condemnation ships whose voyages, when commenced, were in strict conformity to all the regulations at that time promulgated by France.

Even with these and other modifications, His Majesty is not unaware that a measure extorted from him by the injustice of the enemy must inevitably produce inconveniences to the neutral parties who are affected by its operation. The right of His Majesty to resort to retaliation cannot be questioned. The suffering occasioned to neutral parties is incidental, and not of His Majesty's seeking. In the exercise of this undoubted right, His Majesty has studiously endeavored to avoid aggravating unnecessarily the inconveniences suffered by the neutral. And I am commanded by His Majesty especially to represent to the Government of the United States the earnest desire of His Majesty to see the commerce of the world restored once more to that freedom which is necessary for its prosperity, and his readiness to abandon the system which has been forced upon him, whenever the enemy shall retract the principles which have rendered it necessary. But His Majesty entertains the conviction, upon which alone his present measures are founded, that it would be vain to hope for such a retraction until the enemy shall himself have been made to feel a portion of the evils which he has endeavored to inflict upon others.

I have the honor to be, with great consideration and respect, your obedient servant,

D. M. ERSKINE.

The Hon. JAMES MADISON, *Secretary of State.*

Mr. Madison, Secretary of State, to Mr. Erskine.

DEPARTMENT OF STATE, *March 25, 1808.*

SIR:

Having laid before the President your letter of the 23d of February, explaining the character of certain British orders of council issued in November last, I proceed to communicate the observations and representations which will manifest to your Government the sentiments of the President on so deep a violation of the commerce and rights of the United States.

These orders interdict to neutral nations, or rather to the United States, now the only commercial nation in a state of neutrality, all commerce with the enemies of Great Britain, now nearly the whole commercial world, with certain exceptions only, and under certain regulations, but too evidently fashioned to the commercial, the manufacturing, and the fiscal policy of Great Britain; and, on that account, the more derogatory from the honor and independence of neutral nations.

The orders are the more calculated to excite surprise in the United States, as they have disregarded the remonstrances conveyed in my letters of the 20th and 29th March, 1807, against another order of council, issued on a similar plea, in the month of January, 1807. To those just remonstrances no answer was indeed ever given; whilst the order has been continued in its pernicious operation against the lawful commerce of the United States, and we now find added to it others instituting still more ruinous deprivations, without even the addition of any new pretext; and when, moreover, it is notorious that the order of January was of a nature greatly to overbalance in its effects any injuries to Great Britain that could be apprehended from the illegal operation of the French decree on which the order was to retaliate, had that decree in its illegal operation been actually applied to the United States and been acquiesced in by them.

The last orders, like that of January, proceed on the most unsubstantial foundation. They assume for fact an acquiescence of the United States in an unlawful application to them of the French decree; and they assume for a principle that the right of retaliation, accruing to one belligerent against a neutral, through whom an injury is done by another belligerent, is not to have for its measure that of the injury received, but may be exercised in any extent and under any modifications which may suit the pleasure or the policy of the complaining party.

The fact, sir, is unequivocally disowned. It is not true that the United States have acquiesced in any illegal operation of the French decree; nor is it even true that, at the date of the British orders of November 11, a single application of that decree to the commerce of the United States on the high seas can be presumed to have been known to the British Government.

The French decree in question has two distinct aspects; one clearly importing an intended operation within the territorial limits as a local law, the other apparently importing an intended operation on the high seas.

Under the first aspect, the decree, however otherwise objectionable, cannot be said to have violated the neutrality of the United States. If the governing Powers on the continent of Europe choose to exclude from their ports British property or British productions, or neutral vessels proceeding from British ports, it is an act of sovereignty which the United States have no right to controvert. The same sovereignty is exercised by Great Britain at all times, in peace as well as in war, towards her friends as well as her enemies. Her statute book presents a thousand illustrations.

It is only, therefore, under the other aspect of the decree, that it can have violated neutral rights; and this would have resulted from its execution on the high seas, whether on the pretext of nominal blockade, or with a view to enforce a domestic regulation against foreign vessels, not within the domestic precincts, but under the authority and protection of the law of nations.

Has, then, the French decree been executed on the high seas against the commerce of the United States with Great Britain? and have the United States acquiesced in the unlawful and injurious proceeding?

I state, sir, on undeniable authority, that the first instance in which that decree was put in force against the neutral rights of the United States, was that of the *Horizon*, an American ship, bound from Great Britain to Lima, wrecked within the territorial jurisdiction of France, but condemned under an exposition of the decree, extending to the high seas its operation against neutrals. This judicial decision took place as late as the 16th day of October, 1807, and was not officially known to the minister plenipotentiary of the United States at Paris, till some time in November. At the date, therefore, of the first order of Great Britain, no injury whatever had been done to her, though an aggression on the commerce of the United States. No presumption even had been sufficiently authorized that the express stipulations in the treaty of France with the United States would not exempt their commerce at least from the operation of any edict incompatible with them. At the date even of the latter orders of November 11th, it appears that the only aggression, which had then occurred, was pretty certainly unknown to the British Government, and could therefore have had no share in producing this alleged retaliation.

To the fact that the case of the ship *Horizon* was the first that occurred of an execution of the French decree on the high seas, I am able to add, that as late as the 30th November, no other case had been brought into the French court of prizes. From accounts which have lately appeared, it is more than probable that unlawful captures by French cruises have since taken place, but it remains to be known whether they are to be referred to the concurrence of the French Government in the judgment pronounced in the case of the *Horizon*, or not rather to a French decree of the 17th December last, professing to be a retaliation on the British orders of November 11th.

I state, with equal confidence, that at no time have the United States acquiesced in violations of their neutral rights, injurious to Great Britain, or any other belligerent nation. So far were they in particular from acquiescing in the French decree of November, 1806, that the moment it was known to the minister at Paris, he called for explanations of its meaning, in relation to the United States, which were favorable, and uncontradicted by the actual operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them, to the commerce of the United States; that no time was lost, after the decree came to the knowledge of the Government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the *Horizon*, in presenting to the French Government a remonstrance in terms which can never be censured for a defect of energy; and that by the first opportunity after that decision reached the President, the particular instructions required by it were forwarded to that minister. Nor is it to be forgotten, that, previous to the British orders of November, it had been explicitly communicated to the British Government, by the American minister at London, that explanations uncontradicted by any overt act had been given to our minister at Paris, which justified a reliance that the French decree would not be put in force against the United States; and that the communication was repeated to the British Government immediately on the publication of those orders.

What more could have been required on the part of the United States to obviate retaliating pretensions of any sort on the part of Great Britain? Retaliations are measures of rigor in all cases. Where they are to operate through a third and involuntary party, they will never be hastily resorted to by a magnanimous or a just Power, which will always allow to the third party its right to discuss the merits of the case, and will never permit itself to enforce its measures, without affording a reasonable time for the use of reasonable means for substituting another remedy. What would be the situation of neutral Powers, if the first blow levelled through them by one belligerent against another was to leave them no choice but between the retaliating vengeance of the latter, and an instant declaration of war against the former? Reason revolts against this as the sole alternative. The United States could no more be bound to evade the British orders by an immediate war with France, than they were bound to atone for the burning of the French ship of war, on the shore of North Carolina, by an immediate resort to arms against Great Britain.

With respect to the principle assumed by the British orders, it is perfectly clear that it could not justify them in the extent given to their operation, if the facts erroneously assumed could have been fully sustained.

Retaliation is a specific or equivalent return of injury, for injury received; and where it is to operate through the interests of a third party, having no voluntary participation in the injury received, the return ought, as already observed, to be inflicted with the most forbearing hand.

This is the language of common sense and the clearest equity. As the right to retaliate results merely from the wrong suffered, it cannot, in the nature of things, extend beyond the extent of the suffering. There may often be a difficulty in applying this rule with exactness, and a reasonable latitude may be allowable on that consideration. But a manifest and extravagant departure from the rule can find no apology.

What, then, is the extent of the injury experienced by Great Britain from the measures of her enemies, so far as the operation of those measures through the United States can render them in any sense responsible?

A mere declaration by a belligerent, without the intention or the means to carry it into effect against the rights and obligations of a neutral nation, and thence against the interests of another belligerent, could afford no pretext to the latter, to retaliate at the expense of the neutral. The declaration might give just offence to the neutral, but it would belong to him alone to decide on the course prescribed by the respect he owed to himself. No real damage having accrued to the belligerent, no indemnity could accrue.

For the same reason, a declaration of a belligerent, which he is known to be either not in a situation, or not to intend to carry but partially into execution against a neutral, to the injury of another belligerent, could never give more than a right to a commensurate redress against the neutral. All remaining unexecuted, and evidently not to be executed, is merely ostensible, working no injury to any, unless it be in the disrespect to the neutral, to whom alone it belongs to resent or disregard it.

Bring the case before us to this plain and equitable test. The French decree of November, 1806, undertook to declare the British isles in a state of blockade, to be enforced, if you please, against the neutral commerce of the United States, on the high seas, according to the faculty possessed for the purpose. As far as it was actually enforced, or an effect resulted from an apprehension that it could and would be enforced, it was an injury to Great Britain, for which, let it be supposed, the United States were answerable. On the other hand, as far as it was not enforced, and evidently either would not or could not be enforced, no injury was experienced by Great Britain, and no remedy could lie against the United States. Now, sir, it never was pretended that at the date of the first British order, issued in January, 1807, any injury had accrued to or was apprehended by Great Britain from an execution of the French decree against the commerce of the United States, on the theatre of their neutral rights; so far from it, that the order stands self condemned as a measure of retaliation, by expressly stating that the fleets

of France and her allies, instead of being able to enforce the blockade of the British isles, were themselves confined to their own ports by the entire superiority of the British navy; converting thus, by the strangest of reasonings, the security of Great Britain against injury from the French decree, into a title to commit injury on a neutral party. In the November orders, also, whilst it is admitted that the French decree could not be but imperfectly executed for want of means, it is asserted that the intention of the French decree, and not the injury accruing from its operation through the commerce of the United States, is the scale by which the retaliating injury against them is to be measured.

Such are the pretexts and such the principles on which one great branch of the lawful commerce of this country became a victim to the first British order, and on which the last orders are now sweeping from the ocean all its most valuable remains.

Against such an unprecedented system of warfare on neutral rights and national independence, the common judgment and common feelings of mankind must forever protest.

I touch, sir, with reluctance, the question on which of the belligerent sides the invasion of neutral rights had its origin. As the United States do not acquiesce in these invasions by either, there could be no plea for involving them in the controversy. But as the British orders have made the decree of France, declaring, contrary to the law of nations, the British islands in a state of blockade, the immediate foundation of their destructive warfare on our commerce, it belongs to the subject to remind your Government of the illegal interruptions and spoiliations suffered, previous to that decree, by the neutral commerce of the United States, under the proceedings of British cruisers and courts, and, for the most part, in consequence of express orders of the Government itself. Omitting proofs of inferior note, I refer to the extensive aggressions on the trade of the United States, founded on the plea of blockades, never legally established according to recognised definitions, to the still more extensive violations of our commerce with ports of her enemies not pretended to be in a state of blockade, and to the British order of council issued near the commencement of the existing war. This order, besides its general interpolation against the established law of nations, is distinguished by a special ingredient, violating that law as recognised by the course of decisions in the British courts. It subjects to capture and condemnation all neutral vessels returning with lawful cargoes, on the sole consideration that they had in their outward voyage deposited contraband of war at a hostile port.

If the commerce of the United States could, therefore, in any case, be reasonably made the victim and the sport of mutual charges and reproaches between belligerent parties, with respect to the priority of their aggressions on neutral commerce, Great Britain must look beyond the epoch she has chosen for illegal acts of her adversary, in support of the allegation on which she founds her retaliating edicts against our commerce.

But the United States are given to understand that the British Government has, as a proof of its indulgent and amicable disposition towards them, mitigated the authorized rigor it might have given to its measures, by certain exceptions peculiarly favorable to the commercial interests of the United States.

I forbear, sir, to express all the emotions with which such a language, on such an occasion, is calculated to inspire a nation which cannot for a moment be unconscious of its rights, nor mistake for an alleviation of wrongs regulations, to admit the validity of which would be to assume badges of humiliation never worn by an independent Power.

The first of these indulgencies is a commercial intercourse with the dependencies of the enemies of Great Britain, and it is considered as enhanced by its being a deviation, in favor of the United States, from the *ancient* and established principle of maritime law, prohibiting altogether such an intercourse in time of war.

Surely, sir, your Government, in assuming this principle in such terms, in relation to the United States, must have forgotten their repeated and formal protests against it, as these are to be found in the discussions and communications of their minister at London, as well as in explanations occasionally made on that subject to the British representative here. But permit me to ask more particularly, how it could have happened that the principle is characterized as an ancient and established one? I put the question the more freely, because it has never been denied that the principle, as asserted by your Government, was, for the first time, introduced during the war of 1756. It is, in fact, invariably cited and described in all judicial and other official transactions, "as the rule of 1756." It can have no pretension, therefore, to the title of an *ancient* rule.

And, instead of being an *established* rule or principle, it is well known that Great Britain is the only nation that has acted upon, or otherwise given a sanction to it. Nay, it is not even an established principle in the practice of Great Britain herself. When first applied in the war of 1756, the *legality* of a *neutral* trade with enemies' colonies was not contested by it. In certain cases only of the colonial trade, the allegation was, that the presumptive evidence arising from circumstances against the *bona fide* neutrality of the ownership justified the condemnation as of enemies' property. If the rule of condemnation was afterwards, during that war, converted into the principle now asserted, it could not possibly have been in operation, in its new shape, more than a very few years. During the succeeding war of 1778, it is admitted by every British authority, that the principle was never brought into operation. It may be regarded, in fact, as having been silently abandoned. And within the period of war, since its commencement in 1793, the manner in which the principle has been alternately contracted and extended, explained sometimes in one way, sometimes in another, rested now on this foundation, now on that, is no secret to those who have attended to its history and progress in the British orders of council and the British Courts of Admiralty.

With the exception, therefore, of a period, the last in modern times from which authentic precedents of maritime law will be drawn, and throughout which the United States, more interested in the question than any other nation, have uniformly combated the innovation, the principle has not in the British tribunals been in operation for a longer term than three, four, or five years, whilst in no others has it ever made its appearance, but to receive a decision protesting against it.

Such is the antiquity, and such the authority, of a principle, the deviations from which are held out as so many favors consoling the United States for the wide spread destruction of their legitimate commerce.

What must be said as to the other exceptions, which seem to have been viewed as claims on the gratitude of the United States? Is it an indulgence to them in carrying on their trade with the whole continent of Europe, to be laid under the necessity of going first to a British port, to accept a British license, and to pay a tribute to the British exchequer, as if we had been reduced to the colonial situation which once imposed these monopolizing restraints?

What, again, must be said as to the other features which we see blended on the face of these regulations? If the policy of them be to subject an enemy to privations, why are channels opened for a British trade with them which are shut to a neutral trade? If, in other cases, the real object be to admit a neutral trade with the enemy, why is it required that neutral vessels shall perform the ceremony of passing through a British port, when it can have no imaginable effect but the known and inevitable one of prohibiting the admission of the trade into the port of destination?

I will not ask why a primary article of our productions and exports, cotton-wool, is to be distinguished, in its transit, by a heavy impost not imposed on other articles, because it is frankly avowed, in your explanation of the orders, to be intended as an encouragement to British manufactures, and a check to the rival ones of France. I suppress, also, though without the same reason for it, the inquiry why less rigorous restrictions are applied to the trade of the Barbary Powers than are enforced against that of a nation, such as the United States, and in relations such as have existed between them and Great Britain.

I cannot, however, pass without notice the very unwarrantable innovations contained in the two last of the orders. In one of them, a certificate of the local origin of a cargo, although permitted in the port of departure, and required in the port of destination, by regulations purely domestic in both, and strictly analogous in principle to regulations in the commercial code of Great Britain, is made a cause of capture on the high seas, and of condemnation in her maritime courts. In the other order, the sale of a merchant ship by a belligerent owner to a neutral, although a transaction as legal, when fair, as a dealing in any other article, is condemned by a general rule, without an atom of proof or of presumption, that the transfer in the particular case is fraudulent, and the property therefore left in an enemy.

In fine, sir, the President sees in the edicts communicated by you, facts assumed which did not exist, principles asserted which never can be admitted, and, under the name of retaliation, measures transcending the limits reconcilable with the facts and the principles, as if both were as correct as they are unfounded. He sees, moreover, in the modifications of this system, regulations violating equally our neutral rights and our national sovereignty. He persuades himself, therefore, that your Government will see in the justice of the observations now made, in addition to those I had the honor verbally to state to you in the first instance, that the United States are well warranted in looking for a speedy revocation of a system which is every day augmenting the mass of injury, for which the United States have the best of claims to redress.

I have the honor to be, with great respect and consideration, sir, your obedient servant,

JAMES MADISON.

The Hon. DAVID M. ERSKINE, Esq.

Mr. Rose to Mr. Madison.

SIR:

WASHINGTON, January 26, 1808.

Having had the honor to state to you, that I am expressly precluded by my instructions from entering upon any negotiation for the adjustment of the differences arising from the encounter of His Majesty's ship *Leopard* and the frigate of the United States the *Chesapeake*, as long as the proclamation of the President of the United States of the 2d of July, 1807, shall be in force, I beg leave to offer you such further explanation of the nature of that condition, as appears to me calculated to place the motives, under which it has been enjoined to me, thus to bring it forward in their true light.

In whatever spirit that instrument was issued, it is sufficiently obvious that it has been productive of considerable prejudice to His Majesty's interests, as confided to his military and other servants in the United States, to the honor of his flag, and to the privileges of his ministers accredited to the American Government. From the operation of this proclamation have unavoidably resulted effects of retaliation and self-assumed redress, which might be held to affect materially the question of the reparation due to the United States, especially inasmuch as its execution has been persevered in after the knowledge of His Majesty's early, unequivocal, and unsolicited disavowal of the unauthorized act of Admiral Berkeley, his disclaimer of the pretension exhibited by that officer to search the national ships of a friendly Power for deserters, and the assurances of prompt and effectual reparation, all communicated without loss of time to the minister of the United States in London, so as not to leave a doubt as to His Majesty's just and amicable intentions. But His Majesty, making every allowance for the irritation which was excited, and the misapprehensions which existed, has authorized me to proceed in the negotiation upon the sole discontinuance of measures of so inimical a tendency.

You are aware, sir, that any delay which may have arisen in the adjustment of the present differences, is not imputable to an intention of procrastination on the part of His Majesty's Government; on the contrary, its anxiety to terminate, as expeditiously as possible, the discussion of a matter so interesting to both nations has been evinced by the communication made by Mr. Secretary Canning to Mr. Monroe, before that minister of the United States was even informed of the encounter, and now by the promptitude with which it has despatched a special mission to this country for that express purpose.

I can have no difficulty in stating anew to you, with respect to the provisions of my instructions, calculated as they are to insure an honorable adjustment of the important point in question, and to remove the impressions which the late cause of difference may have excited in the minds of this nation, that I am authorized to express my conviction that they are such as will enable me to terminate the negotiation amicably and satisfactorily.

Having learned from you, sir, that it is solely as a measure of precaution the provisions of the proclamation are now enforced, I must persuade myself that a due consideration of His Majesty's conduct in this transaction will remove, as well any misapprehensions which may have been entertained respecting His Majesty's dispositions towards the United States, as the grounds upon which that enforcement rests; and the more so, as it has long been a matter of notoriety, that the orders issued to the officers of His Majesty's navy, in his proclamation of the 16th October, 1807, afforded ample security that no attempt can again be made to assert a pretension which His Majesty from the first disavowed.

I may add, that if His Majesty has not commanded me to enter into the discussion of the other causes of complaint, stated to arise from the conduct of his naval commanders in these seas, prior to the encounter of the *Leopard* and the *Chesapeake*, it was because it has been deemed improper to mingle them, whatever may be their merits, with the present matter, so much more interesting and important in its nature; an opinion originally and distinctly expressed by Mr. Monroe, and assented to by Mr. Secretary Canning. But if upon this more recent and more weighty matter of discussion, upon which the proclamation mainly and materially rests, His Majesty's amicable intentions are unequivocally evinced, it is sufficiently clear that no hostile disposition can be supposed to exist on his part, nor can any views be attributed to his Government, such as requiring to be counteracted by measures of precaution, could be deduced from transactions which preceded that encounter.

In offering these elucidations, I should observe, that the view in which I have brought forward the preliminary which I have specified, is neither to demand concession or redress, as for a wrong committed: into such the claim to a discontinuance of hostile provisions cannot be construed; but it is simply to require a cessation of enactments injurious in their effects, and which, if persisted in, especially after these explanations, must evince a spirit

of hostility, under which His Majesty could not authorize the prosecution of the present negotiation, either consistently with his own honor, or with any well-founded expectation of the renewal or duration of that good understanding between the two countries which it is equally the interest of both to foster and to ameliorate.

I have the honor to be, with the highest consideration, sir, your most obedient and most humble servant,
G. H. ROSE.

Mr. Madison to Mr. Rose.

SIR:

DEPARTMENT OF STATE, *March 5, 1808.*

I have had the honor to receive and lay before the President your letter of the 26th January, in which you state that you are "expressly precluded by your instructions from entering upon any negotiation for the adjustment of the differences arising from the encounter of His Britannic Majesty's ship *Leopard* and the frigate of the United States the *Chesapeake*, as long as the proclamation of the President of the 2d of July, 1807, shall be in force."

This demand, sir, might justly suggest the simple answer, that, before the proclamation of the President could become a subject of consideration, satisfaction should be made for the acknowledged aggression which preceded it. This is evidently agreeable to the order of time, to the order of reason, and, it may be added, to the order of usage, as maintained by Great Britain, whenever, in analogous cases, she has been the complaining party.

But as you have subjoined to the preliminary demand certain explanations, with a view, doubtless, to obviate such an answer, it will best accord with the candor of the President to meet them with such a review of the whole subject as will suggest the solid grounds on which he regards such a demand as inadmissible.

I begin with the occurrences from which the proclamation of July 2d resulted. These are in general terms referred to by the instrument itself. A more particular notice of the most important of them will here be in place.

Passing over, then, the habitual but minor irregularities of His Britannic Majesty's ships of war in making the hospitalities of our ports subservient to the annoyance of our trade, both outward and inward, a practice not only contrary to the principles of public law, but expressly contrary to British ordinances enforced during maritime wars to which she bore a neutral relation, I am constrained, unwelcome as the task is, to call your attention to the following more prominent instances.

In the summer of the year 1804, the British frigate the *Cambrian*, with other cruisers in company, entered the harbor of New York. The commander, Captain Bradley, in violation of the port laws relating both to health and revenue, caused a merchant vessel just arrived, and confessedly within the limits and under the authority of the United States, to be boarded by persons under his command, who, after resisting the officers of the port in the legal exercise of their functions, actually impressed and carried off a number of seamen and passengers into the service of the ships of war. On an appeal to his voluntary respect for the laws, he first failed to give up the offender to justice, and finally repelled the officer charged with the regular process for the purpose.

This procedure was not only a flagrant insult to the sovereignty of the nation, but an infraction of its neutrality also, which did not permit a belligerent ship thus to augment its force within the neutral territory.

To finish the scene, this commander went so far as to declare, in an official letter to the minister plenipotentiary of His Britannic Majesty, and by him communicated to this Government, that he considered his ship, whilst lying in the harbor of New York, as having dominion around her within the distance of her buoys.

All these circumstances were duly made known to the British Government, in just expectation of honorable reparation. None has ever been offered. Captain Bradley was advanced from his frigate to the command of a ship of the line.

At a subsequent period, several British frigates, under the command of Captain Whitby, of the *Leander*, pursuing the practice of vexing the inward and outward trade of our ports, and hovering, for that purpose, about the entrance of that of New York, closed a series of irregularities with an attempt to arrest a coasting vessel, on board which an American citizen was killed by a cannon ball, which entered the vessel whilst within less than a mile from the shore.

The blood of a citizen thus murdered, in a trade from one to another port of his own country, and within the sanctuary of its territorial jurisdiction, could not fail to arouse the sensibility of the public, and to make a solemn appeal to the justice of the British Government. The case was presented moreover to that Government by this in the accent which it required, and with due confidence that the offender was to receive the exemplary punishment which he deserved. That there might be no failure of legal proof of a fact sufficiently notorious of itself, unexceptionable witnesses to establish it were sent to Great Britain, at the expense of the United States.

Captain Whitby was, notwithstanding, honorably acquitted; no animadversions took place on any other officer belonging to the squadron; nor has any apology or explanation been made since the trial was over, as a conciliatory offering to the disappointment of this country at such a result.

A case of another character occurred in the month of September, 1806. The *Impetueux*, a French ship of seventy-four guns, when aground within a few hundred yards of the shore of North Carolina, and therefore visibly within the territorial jurisdiction and hospitable protection of the United States, was fired upon, boarded, and burnt, by three British ships of war, under the command of Captain Douglas. Having completed this outrage on the sovereignty and neutrality of the United States, the British commander felt no scruple in proceeding thence into the waters near Norfolk, nor, in the midst of the hospitalities enjoyed by him, to add to what had passed a refusal to discharge from his ships impressed citizens of the United States, not denied to be such, on the plea that the Government of the United States had refused to surrender to the demand of Admiral Berkeley certain seamen alleged to be British deserters; a demand which it is well understood your Government disclaims any right to make.

It would be very superfluous to dwell on the features which mark this aggravated insult. But I must be permitted to remind you, that in so serious a light was a similar violation of neutral territory, by the destruction of certain French ships on the coast of Portugal by a British squadron, under the command of Admiral Boscawen, regarded by the court of Great Britain, that a minister extraordinary was despatched for the express purpose of expiating the aggression on the sovereignty of a friendly Power.

Lastly, presents itself the attack by the British ship of war *Leopard* on the American frigate *Chesapeake*, a case too familiar in all its circumstances to need a recital of any part of them. It is sufficient to remark, that the conclusive evidence which this event added to that which had preceded, of the uncontrolled excesses of the British naval commanders, in insulting our sovereignty and abusing our hospitality, determined the President to extend to all British armed ships the precaution heretofore applied to a few by name, of interdicting to them the use and privileges of our harbors and waters.

This was done by his proclamation of July 2, 1807, referring to the series of occurrences, ending with the aggression on the frigate *Chesapeake*, as the considerations requiring it. And if the apprehensions from the licentious spirit of the British naval commanders, thus developed and uncontrolled, which led to this measure of

precaution, could need other justification than was afforded by what had passed, it would be amply found in the subsequent conduct of the ships under the command of the same Captain Douglas.

This officer, neither admonished by reflections on the crisis produced by the attack on the Chesapeake, nor controlled by respect for the law of nations or the laws of the land, did not cease within our waters to bring to, by firing at, vessels pursuing their regular course of trade; and, in the same spirit which had displayed itself in the recent outrage committed on the American frigate, he not only indulged himself in hostile threats and indications of a hostile approach to Norfolk, but actually obstructed our citizens in the ordinary communication between that and neighboring places. His proceedings constituted, in fact, a blockade of the port, and as real an invasion of the country, according to the extent of his forces, as if troops had been debarked, and the town besieged on the land side.

Was it possible for the Chief Magistrate of a nation, who felt for its rights and its honor, to do less than interpose some measure of precaution, at least against the repetition of enormities which had been so long uncontrolled by the Government whose officers had committed them, and which had at last taken the exorbitant shape of hostility and of insult, seen in the attack on the frigate Chesapeake? Candor will pronounce that less could not be done; and it will as readily admit that the proclamation comprising that measure could not have breathed a more temperate spirit, nor spoken in a more becoming tone. How far it has received from those whose intrusions it prohibited the respect due to the national authority, or been made the occasion of new indignities, needs no explanation.

The President, having interposed this precautionary interdict lost no time in instructing the ministers plenipotentiary of the United States to represent to the British Government the signal aggression which had been committed on their sovereignty and their flag, and to require the satisfaction due for it; indulging the expectation that His Britannic Majesty would at once perceive it to be the truest magnanimity, as well as the strictest justice, to offer that prompt and full expiation of an acknowledged wrong which would re-establish and improve, both in fact and in feeling, the state of things which it had violated.

This expectation was considered as not only honorable to the sentiments of His Majesty, but was supported by known examples, in which, being the complaining party, he had required and obtained, as a preliminary to any counter complaints whatever, a precise replacement of things, in every practicable circumstance, in their pre-existing situation.

Thus, in the year 1764, Bermudians, and other British subjects, who had, according to annual custom, taken possession of Turk's island for the season of making salt, having been forcibly removed, with their vessels and effects, by a French detachment from the island of St. Domingo, to which Turk's island was alleged to be an appurtenance, the British ambassador at Paris, in pursuance of instructions from his Government, demanded, as a satisfaction for the violence committed, that the proceedings should be disavowed, the intention of acquiring Turk's island disclaimed, orders given for the immediate abandonment of it on the part of the French, every thing restored to the condition in which it was at the time of the aggression, and reparation made of the damages which any British subjects should be found to have sustained, according to an estimation to be settled between the Governors of St. Domingo and Jamaica. A compliance with the whole of this demand was the result.

Again: In the year 1789 certain English merchants having opened a trade at Nootka Sound, on the northwest coast of America, and attempted a settlement at that place, the Spaniards, who had long claimed that part of the world as their exclusive property, despatched a frigate from Mexico, which captured two English vessels engaged in the trade, and broke up the settlement on the coast. The Spanish Government was the first to complain, in this case, of the intrusions committed by the British merchants. The British Government, however, demanded that the vessels taken by the Spanish frigate should be restored, and adequate satisfaction granted, previous to any other discussion.

This demand prevailed, the Spanish Government agreeing to make full restoration of the captured vessels, and to indemnify the parties interested in them for the losses sustained. They restored also the buildings and tracts of land, of which the British subjects had been dispossessed. The British, however, soon gave a proof of the little value they set on the possession by a voluntary dereliction, under which it has since remained.

The case which will be noticed last, though of a date prior to the case of Nootka Sound, is that of Falkland's islands. These islands lie about one hundred leagues eastward of the Straits of Magellan. The title to them had been a subject of controversy among several of the maritime nations of Europe. From the position of the islands, and other circumstances, the pretension of Spain bore an advantageous comparison with those of her competitors. In the year 1770 the British took possession of Port Egmont, in one of the islands, the Spaniards being at the time in possession of another port, and protesting against a settlement by the British. The protest being without effect, ships and troops were sent from Buenos Ayres, by the Governor of that place, which forcibly dispossessed and drove off the British settlers.

The British Government, looking entirely to the dispossession by force, demanded, as a specific condition of preserving harmony between the two courts, not only the disavowal of the Spanish proceedings, but that the affairs of that settlement should be immediately restored to the precise state in which they were previous to the act of dispossession. The Spanish Government made some difficulties, requiring particularly a disavowal, on the part of Great Britain, of the conduct of her officers at Falkland's islands, which, it was alleged, gave occasion to the steps taken by the Spanish Governor, and proposing an adjustment by mutual stipulations in the ordinary form.

The reply was, that the moderation of His Britannic Majesty, having limited his demand to the smallest reparation he could accept for the injury done, nothing was left for discussion but the mode of carrying the disavowal and restitution into execution; *reparation losing its value if it be conditional*, and to be obtained by any stipulation whatever from the party injured.

The Spanish Government yielded. The violent proceedings of its officers were disavowed; the fort, the port, and every thing else were agreed to be immediately restored to the precise situation which had been disturbed; and duplicates of orders, issued for the purpose to the Spanish officers, were delivered into the hands of one of the British principal Secretaries of State. Here, again, it is to be remarked, that satisfaction having been made for the forcible dispossession, the islands lost their importance in the eyes of the British Government, and were, in a short time, finally evacuated, and Port Egmont remains, with every other part of them, in the hands of Spain.

Could stronger pledges have been given, than are here found, that an honorable and instant reparation would be made in a case, differing no otherwise from those recited, than as it furnished to the same monarch of a great nation opportunity to prove that, adhering always to the same immutable principles, he was as ready to do right to others as to require it for himself.

Returning to the instructions given to the minister plenipotentiary of the United States at London, I am to observe, that the President thought it just and expedient to insert, as a necessary ingredient, in the adjustment of the outrage committed on the American frigate, a security against the future practice of British naval commanders in impressing from merchant vessels of the United States, on the high seas, such of their crews as they might undertake to denominate British subjects.

To this association of the two subjects, the President was determined, first, by his regarding both as resting on kindred principles, the immunity of private ships, with the known exceptions made by the law of nations, being as well established as that of public ships; and, there being no pretext for including in these exceptions the impressment (if it could be freed from its enormous and notorious abuse) of the subjects of a belligerent by the officers of that belligerent. The rights of a belligerent against the ships of a neutral nation accrue merely from the relation of the neutral to the other belligerent, as in conveying to him contraband of war, or in supplying a blockaded port.

The claim of a belligerent to search for and seize, on board neutral vessels on the high seas, persons under his allegiance, does not, therefore, rest on any belligerent right under the law of nations, but on a prerogative derived from municipal law, and involves the extravagant supposition that one nation has a right to execute, at all times, and in all cases, its municipal laws and regulations on board the ships of another nation, not being within its territorial limits.

The President was led to the same determination, secondly, by his desire of converting a particular incident into an occasion for removing another and more extensive source of danger to the harmony of the two countries; and, thirdly, by his persuasion that the liberality of the propositions, authorized with this view, would not fail to induce the ready concurrence of His Britannic Majesty; and that, the more extensive source of irritation and perplexity being removed, a satisfactory adjustment of the particular incident would be the less difficult. The President still thinks that such would have been the tendency of the mode for which he had provided; and he cannot, therefore, but regret that the door was shut against the experiment by the peremptory refusal of Mr. Canning to admit it into discussion, even in the most informal manner, as was suggested by Mr. Monroe.

The President felt the greater right as the step he had taken towards a more enlarged and lasting accommodation became thus a bar to the adjustment of the particular and recent aggression which had been committed against the United States. He found, however, an alleviation in the signified purpose of His Britannic Majesty to charge with this adjustment a special mission to the United States, which, restricted as it was, seemed to indicate a disposition from which a liberal and conciliatory arrangement of one great object at least might be confidently expected.

In this confidence, your arrival was awaited with every friendly solicitude, and our first interview having opened the way by an acquiescence in the separation of the two cases insisted on by His Britannic Majesty, notwithstanding the strong grounds on which they had been united by the President, it was not to be doubted that a tender of the satisfaction claimed by the United States for a distinguished and an acknowledged insult by one of his officers would immediately follow.

It was not, therefore, without a very painful surprise that the error of this expectation was discovered. Instead of the satisfaction due from the original aggression, it was announced that the first step towards the adjustment must proceed from the party injured; and your letter now before me formally repeats that, as long as the proclamation of the President, which issued on the 2d July, 1807, shall be in force, it will be an insuperable obstacle to a negotiation, even on the subject of the aggression which preceded it; in other words, that the proclamation must be put out of force before an adjustment of the aggression can be taken into discussion.

In explaining the grounds of this extraordinary demand, it is alleged to be supported by the consideration that the proceeding and pretension of the offending officer has been disavowed; that general assurances are given of a disposition and intention in His Britannic Majesty to make satisfaction; that a special minister was despatched with promptitude, for the purpose of carrying into effect the disposition; and that you have a personal conviction that the particular terms, which you are not at liberty previously to disclose, will be deemed by the United States satisfactory.

With respect to the disavowal, it would be unjust not to regard it as a proof of candor and amity towards the United States, and as some presage of the voluntary reparation which it implied to be due. But the disavowal can be the less confounded with the reparation itself, since it was sufficiently required by the respect which Great Britain owed to her own honor; it being impossible that an enlightened Government, had hostility been meditated, would have commenced it in such a manner, and in the midst of existing professions of peace and friendship. She owed it, also, to consistency with the disavowal, on a former occasion, in which the pretension had been enforced by a British squadron against the sloop of war *Baltimore*, belonging to the United States; and, finally, to the interest which Great Britain has, more than any other nation, in disclaiming a principle which would expose her superior number of ships of war to so many indignities from inferior navies.

As little can the general assurances that reparation would be made claim a return which could properly follow the actual reparation only. They cannot amount to more than a disposition, or at most a promise, to do what the aggressor may deem a fulfilment of his obligation. They do not prove even a disposition to do what may be satisfactory to the injured party, who cannot have less than an equal right to decide on the sufficiency of the redress.

In despatching a special minister for the purpose of adjusting the difference, the United States ought cheerfully to acknowledge all the proof it affords, on the part of His Britannic Majesty, of his pacific views towards them, and of his respect for their friendship. But whilst they could not, under any circumstances, allow to the measure more than a certain participation in an honorable reparation, it is to be recollected that the avowed and primary object of the mission was to substitute, for the more extended adjustment proposed by the United States at London, a separation of the subjects, as preferred by His Britannic Majesty; and you well know, sir, how fully this object was accomplished.

With respect to the personal conviction which you have expressed, that the terms which you decline to disclose would be satisfactory to the United States, it is incumbent on me to observe, that, with the highest respect for your judgment, and the most perfect confidence in your sincerity, an insuperable objection manifestly lies to the acceptance of a personal and unexplained opinion in place of a disclosure which would enable this Government to exercise its own judgment in a case affecting so essentially its honor and its rights. Such a course of proceeding would be without example; and there can be no hazard in saying, that one will never be afforded by a Government which respects itself as much as yours justly does; and, therefore, can never be reasonably expected from one which respects itself as much as this has a right to do.

I forbear, sir, to enlarge on the intrinsic incongruity of the expedient proposed. But I must be allowed to remark, as an additional admonition of the singular and mortifying perplexity in which a compliance might involve the President, that there are, in the letter of Mr. Canning, communicating to Mr. Monroe the special mission to the United States, pregnant indications that other questions and conditions may have been contemplated, which would be found utterly irreconcilable with the sentiments of this nation.

If neither any nor all of these considerations can sustain the preliminary demand made in your communication, it remains to be seen whether such a demand rests with greater advantage on the more precise ground on which you finally seem to place it.

The proclamation is considered as a hostile measure, and a discontinuance of it as due to the discontinuance of the aggression which led to it.

It has been sufficiently shown that the proclamation, as appears on the face of it, was produced by a train of occurrences terminating in the attack on the American frigate, and not by this last alone. To a demand, therefore, that the proclamation be revoked, it would be perfectly fair to oppose a demand that redress be first given for the numerous irregularities which preceded the aggression on the American frigate, as well as for this particular aggression, and that effectual control be interposed against repetitions of them. And as no such redress has been given for the past, notwithstanding the lapse of time which has taken place, nor any such security for the future, notwithstanding the undiminished reasonableness of it, it follows that a continuance of the proclamation would be consistent with an entire discontinuance of one only of the occurrences from which it proceeded.

But it is not necessary to avail the argument of this view of the case, although of itself entirely conclusive. Had the proclamation been founded on the single aggression committed on the Chesapeake, and were it admitted that the discontinuance of that aggression merely gave a claim to the discontinuance of the proclamation, the claim would be defeated by the incontestable fact that that aggression has not been discontinued. It has never ceased to exist, and is in existence at this moment. Need I remind you, sir, that the seizure and asportation of the seamen belonging to the crew of the Chesapeake entered into the very essence of that aggression; that, with an exception of the victim to a trial forbidden by the most solemn considerations, and greatly aggravating the guilt of its author, the seamen in question are still retained; and, consequently, that the aggression, if in no other respect, is by that act alone continued and in force?

If the views which have been taken of the subject have the justness which they claim, they will have shown that on no ground whatever can an annulment of the proclamation of July 2 be reasonably required as a preliminary to the negotiation with which you are charged. On the contrary, it clearly results, from a recurrence to the causes and objects of the proclamation, that, as was at first intimated, the strongest sanctions of Great Britain herself would support the demand that, previous to a discussion of the proclamation, due satisfaction should be made to the United States; that this satisfaction ought to extend to all the wrongs which preceded and produced that act; and that, even limiting the merits of the question to the single relation of the proclamation to the wrong committed in the attack on the American frigate, and deciding the question on the principle that a discontinuance of the latter required of right a discontinuance of the former, nothing appears that does not leave such a preliminary destitute of every foundation which could be assumed for it.

With a right to draw this conclusion, the President might have instructed me to close this communication with the reply stated in the beginning of it, and perhaps in taking this course he would only have consulted a sensibility to which most Governments would, in such a case, have yielded. But adhering to the moderation by which he has been invariably guided, and anxious to rescue the two nations from the circumstances under which an abortive issue to your mission necessarily places them, he has authorized me, in the event of your disclosing the terms of reparation which you believe will be satisfactory, and on its appearing that they are so, to consider this evidence of the justice of His Britannic Majesty as a pledge for an effectual interposition with respect to all the abuses against a recurrence of which the proclamation was meant to provide, and to proceed to concert with you a revocation of that act, bearing the same date with the act of reparation to which the United States are entitled.

I am not unaware, sir, that, according to the view which you appear to have taken of your instructions, such a course of proceeding has not been contemplated by them. It is possible, nevertheless, that a re-examination, in the spirit in which I am well persuaded it will be made, may discover them to be not inflexible to a proposition, in so high a degree liberal and conciliatory. In every event, the President will have manifested his willingness to meet your Government on a ground of accommodation, which spares to its feelings, however misapplied he may deem them, every concession not essentially due to those which must be equally respected, and, consequently, will have demonstrated that the very ineligible posture given to so important a subject in the relations of the two countries, by the unsuccessful termination of your mission, can be referred to no other source than the rigorous restrictions under which it was to be executed.

I make no apology, sir, for the long interval between the date of your letter and that under which I write. It is rendered unnecessary by your knowledge of the circumstances to which the delay is to be ascribed.

With high consideration and respect, I have the honor to be, sir, your most obedient servant,

JAMES MADISON.

GEORGE H. ROSE, Esq. *His Britannic Majesty's Minister, &c. &c. &c.*

Mr. Rose to Mr. Madison.

SIR:

WASHINGTON, *March 17th*, 1808.

Being deeply impressed with the sense of His Majesty's anxiety that full effect should be given to those views of justice and moderation, by which his conduct has been regulated through the whole of the unfortunate transaction whence the present differences have arisen, and of the disappointment with which he would learn the frustration of his just and equitable purposes, I have felt it incumbent upon me, on the receipt of the letter which you did me the honor to address to me on the 5th instant, to apply anew to this matter the most ample and serious consideration. It is with the most painful sensations of regret that I find myself, on the result of it, under the necessity of declining to enter into the terms of negotiation, which, by direction of the President of the United States, you therein offer. I do not feel myself competent, in the present instance, to depart from those instructions which I stated in my letter of the 26th of January last, and which preclude me from acceding to the condition thus proposed.

I should add, that I am absolutely prohibited from entering upon matters unconnected with the specific object I am authorized to discuss, much less can I thus give any pledge concerning them. The condition suggested, moreover, leads to the direct inference that the proclamation of the President of the United States of the 2d of July, 1807, is maintained either as an equivalent for reparation for the time being, or as a compulsion to make it.

It is with the more profound regret that I feel myself under the necessity of declaring that I am unable to act upon the terms thus proposed, as it becomes my duty to inform you, in conformity to my instructions, that, on the rejection of the demand stated in my former letter, on the part of His Majesty, my mission is terminated. And as His Majesty's Government, in providing me with those instructions, did not conceive that, after the declaration of his sentiments respecting the affair of the Chesapeake was made known to this Government, the state of any transactions pending or unterminated between the two nations could justify the perseverance in the enforcement of the President's proclamation, I can exercise no discretion on this point.

As on a former occasion I detailed, though minutely, the motives for that demand on the part of His Majesty, which I with so much concern learn to be deemed inadmissible by the Government of the United States, I should here abstain from an exposition of them, which visibly can have no further effect upon the negotiation, if I did not deem it essential that they should not be left under any misapprehension which I might be able to remove. I shall,

therefore, take a short review of the transaction which has given rise to these discussions, in order the more correctly to determine the soundness of the principles upon which that demand is made.

Certain deserters from His Majesty's navy, many of them his natural born subjects, having entered into the service of the United States, were repeatedly and fruitlessly demanded by the British officers of the recruiting officers of the United States, but were retained in their new service. As it was a matter of notoriety that several of these deserters were on board the frigate of the United States, the Chesapeake, they were demanded of that frigate on the high seas by His Majesty's ship Leopard, and all knowledge of their presence on board being denied, she was attacked, and four of them, one avowedly a native Englishman, were taken out of her. Without being deterred by the consideration of how far circumstances hostile in their nature had provoked, though they undoubtedly by no means justified this act of the British officer, His Majesty's Government directed that a positive disavowal of the right of search asserted in this case, and of the act of the British officer as being unauthorized, and a promise of reparation, should be conveyed to the American minister in London, before he had made any representation by order of the United States. This disavowal, made on the 2d of August last, was transmitted by him to his Government before the 6th of that month; but before Mr. Monroe had received his orders to demand reparation, His Majesty learned, with what surprise it is needless to dwell upon, that the President of the United States had interdicted, by proclamation bearing date the 2d of July, 1807, the entry of all their ports to the whole of his navy; this surprise was certainly increased, when, in the letter delivered by that minister to require redress for the wrong, although it went into details unconnected with it, not only no concern was expressed on the part of the United States at having felt themselves compelled to enact measures of so much injury and indignity towards a friendly Power, but no mention was made of the causes of such measures being resorted to, or even of the fact of their having been adopted. In addition to the embarrassment arising from these circumstances, and the insufficiency of the explanations subsequently given to Mr. Canning, the introduction of a subject foreign to that of the complaint became the main impediment to the success of the discussions which took place in London. When I had the honor to open the negotiation with you, sir, as I had learned that the President's proclamation was still in force, it became my duty, conformably to my instructions, to require its recall as a preliminary to further discussion; had it not been in force, I was not ordered to have taken it into consideration in the adjustment of reparation; and it was considered as hardly possible that it should not have been recalled immediately upon the knowledge of His Majesty's disavowal of the attack upon the Chesapeake, as an unauthorized act. But His Majesty could not suffer the negotiation to be carried on, on his behalf, under an interdict, which, even if justifiable in the first moment of irritation, cannot be continued after the declaration of His Majesty's sentiments upon the transaction, except in a spirit of hostility.

It might have been fairly contended that, in the first instance, the exercise of such an act of power, before reparation was refused or unduly protracted, was incompatible with the purposes and essence of a pacific negotiation and with a demand of redress through that channel; but such have been His Majesty's conciliatory views, that this argument has not been insisted on, although it might now be the more forcibly urged, as it appears that the Government of the United States was from the first sensible, that even had hostility been meditated by the British Government, it would not have commenced it in such a manner. But the exception taken is to the enforcement, continued up to the present time, of measures highly unfriendly in their tendency, persisted in not only after the disavowal in question; the promise of the proffer of suitable reparation, and the renewed assurances of His Majesty's amicable disposition, but after security has been given in a public instrument, bearing date the 16th of October, 1807, that the claim to the seizure of deserters from the national ships of other Powers cannot again be brought forward by His Majesty's naval officers. It is unnecessary to dwell upon the injury and indignity to which His Majesty's service is exposed, both as touching the freedom and security of correspondence of his agents and accredited ministers in the United States, or as resulting from a measure which in time of war excludes the whole of his navy from all their ports, which ports are completely open to the fleets of his enemies. It will be sufficient to observe, that, even where exemptions from it are granted, they are made subject to such conditions, that if the three last British ships of war which have entered these ports upon public business, two of them, His Majesty's ship *Statira* having on board a minister sent out for the adjustment of the present differences, and a schooner bearing despatches, in consequence of their inability to procure pilots, were obliged to enter their waters without such assistance, and were exposed to considerable danger. Great Britain, by the forms established, could repair the wrongs committed, even to the satisfaction of the United States, no otherwise than by the channel of negotiation; yet she avowed distinctly that a wrong was committed, and that she was ready to make reparation for it; it cannot, therefore, be contended that the unavoidable delay of actual reparation subjected her to the imputation of persisting in an aggression which was disclaimed from the first. If this be true, however much she will regret any impediment in the adjustment of a difference in which the feelings of this nation are so materially interested, can she, consistently with a due care of her own honor and interests, allow it to be concluded on her part under an adherence to a conduct which has a decided character of enmity in the proceedings held towards her by the other party?

I know not in what view the perseverance in the President's proclamation up to this moment can be considered but in that of a measure of retaliation, or of self-assumed reparation, or a measure intended to compel reparation; unless it be that which, if I rightly understand, you define it to be a measure of precaution.

If, when a wrong is committed, retaliation is immediately resorted to by the injured party, the door to pacific adjustment is closed, and the means of conciliation are precluded. The right to demand reparation is incompatible with the assumption of it. When parties are in a state of mutual hostility, they are so far on a footing, and, as such, they may treat; but a party disclaiming every unfriendly intention, and giving unequivocal proofs of an amicable disposition, cannot be expected to treat with another whose conduct towards it has the direct effects of actual hostility. If, then, the enforcement of the President's proclamation, up to the present moment, is a measure of self-assumed reparation, it is directly repugnant to the spirit and fact of amicable negotiation; if it is a measure to compel reparation, it is equally so; and, by the perseverance in it, Great Britain has dispensed with the duty of proffering redress. But if it is a measure of precaution, in order to secure reparation, or in order to compel it, it falls under the objections I have just stated. If it is a precaution adopted as a guard against acts of violence apprehended on the part of His Majesty's naval officers, it surely cannot be considered as being as effectual a security as that arising from the renewed assurances of His Majesty's friendly disposition, which imply a due observance of the rights of nations with which Great Britain is in amity, by all persons holding authority under His Majesty's Government; from the disavowal of the pretension of the search of national ships, and from the further assurance of that disavowal given in His Majesty's proclamation of the 16th of October last. Neither under these concurrent circumstances can the plea of necessity be maintained; and if such a proceeding has not the plea of necessity, it assumes the character of aggression. If these concurrent securities against such an apprehension have any value, the necessity no longer exists; if they are of no value, negotiation cannot be attempted, as the basis upon which it rests, the mutual confidence of the two parties, would be wholly wanting.

From the moment after the unfortunate affair of the Chesapeake, that His Majesty's naval commanders in these waters had ascertained that they were safe from the effervescence of that popular fury, under which the most

glaring outrages were committed, and by which they were very naturally led to the supposition that they were objects of particular hostility, and that a state of war against them, requiring precautions on their part, had commenced, no conduct has been imputed to them which could vindicate the necessity of maintaining in force the President's proclamation. Since that time such of those officers as have been necessitated by the circumstances of the war to remain in these waters, have held no communication with the shore, (except in an instance too trifling to dwell upon, and instantly disavowed by the commanding officer;) and they have acquiesced quietly in various privations, highly prejudicial to the service they were upon, and, in consequence of an interdict, which had they been regardless of their duties towards a State in amity with their sovereign, and had they not carefully repressed the feelings its tone and language had a direct tendency to provoke in them, would have rather excited than have averted the evils it was stated to be intended to prevent; were they regardless of these duties, it was unnecessary. Had they felt themselves obliged completely to evacuate the waters of the United States, especially whilst an enemy's squadron was harbored in them, they could have done it but under the admission of hostile compulsion; and under such compulsion, carried into full effect, His Majesty could not have dissembled the extent of the injury received.

In the several cases adduced, in which Great Britain required certain preliminaries previously to entering into negotiation, she regulated her conduct by the same principles to which she now adheres; and refused, whilst no hostility was exhibited on her part, to treat with Powers whose proceedings denoted it towards her, and who maintained their right in what they had assumed.

From the considerations thus offered, I trust that neither the order of reason nor that of usage is in contradiction to the demand I have urged; nor am I aware how the order of time opposes the revocation in the first instance of that act, which affects injuriously one of the parties, and is still avowed by the other.

The subject is thus presented to you, sir, in the light in which it was natural that it should offer itself to His Majesty's Government. It certainly conceived the President's proclamation to rest chiefly, and most materially, upon the attack made upon the frigate of the United States, the Chesapeake, by His Majesty's ship Leopard, although other topics were adduced as accessories. In this apprehension it may be held to have been sufficiently warranted, by the precise time at which, and the circumstances under which, it was issued, and by its whole context; and the more so, as the impulse under which it was drawn up appears to have been so sudden, as to have precluded a due examination of all the grounds of allegation contained in it. And here I beg leave to assure you, that with respect to the spirit and tone of that instrument, it would be highly satisfactory to me if I could feel myself justified in expressing, on the part of His Majesty, any degree of coincidence with the opinions you have announced; or, when thus appealed to, and making every allowance for the irritation of the moment, I could dissemble the extreme surprise experienced by Great Britain, that the Government of a friendly nation, even before an amicable demand of reparation was made, and yet meaning to make that demand, should have issued an edict directing measures of injury very disproportionate to what it knew was an authorized offence, and both in its terms and its purport so injurious to the Government to which that demand was to be addressed, and tending to call forth in both nations the feelings under which a friendly adjustment would be the most difficult. But if, as I learn from you, sir, the proclamation rests substantially on other causes, it is then peculiarly to be regretted, that, together with the demand for redress made in September last, the Government of the United States did not think fit to offer a negotiation or an explanation of so momentous a measure, or to declare that its recall must be more or less connected with the adjustment of other alleged wrongs. Neither did it think it necessary to return any answer to the remonstrance given in by His Majesty's envoy at Washington, on the 13th July, 1807, in which he represented "that he considered that interdiction to be so unfriendly in its object, and so injurious in its consequences to His Majesty's interests, that he could not refrain from expressing the most sincere regret that it ever should have been issued, and most earnestly deprecating its being enforced."

It could not be supposed that a circumstance of so great weight could be overlooked by His Majesty's Government, in determining the line of conduct to be held in the negotiation; and as little could it be expected to pass it over, when, on the failure of the discussion with Mr. Monroe, it directed a special mission to be sent to the United States. It had the less reason to imagine that any other grievances could be connected with that for the adjustment of which I am empowered to negotiate, as Mr. Monroe, in his letter to Mr. Canning of the 29th July last, had stated, with respect to other subjects of remonstrance, that it was improper to mingle them with the present more serious cause of complaint—an opinion to which Mr. Canning declared his perfect assent in his letter to that minister of the second of the subsequent month; so that this act was left as single and distinct, to be singly and distinctly considered. His Majesty's Government, therefore, could not, consistently with any view of the subject then before it, or indeed with the just object of my mission, direct or empower me to enter upon matters not connected with that of the Chesapeake; and they could with the less propriety do it, as, in order to render the adjustment of differences of such a nature the more easy and the more conspicuous, the ministers charged especially with such offices have been, with few, if any exceptions, restricted to the precise affair to be negotiated. With respect, therefore, to those other causes of complaint, upon which you inform me that the President's proclamation rests, I cannot be furnished with documents enabling me either to admit or to controvert those statements of grievance foreign to the attack upon that ship contained in your letter, or authorized to discuss the matters themselves. I shall, therefore, not allow myself to offer such comments as my personal knowledge of some of those transactions suggest to me, although their tendency would materially affect both the marked manner in which those transactions are portrayed, and the disadvantageous light in which His Majesty's Government is represented to have acted respecting them. I am moreover led to the persuasion that my Government will be the more easily able to rescue itself from inculpation, by the inference arising from passages in Mr. Monroe's letter to Mr. Secretary Canning of the 29th of September last, that the differences unhappily existing between the two nations were in a train of adjustment.

If His Majesty has not permitted me to enter into the discussion of the search of neutral merchant ships for British seamen, together with the adjustment of the amount of reparation for the attack upon the Chesapeake, it was nowise with a view of precluding the further agitation of that question at a suitable time, but it was that the negotiation might be relieved from the embarrassment arising from the connexion of the present matter with the one so foreign to it, and, as it was but too well known, so difficult to be adjusted; of a right distinctly disclaimed with one which Great Britain has at all times asserted, of enforcing her claim to the services of her natural born subjects when found on board merchant vessels of other nations; a claim which she founds in that principle of universal law, which gives to the State the right of requiring the aid and assistance of her native citizens. The recurrence, therefore, to that cause of negotiation which had been originally settled between Mr. Secretary Canning and Mr. Monroe, and which had been alone broken in upon by the orders subsequently received by that minister, can only be considered as a resumption of that course of things which Great Britain strenuously contended there was no ground to depart from. I may observe, that this purpose might have been effected without the intervention of a special minister.

It will be in your recollection, sir, that in our first interview I stated the condition which makes the subject of the present letter, before I was informed by you that the President of the United States would consent to the separation of the two subjects.

I had trusted that the exposition which I added in my letter of the 26th of January, to the verbal explanation I had before offered of the grounds of His Majesty's demand, was both in its purport and in the terms in which it was couched such as to prevent a suspicion that they were in their intention derogatory to the honor, or calculated to wound the just sensibility of this nation. I may add, that such a supposition could not be reconciled with the various ostensible and unequivocal demonstrations of His Majesty's good faith, and anxiety that this transaction should be brought to an amicable termination, which were exhibited even prior to any remonstrances on the part or by order of this Government. The other topics which I felt myself authorized to advance in that letter, in illustration of that amicable disposition on the part of the King, were brought forward from the conviction I entertained that they must be of a nature to be satisfactory to this Government, and therefore such as it was particularly my duty to enforce, but not with a view to rest upon them the right to advance the claim which I have stated.

I may here remark, it is obvious, that far from requiring that the first steps towards an arrangement of reparation should be taken by the United States, Great Britain has already made them openly and distinctly; they are indubitable testimonies to the respect borne and decidedly marked by Great Britain to the ties of amity subsisting between the two nations, and of her cordial desire to maintain them unimpaired; and as such alone they were urged.

As His Majesty would have derived sincere satisfaction from the evidence of corresponding feelings on the part of the United States, so it would be the more painful to me to dwell upon a series of insults and menaces, which, without any provocation of warlike preparation on the part of Great Britain, have been for months accumulated upon her through the United States, and but too frequently from quarters whose authority necessarily and powerfully commanded attention.

I ought, perhaps, to apologize for adverting to an incidental expression in your letter, if I did not think it right to remove any ambiguity respecting the nature of the claim which Great Britain maintained to her seamen, native citizens of the realm, who have deserted from her service to that of other Powers; it is that, on demand, they shall be discharged *forthwith*, and consequently they shall instantly be freed from their newly contracted obligations.

Before I close this letter, allow me to state to you, sir, that I have felt it my duty to transmit to His Majesty's Government the exposition contained in your letter of the 5th instant, of the various demands on the honor and good faith of Great Britain on which the complaint is made, that satisfaction has not been afforded to the United States, and on which, conjointly with the affair of the Chesapeake, you inform me that the proclamation of the President of the United States of the 2d of July, 1807, is founded. It will be for His Majesty's Government to determine, on the part of Great Britain, whether any, and what obligations remain to be fulfilled by her; whether any denial or such protraction of redress has occurred on her part, as to render necessary or justifiable the perseverance in an edict, which, when not necessary or justifiable, assumes a character of aggression; and whether, on the result of these considerations, the present negotiation can be resumed on the part of His Majesty, with a due regard for his own honor, or with a prospect of a more successful termination.

I have the honor to be, with the highest consideration, sir, your most obedient and most humble servant,
G. H. ROSE.

IN SENATE OF THE U. S., April 16, 1808.

Mr. ANDERSON, from the committee to whom was referred, on the 4th instant, the correspondence between Mr. Monroe and Mr. Canning, and between Mr. Madison and Mr. Rose, relative to the attack made upon the frigate Chesapeake by the British ship of war Leopard; and also the communications made to the Senate by the President of the United States, on the 30th day of March last, containing a letter from Mr. Erskine to the Secretary of State, and a letter from Mr. Champagny to General Armstrong, reported:

That, on a review of the several orders, decrees, and decisions of Great Britain and France, within the period of the existing war, it appears that, previous to the measures referred to in the letters from Mr. Erskine to the Secretary of State, and from Mr. Champagny to General Armstrong, various and heavy injuries have been committed against the neutral commerce and navigation of the United States under the following heads:

1st. The British order of June, 1803, unlawfully restricting the trade of the United States with a certain portion of the unblockaded ports of her enemies, and condemning vessels with innocent cargoes, on a return from ports where they had deposited contraband articles.

2d. The capture and condemnation, in the British courts of admiralty, of American property, on a pretended principle, debarring neutral nations from a trade with the enemies of Great Britain interdicted in time of peace. The injuries suffered by the citizens of the United States, on this head, arose, not from any public order of the British council, but from a variation in the principle upon which the courts of admiralty pronounced their decisions. These decisions have, indeed, again varied, without any new orders of council being issued; and in the higher courts of admiralty some of the decisions, which had formed the greatest cause for complaint, have been reversed, and the property restored. There still remains, however, a heavy claim of indemnity for confiscations which were made during the period of these unwarrantable decisions, and for which all negotiation has hitherto proved unavailing.

3d. Blockades notified to the minister of the United States at London, and thence made a ground of capture against the trade of the United States, in entire disregard of the law of nations, and even of the definition of legal blockades, laid down by the British Government itself. Examples of these illegitimate blockades will be found in the notifications of the blockade of May 16, 1806, of the coast from the river Elbe to Brest, inclusive; blockade of 11th May, 1807, expounded 19th June, 1807, of the Elbe, Weser, and Ems, and the coast between the same; blockade 11th of May, 1807, of the Dardanelles and Smyrna; blockade of 8th January, 1808, of Carthage, Cadiz, and St. Lucar, and of all the intermediate ports between Carthage and St. Lucar, comprehending a much greater extent of coast than the whole British navy could blockade according to the established law of nations.

4th. To these injuries, immediately authorized by the British Government, might be added other spurious blockades by British naval commanders, particularly that of the island of Curacao, which, for a very considerable period, was made a pretext for very extensive spoliations on the commerce of the United States.

5th. The British proclamation of October last, which makes it the duty of the British officers to impress from American merchant vessels all such of their crews as might be taken or mistaken for British subjects; those officers being the sole and absolute judges in the case.

For the decrees and acts of the French Government violating the maritime law of nations, in respect to the United States, the committee refer to the instances contained in the report of the Secretary of State, January 25,

1806, to the Senate, in one of which, viz: a decree of the French General Ferrand, at St. Domingo, are regulations sensibly affecting the neutral and commercial rights of the United States.

The French act, next in order of time, is the decree of November 21, 1806, declaring the British isles in a state of blockade, and professing to be a retaliation on antecedent proceedings of Great Britain, violating the law of nations.

This decree was followed, first, by the British order of January, 1807, professing to be a retaliation on that decree, and subjecting to capture the trade of the United States, from the port of one belligerent to a port of another; and, secondly, by the orders of November last, professing to be a further retaliation on the same decree, and prohibiting the commerce of neutrals with the enemies of Great Britain, as explained in the aforesaid letter of Mr. Erskine.

These last British orders again have been followed by the French decree of December 17, purporting to be a retaliation on the said orders, and to be put in force against the commerce of the United States, as stated in the aforesaid letter of Mr. Champagny.

The committee forbear to enter into a comparative view of these proceedings of the different belligerent Powers, deeming it sufficient to present the materials from which it may be formed. They think it their duty, nevertheless, to offer the following remarks, suggested by a collective view of the whole:

The injury and dangers resulting to the commerce of the United States from the course and increase of these belligerent measures, and from similar ones adopted by other nations, were such as first to induce the more circumspet of our merchants and ship-owners no longer to commit their property to the high seas, and at length to impose on Congress the indispensable duty of interposing some legislative provision for such an unexampled state of things.

Among other expedients, out of which a choice was to be made, may be reckoned—

- 1st. A protection of commerce by ships of war.
- 2d. A protection of it by self-armed vessels.
- 3d. A war of offence as well as of defence.
- 4th. A general suspension of foreign commerce.
- 5th. An embargo on our vessels, mariners, and merchandise.

This last was adopted, and the policy of it was enforced, at the particular moment, by accounts, quickly after confirmed, of the British orders of November, and by the probability that these would be followed, as has also happened by an invigorated spirit of retaliation in other belligerent Powers; the happy effect of the precaution is demonstrated by the well-known fact that the ports of Europe are crowded with captured vessels of the United States, unfortunately not within the reach of the precaution.

With respect to a protection of our commerce by ships of war, it must be obviously impracticable, in any material degree, without a lapse of time, and an expense which amounts to a prohibition of that resort, besides that it would necessarily involve hostile collisions with one or more of the belligerent Powers.

Self-armed merchantmen would have the same tendency, at the same time that they would be utterly inadequate to a security against the multiplied fleets and cruisers to be encountered.

An entire suspension of foreign commerce, as the resort in the first instance, would evidently have produced some inconveniences, not incident to the embargo as it was modified. But the committee do not suppress their opinion that, after a reasonable time, it may not improperly take the place of the embargo, in case of a protracted adherence by the belligerent Powers to their destructive proceedings against our neutral commerce.

With respect to a resort to war, as a remedy for the evils experienced, the committee will offer no other reflection than that it is in itself so great an evil that the United States have wisely considered peace and honest neutrality as the best foundation of their general policy. It is not for the committee to say under what degree of aggravated injuries and sufferings a departure from this policy may become a duty, and the most pacific nation find itself compelled to exchange, for the calamities of war, the greater distresses of longer forbearance.

In the present state of things, the committee cannot recommend any departure from that policy which withholds our commercial and agricultural property from the licensed depredations of the great maritime belligerent Powers. They hope that an adherence to this policy will eventually secure to us the blessings of peace, without any sacrifice of our national rights; and they have no doubt that it will be supported by all the manly virtue which the good people of the United States have ever discovered on great and patriotic occasions. But the committee would suggest on this subject that better counsels in the belligerent Governments, producing a juster conduct towards neutral nations, would render a continuance of the embargo unnecessary, and that it will be a provident measure to vest in the Executive a power, in such an event to suspend, until the next session of Congress, wholly, or in part, the several acts prohibiting the departure of our vessels for foreign ports.

Although the committee have abstained from entering into any particular comparison of the proceedings of the French and British Governments towards the United States, they cannot reconcile it with their duty, or with the just sensibility of the nation, not to advert to the tenor and language of the late communications made by the respective organs of those Governments.

In the letter of Mr. Champagny the United States are not only threatened with confiscation, as the final destiny of American property seized under French decrees, unless dispositions shall be manifested by them against Great Britain satisfactory to France, but they are even declared, without reserve of any sort, to be actually in a state of war against Great Britain.

In the letter of Mr. Erskine to the Secretary of State the United States are explicitly charged with justly subjecting their commerce to confiscations, under the British orders, by not opposing an effectual resistance against the decrees of France; in other words, by not making war against that nation in case no other interposition should be effectual. There are in this exposition of the British orders certain features which claim particular attention. Among the regulations of which they consist, it is provided that the commerce of the United States, bound from their own ports to its legal and ordinary markets, shall pass through British ports; shall there, in all cases, take their clearances from British officers; shall in some cases obtain special licenses, and, in others, pay a direct and avowed tax: thus putting the United States on a commercial footing even worse than was allowed to British colonies, which were left free to carry their exports directly to foreign markets, in cases where an intermediate voyage to the parent country would be too oppressive. In the present case not a single article is permitted to be sent from the United States to the most southern ports of Europe, without a previous voyage to Great Britain, and, in some instances, not without purchasing even that privilege—without paying a tribute to the British treasury!

The committee have taken into consideration the documents relating to the attack on the frigate Chesapeake; but they have not deemed it their duty, in the actual posture of that subject, to make any other remark than that it strengthens the motives for persevering in all the provisional and precautionary measures hitherto contemplated.

The committee finally beg leave to submit the following resolutions:

Resolved, That the committee do bring in a bill authorizing the President of the United States, in the event of such peace or suspension of hostilities between the belligerent Powers of Europe, or of such changes in their measures affecting neutral commerce, as may render that of the United States sufficiently safe, in his judgment, to suspend the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, under such exceptions and restrictions as the public interest and circumstances of the case may appear to require: *Provided*, Such suspension shall not extend beyond — days after the commencement of the next session of Congress.

Resolved, That the committee do bring in a bill authorizing the President of the United States to suspend the operation of the several acts prohibiting the importation of certain goods, wares, and merchandise, if, in his judgment, the public interest should require it: *Provided*, That such suspension shall not extend beyond — days after the commencement of the next session of Congress.

Resolved, That the committee be instructed to report a bill prohibiting after the — day of — all commercial intercourse with such of the belligerent nations, whose edicts against the neutral commerce of the United States may render such prohibition expedient.

Resolved, That the committee be further instructed to report a bill expatriating all citizens of the United States, commanding ships or vessels of the United States, who shall be convicted of voluntarily accepting any license, or paying any tax, in conformity to the British orders in council of the 11th of November last.

Resolved, That the committee be further instructed to report a bill imposing on the navigation and commerce of foreign nations restrictions, corresponding with the restrictions imposed by them, respectively, on the commerce and navigation of the United States.

10th CONGRESS.]

No. 215.

[2d SESSION.]

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, NOVEMBER 8, 1808, * JANUARY 17 AND 30, 1809, AND JUNE 16, 1809.

JANUARY 17, 1809.

To the Senate and House of Representatives of the United States:

I communicate to Congress certain letters which passed between the British Secretary of State, Mr. Canning, and Mr. Pinkney, our minister plenipotentiary at London. When the documents concerning the relations between the United States and Great Britain were laid before Congress, at the commencement of the session, the answer of Mr. Pinkney to the letter of Mr. Canning had not been received, and a communication of the latter alone would have accorded neither with propriety nor with the wishes of Mr. Pinkney. When that answer afterwards arrived, it was considered that as what had passed in conversation had been superseded by the written and formal correspondence on the subject, the variance in the statements of what had verbally passed was not of sufficient importance to be made the matter of a distinct and special communication; the letter of Mr. Canning, however, having lately appeared in print, unaccompanied by that of Mr. Pinkney in reply, and having a tendency to make impressions not warranted by the statements of Mr. Pinkney, it has become proper that the whole should be brought into public view.

TH: JEFFERSON.

JANUARY 30, 1809.

To the Senate and House of Representatives of the United States:

I transmit to Congress a letter recently received from our minister at the court of St. James's, covering one to him from the British Secretary of State, with his reply. These are communicated, as forming a sequel to the correspondence which accompanied my message to both Houses of the, 17th instant.

TH: JEFFERSON.

* See this message, Foreign Relations, vol. 1, page 71.

JUNE 15, 1809.

To the Senate of the United States:

In compliance with the resolution of the Senate of the 13th instant, I transmit extracts from letters from Mr. Pinkney to the Secretary of State, accompanied by letters and communications to him, from the British Secretary of State for the Foreign Department; all of which have been received here since the last session of Congress.

To these documents are added a communication just made by Mr. Erskine to the Secretary of State, and his answer.*

JAMES MADISON.

*Extract:—The Secretary of State to Mr. Pinkney, minister of the United States at London.*DEPARTMENT OF STATE, *March 8, 1808.*

Having just learned that the present mail will arrive at New York in time for the British packet, I avail myself of the opportunity of forwarding your commission and letters of credence, as successor to Mr. Monroe, in the legation at London.

Since my last, which went by Mr. Nourse, in a despatch vessel, bound first to L'Orient, and then to Falmouth, I have received your communications of the 23d November, and — of December. These, with a representation from General Armstrong to the French Government on the subject of the decree of Berlin, as expounded and enforced in the case of the ship *Horizon*, were thought by the President to throw so much light on the course likely to be pursued by Great Britain and France in relation to the United States, that he had the documents confidentially laid before Congress.

Mr. Erskine has made a written communication on the subject of the British orders. I shall answer him as soon as the very urgent business on hand will permit.

*Mr. Madison to Mr. Pinkney.*DEPARTMENT OF STATE, *March 22, 1808.*

My last bore date the 8th instant, and went by the British packet. It acknowledged your letter of November 23d and — December. I have since received these referred to in the latter, and also that of January 26, which came to hand last evening.

I cannot enclose my answer to Mr. Erskine's communication of the British orders; the unceasing pressure of other matters, on a state of health still feeble, having thus far delayed it. You will anticipate the complexion which will necessarily be given to it by the character of measures, not only violating our rights, and stabbing our interests, but superadding, under the name of indulgencies, a blow at our national independence and a mockery of our understandings.

Extract:—Mr. Madison to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, *April 4, 1808.*

My last was of March 22, and went under the care of Mr. Rose. I now forward printed copies of the correspondence with him on the subject of his mission, and of the antecedent documents relating to the case of the *Chesapeake*. As soon as the voluminous residue of the communications made to Congress issues from the press, it shall also be forwarded. You will find that they include certain documents relating to France, which were thought proper for the knowledge of Congress at the present crisis.

To those communications I add copies of Mr. Erskine's letter to me on the subject of the British decrees of November last, and of my answer. And that you may have a view of the ground which has been taken with respect to the French decree of November, 1806, and to the judicial exposition in the case of the *Horizon*, giving to it an illegal operation against the United States, I enclose copies of two letters to General Armstrong on those subjects.

The President made to Congress, a few days ago, other communications relating to the present crisis with Great Britain and France, among which were Mr. Erskine's letter, now enclosed, and a letter from Mr. Champagny to General Armstrong, explaining the course meditated by the French Government with respect to the commerce of the United States. These being excepted from the confidential character attached to the others, have been published, and will be found among the printed enclosures. Your letter of February 26 was enclosed in the communication to Congress, but not in the exception.

The conduct of the two great contending nations towards this country, as it will now appear to it and to the world, fully displays their mutual efforts to draw the United States into a war with their adversary. The efforts on both sides are too little disguised to be worthy the discernment of either, and are addressed, moreover, to motives which prove great ignorance of the character of the United States, and, indeed, of human nature.

From the posture in which Mr. Rose's final reply to the compromise proposed to him placed the question of adjustment in the case of the *Chesapeake*, it remains with the British Government to resume it, if adjustment be their object. Whether a tender of reparation will be made here, or to you, will also lie on that side. It will certainly be most becoming that Government, under all circumstances, to make the reparation here; and this course might of right be insisted on by this Government. The President, nevertheless, in the liberal spirit which always governs him, authorizes you to accept the reparation, provided it be tendered spontaneously, be charged with no condition, unless it be that, on the receipt of the act of reparation here, the proclamation of July 2 shall be revoked; and provided the reparation shall add to the disavowal of the attack on the *Chesapeake* an express engagement that the seamen retained shall be immediately restored, and that the guilty officer experience an exemplary punishment. The reparation will be the more satisfactory, and not exceed a just expectation, if the restoration of the seamen be made to the very ship from which they were wrested, and if provision be made for the wounded survivors and for the families of those who lost their lives by the attack.

I must repeat, however, that it is considered entirely proper that the reparation should be offered here rather than in London; and it is only in the event of a decided repugnance in the British Government to make it through a functionary here, that you are to accept it there.

* These documents are annexed to those communicated the 23d May, 1808. No. 222.

The answer to Mr. Erskine's letter on the British orders will furnish the grounds to be taken in your communications with his Government on that subject. If the cabinet can be brought to view the orders in their true light, a revocation of the whole of them cannot fail to take place, unless they mean to violate every maxim of justice, or are fixed in hostile purposes against the United States. In not regarding the orders, indeed, as acts of hostility, and in trusting for redress to the motives and the means to which they have appealed, the United States have given the most signal proof of their love of peace, and of their desire to avoid an interruption of it, with the British nation.

Still it is to be understood, that whilst the insult offered in the attack on the American frigate remains unexpiated, you are not to pledge or commit your Government to consider a recall of the orders as a ground on which a removal of the existing restrictions on the commerce of the United States with Great Britain may be justly expected.

The two letters to General Armstrong of 22d May, 1807, and February 8, 1808, are proofs of the sincerity and impartiality with which the President has proceeded in relation to the belligerent parties, and may perhaps assist you in repressing unjust suspicions imbibed by the British cabinet. It would be happy for all parties, the belligerent as well as the United States, if truth could in this case be made to prevail, and if the retaliating rivalry of the former against the latter could be converted into an emulation, as politic as it would be magnanimous in both, to take the lead in a fair, lawful, and conciliatory course towards a nation which has done no wrong to either. Should the experiment be made on either side, it would probably be followed on the other, and it could never happen that the side first doing justice would suffer on that account.

In the present state of our relations to Great Britain, it would be premature to mark out the course to be pursued with respect to further negotiations on other topics than those above noticed. You are authorized, however, to continue your interpositions in behalf of our impressed or detained seamen; and, in the event of a repeal of the British orders, and of satisfactory pledges for repairing the aggression on the Chesapeake, to enter into informal arrangements for abolishing impressments altogether, and mutually discontinuing to receive the seamen of each other into either military or merchant service, conformably to the instructions on this point transmitted by Mr. Purviance.

You will find, by a passage in Mr. Rose's reply of March 17, that the British Government does not maintain the principle that the obligation of the United States extends beyond the discharge of deserters from their public service; and, by an order of the Navy Department here, already carried into execution, of which a copy is enclosed, that it has lately been decided that no foreign seamen, whether deserters or not, shall serve on board our ships of war. The principles respectively manifested by these documents ought to facilitate such an adjustment as is contended for by the United States.

Mr. Madison to Mr. Pinkney.

DEPARTMENT OF STATE, *April 30, 1808.*

My last was of the 4th instant, and went by a British packet from New York. I now forward a copy of it.

Congress ended their session on the night of the 25th instant. The series of newspapers herewith sent affords a view of their proceedings subsequent to the communications last made to you. Some other points are included, which throw light on the workings of public opinion and the state of public affairs.

You will find that the critical posture of our foreign relations has produced provisions of different kinds for our greater security, and particularly that no pains have been spared to stop every leak by which the effect of the embargo laws might be diminished. I refer you also to the report made to the Senate, by a committee on the documents relating to the affair of the Chesapeake, and on the letters of Mr. Champagny and Mr. Erskine; and indicating the spirit which may be expected to influence the future policy of this country, if kept under the excitement resulting from the system now pursued against it.

You will observe, at the same time, that whilst a determination is sufficiently evinced against a dishonorable acquiescence in the despotic edicts enforced on the high seas, the United States are ready to resume their export trade as soon as the aggressions on it shall cease; and that, in a hope that this might happen during the recess of Congress, the President is authorized, in such an event, to suspend, in whole or in part, the several embargo laws.

The conditions on which the authority is to be exercised appeal equally to the justice and policy of the two great belligerent Powers which are now emulating each other in a violation of both. The President counts on your endeavors to give to this appeal all the effect possible with the British Government. General Armstrong will be doing the same with that of France. The relation in which a revocation of its unjust decrees by either will place the United States to the other is obvious, and ought to be a motive to the measure, proportioned to the desire which has been manifested by each to produce collision between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

Should the French Government revoke so much of its decrees as violate our neutral rights, or give explanations and assurances having the like effect, and entitling it therefore to a removal of the embargo as it applies to France, it will be impossible to view a perseverance of Great Britain in her retaliating orders in any other light than that of war, without even the pretext now assumed by her.

In order to entitle the British Government to a discontinuance of the embargo, as it applies to Great Britain, it is evident that all its decrees, as well those of January, 1807, as of November, 1807, ought to be rescinded, as they apply to the United States, and this is the rather to be looked for from the present administration, as it has so strenuously contended that the decrees of both dates were founded on the same principles and directed to the same object.

Should the British Government take this course, you may authorize an expectation that the President will, within a reasonable time, give effect to the authority vested in him on the subject of the embargo laws. Should the orders be rescinded in part only, it must be left to his free judgment to decide on the case. In either event, you will lose no time in transmitting the information to this Department and to General Armstrong, and particularly in the event of such a course being taken by the British Government as will render a suspension of the embargo certain or probable, it will be proper for you to make the communication by a courier to General Armstrong, to whom a correspondent instruction will be given; and to provide a special conveyance for it hither, unless British arrangements shall present an opportunity equally certain and expeditious.

Extract:—Mr. Pinkney to Mr. Madison.

LONDON, May 9, 1808.

I had a conversation with Mr. Canning on Friday last, in consequence of the arrival of the *Osage*.

As it was obviously expected that I should seek an interview with him, I went to Downing street on the 5th with that object. He had been indisposed, and was not at his office; but in answer to a note which I sent him in the evening, he asked to see me next day at his house in Bruton street.

The *Osage* had for some time been looked for with considerable anxiety, and the Government had apparently anticipated a communication (and perhaps a proposal) of some importance from me, as soon as my despatches should be received. As I had, in fact, no communication to make, it seemed to be proper that I should render the disappointment of as little moment as possible, by the manner of announcing it, without, however, putting any thing to hazard by an indiscreet manifestation of unnecessary solicitude.

The little which I supposed it requisite to say on this occasion appeared to be very well received; and, if any disagreeable impression was left on the mind of Mr. Canning, it certainly was not visible. A feeling of regret was perhaps perceptible, and a hope was intimated that the time was not far distant, when I should be enabled to do what at present was out of my power; but nothing occurred which could be construed into a symptom of impatience, jealousy, or dissatisfaction. There was, undoubtedly, no real ground for any thing of the sort; but it was, notwithstanding, quite possible that the importance, which it had become a habit to attach to the arrival of the *Osage*, from circumstances principally accidental, might have produced a disposition to think otherwise.

I thought it advisable to make use of this opportunity (although the topic was, in many views, more delicate than it had been) to suggest the propriety of yielding, as the moment was sufficiently favorable to such a course, upon the subject of the late orders in council, of which I had seen nothing to change my original opinion. There was reason to apprehend, however, that it might be worse than useless to press the suggestion upon my own authority merely, while I could say nothing of the French decrees; and, accordingly, I forbore to do so.

An idea has evidently gone forth, since the *Osage* arrived, founded upon rumors of a doubtful description, that our relations with France have grown to be extremely precarious, and that we are consequently about to come to an understanding of a very friendly kind with Great Britain. It is not improbable that the Government has, in some degree at least, adopted this idea.

I have the honor to enclose a copy of a notification, recently received from Mr. Canning, of the blockade of Copenhagen and of the other ports of the island of Zealand, which I have caused to be communicated in the usual manner to our consuls and citizens.

There being no particular inducement for detaining the *Osage*, Lieutenant Lewis, who will be charged with my letters, will leave town the day after to-morrow; and the ship will sail as soon after she reaches Falmouth as possible.

[Referred to in Mr. Pinkney's despatch of May 9, 1808.]

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, May 4, 1808.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's command to acquaint Mr. Pinkney, that His Majesty has judged it expedient to establish the most rigorous blockade of the port of Copenhagen, and all the other ports in the island of Zealand. Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of all the ports above mentioned are and must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Extract:—Mr. Pinkney to the Secretary of State.

LONDON, June 5, 1808.

I have the honor to acknowledge the receipt of your letter of the 4th of April, by Mr. Bethune, together with the printed and other copies of papers mentioned in it.

I am to have an interview with Mr. Canning in a few days, (which he will agree to consider extra official,) in the course of which I intend to press, by every argument in my power, the propriety of their abandoning immediately their orders in council, and of proposing in America (the only becoming course, as you very properly suggest) reparation for the outrage on the Chesapeake. I shall for obvious reasons do this, informally, as my own act.

Your unanswerable reply to Mr. Erskine's letter of the 23d February has left nothing to be urged against the orders in council upon the score of right; and there may be room to hope that the effect, which that reply can hardly have failed to produce upon ministers, as well by its tone as by its reasoning, will, if followed up, become, under actual circumstances, decisive. The discussion, which Mr. Rose's preliminary in the affair of the Chesapeake has undergone, gives encouragement to an expectation that this Government will not now be backward to relinquish it, and to renew their overture of satisfaction in a way more consistent with reason, and more likely to produce a just and honorable result.

You may be assured that I will not commit our Government by any thing I shall do or say, and that, if I cannot make things better than they are, I will not make them worse.

My view of the course which our honor and our interests have required, and still require, is, as you know, in precise conformity with that of the President; but if it were otherwise, I should make his view, and not my own, the rule of my conduct.

Extract:—Mr. Pinkney to Mr. Madison.

LONDON, June 29, 1808.

I had a long interview this morning with Mr. Canning, which has given me hopes that the object mentioned in your letter of the 30th of April, (a duplicate by the packet, for the *St. Michael* has not yet arrived,) may be accomplished, if I should authorize the expectation which the same letter suggests. Some days must elapse, however,

before I can speak with any thing like certainty on this subject. The *St. Michael* will probably have arrived before that time, and will furnish me with an opportunity of giving you not only the result but the details of what has passed and may yet occur. I beg you, in the mean time, to be assured that the most effectual care shall be taken to put nothing to hazard, and to avoid an improper commitment of our Government.

I was questioned on the affair of the Chesapeake. There seems to be a disposition here to consider the *amende honorable* as already made, and, in a great degree, at least, by Mr. Rose's mission; but I am strongly inclined to think that it will not be at all difficult to induce them to renew their overture in the same manner, on terms more conformable with the view which you very justly take of this interesting subject. I was told (it was not said officially) that the persons taken out of the Chesapeake would be readily restored. The punishment of the officer (otherwise than by his recall, which has been done) will, perhaps, form the greatest embarrassment; but I will endeavor to ascertain, informally, what will be done on that and every other part of the case. My sole object will be, of course, to lead them, as occasion offers, (as far as in my power,) to do what they ought, in the way most for our honor. I can the more properly do this now, as Mr. Canning has himself proposed the subject to me, as intimated above.

Extract:—Mr. Madison to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, July 18, 1808.

Your communications by Lieutenant Lewis were safely delivered on the evening of the 8th instant. As it had been calculated that the interval between the return of Mr. Rose, and the departure of Lieutenant Lewis, would give sufficient time to the British Government to decide on the course required by the posture in which the affair of the Chesapeake was left, its silence to you on that subject could not fail to excite the particular attention of the President: and the appearance is rendered the more unfavorable, by the like silence, as we learn from Mr. Erskine, of the despatches brought to him by the packet which left England, and arrived at New York, at nearly the same time with the *Osage*. I have intimated to Mr. Erskine the impressions made by this reserve, without, however, concealing our hope that the delay does not imply a final purpose of withholding reparation, and that the next communications from London will be of a different import. They must at least ascertain the real views of the British Government on this interesting subject.

There was certainly no just ground for Mr. Canning to expect any particular communications from you on the arrival of the *Osage*, unless they should have grown out of such accounts from France as would second our demands of justice from Great Britain, particularly the revocation of her orders in council; and in imparting to him what you did from that quarter, every proof of candor was given which the occasion admitted. If Mr. Canning was disappointed because he did not receive fresh complaints against the orders in council, he ought to have recollected that you had sufficiently dwelt on their offensive features in the first instance; and that, as he had chosen to make the formal communication of them to this Government through another channel, it was through that channel rather than through you that answers to it would be most regularly given.

The communications and instructions forwarded by Mr. Purviance, who was a passenger in the *St. Michael*, will enable you to bring the British Government to a fair issue on the subject of its orders. If it has nothing more in view than it is willing to avow, it cannot refuse to concur in an arrangement rescinding on her part the orders in council, and on ours the embargo. If France should concur in a like arrangement, the state of things will be restored which is the alleged object of the orders. If France does not concur, the orders will be better enforced by the continuance of the embargo against her than they are by the British fleets and cruisers; and, in the mean time, all the benefits of our trade will be thrown into the lap of Great Britain. It will be difficult, therefore, to conceive any motive in Great Britain to reject the offer which you will have made, other than the hope of inducing, on the part of France, a perseverance in her irritating policy towards the United States, and on the part of the latter hostile resentments against it.

If the British Government should have elected the more wise and more worthy course of meeting the overture of the President in the spirit which dictated it, it is to be hoped that measures will have been taken in concert with you, and though its minister here, for hastening as much as possible the renewal of the intercourse which the orders and the embargo have suspended; and thereby smoothing the way for other salutary adjustments.

It appears that the British Government, not satisfied with the general blockade by her orders of November 11, has superadded a particular blockade, or rather a diplomatic notification of an intended one, of Copenhagen, and the other ports in the island of Zealand; that is to say, a strict and legal blockade of the whole island. The island cannot be much less than two hundred miles in its outline, and is described as abounding in inlets. It is not probable, therefore, if it be possible, that a blockade, within the true definition, should be carried into effect. And as all defective blockades, whether so in the disproportion of force to the object, or in the mode of notification, will authorize fair claims of indemnification, it is the more necessary that guarded answers should be given in such cases as heretofore suggested.

Since the British order of——— evidently inviting our citizens to violate the laws of our country, by patronizing on the high seas their vessels destitute of registers and other necessary papers, and therefore necessarily smugglers if not pirates, the circular letter of Mr. Huskisson has made its appearance, in which the United States are named as alone within the purview of the order. A more extraordinary experiment is, perhaps, not to be found in the annals of modern transactions. It is levelled, moreover, against a nation towards which friendship is professed, as well as against a law the justice and validity of which is not contested; and it sets the odious example, in the face of the world, directly in opposition to all the principles which the British Government has been proclaiming to it. What becomes of the charge against the United States for receiving British subjects who leave their own country contrary to their allegiance? What would be the charge against them if they were, by proclamation, to invite British subjects, those too expressly and particularly prohibited from leaving their country, to elude the prohibition; or to tempt, by interested inducements, a smuggling violation or evasion of laws, on which Great Britain founds so material a part of her national policy? In the midst of so many more important topics of dissatisfaction, this may not be worth a formal representation. But it will not be amiss to let that Government understand the light in which the proceeding is regarded by this. I have already touched on it to Mr. Erskine, with an intimation that I should not omit in it my observations to you.

The French decree, said to have been issued at Bayonne, has not yet reached this country. Such a decree, at such a time, has a serious aspect on the relations of the two countries, and will form a heavy item in our demands of redress. It is much to be regretted, at the same time, that any of our vessels, by neglecting to return home, and conforming to the arbitrary regulations of one belligerent, should expose themselves to the arbitrary proceedings of another. So strong and general an indignation seems particularly to prevail here against the Americans in

Europe, who are trading under British licenses, and thereby sacrificing, as far as they can, the independence of their country, as well as frustrating the laws which were intended to guard American vessels and mariners from the dangers incident to foreign commerce, that their continuance in that career ought to be frowned upon, and their return home promoted in every proper manner. It appears, by information from our consul at Tangier, that great numbers of our vessels are engaged in a trade between Great Britain and Spanish ports, under licenses from the former, and that the experiment proves as unsuccessful as it is dishonorable; the greater part of them being either arrested in port, or by French and Spanish cruisers.

Extract:—Mr. Pinkney to Mr. Madison.

LONDON, August 4, 1808.

The St. Michael arrived at Falmouth, on Thursday the 14th of last month, after a passage of eight days from L'Orient. Captain Kenyon delivered me on Wednesday the 20th, (upon my arrival in town from Brighton, where I had been for a short time on account of my health,) your letters of the 30th April, and your private letter of the 1st of May, together with newspapers, printed copies of the embargo act, and its supplements, and of papers laid before Congress at their last session. Mr. Hall brought me a letter from General Armstrong of the 26th of June, (of which I send an extract,) and Mr. Upson brought me a private letter from him, with the following postscript of the 1st of July; "An order has been received from Bayonne to condemn eight other of our ships."

On Friday, the 22d of July, I had an interview with Mr. Canning, and renewed my efforts to obtain a revocation of the British orders of January and November, 1807, and of the other orders dependent upon them. I have already informed you, in my private letter of the 29th of June, that, on the morning of its date, I had a long conversation with Mr. Canning, which had rendered it somewhat probable that the object mentioned in your letter of the 30th of April, (of which I had received a duplicate by the packet,) would be accomplished, if I should authorize the expectation which that letter suggests, but that some days must elapse before I could speak with any thing like certainty on the subject; and I have mentioned in another private letter (of the 10th of July) that it was understood between Mr. Canning and myself that another interview should take place soon after the prorogation of Parliament. In effect, however, Mr. Canning was not prepared to see me again, until the 22d of July, after I had been recalled to London by the arrival of the St. Michael, and had, in consequence, reminded him of our arrangement by a private note.

In the interview of the 29th of June, I soon found it necessary to throw out an intimation that the power vested in the President by Congress, to suspend the embargo act and its supplements, would be exercised, as regarded Great Britain, if their orders were repealed as regarded the United States. To have urged the revocation upon the mere ground of strict policy, or of general right, and there to have left the subject, when I was authorized to place it upon grounds infinitely stronger, would have been, as it appeared to me, to stop short of my duty. Your letters to Mr. Erskine (which Mr. Canning has read and considered) had exhausted the first of these grounds; and endless discussions here, in every variety of form, in and out of Parliament, had exhausted the second. There was, besides, no objection of any force to my availing myself, without delay, of the powerful inducements which the intimation in question was likely to furnish to Great Britain to abandon her late system; and it seemed to be certain that, by delaying to present these inducements to Mr. Canning's consideration, I should not only lose much time, but finally give to my conduct a disingenuous air, which, while it must be foreign to the views and sentiments of the President, could hardly fail to make a very unfavorable impression upon the minds of Mr. Canning and his colleagues. I thought, moreover, that if I should reserve the suggestion for a late stage of our discussions, it would be made to wear the appearance of a concession reluctantly extorted, rather than of, what it was, the spontaneous result of the characteristic frankness and honorable policy of our Government.

The intimation once made, a complete development of its natural consequences, if properly acted upon, followed of course; and, taking advantage of the latitude afforded by the informal nature of a mere conversation, I endeavored to make that development as strong an appeal as, consistently with truth and honor, I could, (and there was no necessity to do more) to the justice and the prudence of this Government.

It was not possible, however, that Mr. Canning could require to be assisted by my explanations. It was plain, upon their own principles, that they could not equitably persevere in their orders in council, upon the foundation of an imputed acquiescence, on our part, in French invasions of our neutral rights, when it was become (if it was not always) apparent that this imputation was completely and in all respects an error; when it was manifest that these orders, by letting loose upon our rights a more destructive and offensive persecution than it was in the power of France to maintain, interposed between us and France, furnished answers to our remonstrances against her decrees and pretexts for those decrees, and stood in the way of that very resistance which Great Britain affected to inculcate, as a duty, at the moment when she was taking the most effectual measures to embarrass and confound it; and when it was also manifest that a revocation of those orders would, if not attended or followed by a revocation of the decrees of France, place us at issue with that Power, and result in a precise opposition, by the United States, to such parts of our anti-commercial edicts as it became us to repel.

In a prudential view, my explanations seemed still less to be required. Nothing could be more clear than that, if Great Britain revoked her orders, and entitled herself to a suspension of the embargo, her object, (if it were any thing short of the establishment and practical support of an exclusive dominion over the seas) must, in some mode or other, be accomplished, whether France followed her example or not. In the first case, the avowed purpose of the British orders would be fulfilled, and commerce would resume its accustomed prosperity and expansion. In the last, the just resistance of the United States (more efficacious than that of the British orders) to French irregularities and aggressions, would be left to its fair operation, (and it was impossible to mistake the consequences,) while the commercial intercourse between the United States and Great Britain, being revived, would open the way for a return to good understanding, and, in the end, for an adjustment of all their differences.

On the 29th of July I met Mr. Canning again, and was soon apprised that our discussions, if continued at all, must take a new form.

These, and many other reflections of a similar tendency, which I forbear to repeat, could not have escaped the penetration of Mr. Canning, if they had not been suggested to him in considerable detail. But whatever might be their influence upon his mind, he certainly did not pronounce any opinion; and what he said consisted principally of inquiries, with a view to a more accurate comprehension of my purpose. He asked if I thought of taking a more formal course than I was now pursuing; but immediately remarked that he presumed I did not, for that the course I had adopted was undoubtedly well suited to the occasion. I told him that I was so entirely persuaded that the freedom of conversation was so much better adapted to the nature of our subject, and so much more likely

to conduct us to a beneficial result, than the constraint and formality of written communication, which usually grew into protracted discussion, and always produced embarrassment when there was any thing of delicacy in the topics, that I had not intended to present any note.

This interview (in the progress of which other points were incidentally touched upon) did not authorize any very confident opinion that Mr. Canning approved of what had been suggested to him; and still less could it warrant any anticipation of the final opinion of his Government. But the manner in which my communication was received, and the readiness shown by Mr. Canning to proceed in the mode which was peculiarly favorable to my object, connected with the reasonableness of the object itself, induced me to think it rather probable that the issue would be satisfactory.

The interview of the 22d of July was far from producing any thing of an unpromising complexion. I urged again much of what had been said at the last conference, and suggested such further considerations as had since occurred to me in support of my demand. Mr. Canning was still much more reserved than I had hoped to find him, after so much time had been taken for deliberation; but, from all that passed, I was more than ever inclined to believe that the orders would be relinquished. He seemed now to be extremely desirous of ascertaining whether I was authorized and disposed, with a view to a final arrangement, to present what I had suggested, as to the suspension of the embargo, in a more precise shape. I told him, after some conversation upon this point, that, although I would prefer that course which was the least formal, yet, if every thing should be first matured, I might be able to combine, with a written demand that their orders should be repealed, such an assurance as I had already mentioned, that the embargo would be suspended; but that I would consider of this with reference to the manner and terms. He then observed, that I would perhaps allow him a little time to reflect whether he would put me to the necessity of presenting such a paper; and, upon my assenting to this, he said that he would give me another appointment towards the end of the following week. As I was on the point of leaving him, he asked me if I would endeavor to prepare, before the next interview, such a note as we had talked of; but he had scarcely made this proposal before he added, "but you will, doubtless, desire first to know what are our ideas and intentions upon the whole subject."

On the 29th of July I met Mr. Canning again, and was soon apprised that our discussions, if continued, must take a new form. He began by inquiring if I had received any intelligence of a late affair on the Lakes, which had caused great alarm and anxiety among the British traders, and of which an account had just been put into his hands. He then read, very rapidly, from a letter, apparently written in Canada, a complaint of an attack upon some British boats, in violation of the third article of the treaty of 1794, and observed that this was the more to be regretted, as it followed some recent misunderstandings in the Bay of Passamaquoddy. I told him that I had no intelligence, official or private, of these transactions, which he would perceive took place upon our borders, at a great distance from the seat of Government, and that of course I could only express my conviction that the Government of the United States would disavow whatever was improper in the conduct of its agents, and would in other respects act as good faith and honor required.

This matter being disposed of, Mr. Canning said that he had thought long and anxiously upon what I had suggested to him at our late conferences; that the subject had at first struck him as much more simple and free from difficulty than upon careful examination it was found to be; that, in the actual state of the world, it behooved both him and me to move in this affair with every possible degree of circumspection, an intimation which he did not explain; that, without some explicit proposal on my part, in writing, upon which the British Government could deliberate and act, nothing could be done; and, finally, that he must leave me to consult my own discretion whether I would make such a proposal.

I answered that, with such a previous understanding between us as I had counted upon, I should feel no objection to take occasion to say, in an official note requiring the revocation of their orders in council, that the orders being rescinded as to us, it was the intention of the President to suspend the embargo as to Great Britain; but that I expected to be told, before my note was presented, what would be the reply to it, and what its consequences in every direction; and that I could not conjecture, if it was really meant to acquiesce in my demand, (the exact nature of it being, in point of fact, understood by this Government just as well as if it had been made in writing,) or if more time than had already been afforded was required for deliberation, why it was necessary that I should, in the last case, take the step in question at all, or, in the first case, without being frankly apprised of the effect it would produce.

Mr. Canning replied that my wish in this particular could not be acceded to; that, if I presented a note, they must be left at perfect liberty to decide upon what it proposed; that he could not give me even an intimation of the probable consequences of it; and, in a word, that he would neither invite nor discourage such a proceeding. He observed, too, that there were some points belonging to the subject which it was necessary to discuss in writing; that my suggestions implied that the embargo was produced by the British orders in council; that this could not be admitted; and that there were other questions incident to these two measures, with the examination of which it was proper to begin upon an occasion like the present. I remarked, in answer, that, with an actual result in view, and with a wish to arrive at that result without delay, nothing could be worse imagined than to entangle ourselves in a written correspondence, undefined as to its scope and duration, upon topics on which we were not likely to agree; that if I were compelled to frame my note, with a knowledge that it was to provoke argument, instead of leading at this momentous crisis to a salutary change in the state of the world, he must be conscious that I, too, must argue, and that I could not justify it to my Government to abstain from a complete assertion of all its pretensions, and a full exposure of the true character of those acts of which it complained as illegal and unjust. And where would this end? To what wholesome consequence could it lead?

My remarks having no effect, I made a further slight attempt to ascertain the reception which my note would meet with, if I should determine to present one. This attempt failed; but I believed it to be apparent that, if any other consequence than mere discussion should follow the receipt of my note, it would be at a great distance.

At the close of the conference I observed, that, as the footing upon which this interview had placed this subject made delay of no importance, I should take time to prepare such further proceeding as might appear to me to be required by the occasion.

I ought to mention that I give you in this letter the substance only of the conversation which it states, and that there was nothing in any degree unfriendly in the language or manner of Mr. Canning. I need not say that I thought it my duty to adopt the same tone and manner.

My desire to send a duplicate of this hasty letter by the packet induces me to defer, until another opportunity, all reflections upon the turn which this affair has taken.

As there is now no occasion for detaining the *St. Michael*, she will be despatched immediately for *L'Orient*.

[Referred to and enclosed in Mr. Pinkney's letter of August 4.]

Extract:—General Armstrong to Mr. Pinkney.

PARIS, June 26, 1808.

The St. Michael arrived at L'Orient on the 1st instant, and the Government messenger at Paris on the 8th. A passport for the vessel to Falmouth, and thence to L'Orient again, was immediately requested, but one in this form could only be granted by order of the Emperor, and this was not given till the 18th. These circumstances will account for the long detention of your despatches. We have reason to regret that the views of our Government, founded on the justice and wisdom of the belligerent Powers, are so little likely to succeed. Attempts of this character made here (and they have not been unfrequent) have hitherto done no good; nay, the repetition of these may be fairly presumed to have done mischief, inasmuch as it has tended to establish a creed, that words, in some form or other, are the only means we have to employ. The French Council of Prizes, which is, I am told, as like the English Court of Admiralty as one egg is like another, has lately begun its career of condemnation. Between the 1st and 15th instant, five cases have been decided, and I am assured that orders have been received from Bayonne for condemning all American cases "en bloc." What has suspended the axe since the 15th, we can but conjecture. It may be presumed that the reflections of the Spanish junta on the political and other relations subsisting between Spain and the United States, through the medium of the colonies, may have produced this pause. That it is not owing to any conquest which good principles have obtained over bad ones, is certain. Are things any better on your side the channel? &c.

Extract:—Mr. Pinkney to Mr. Madison.

LONDON, September 6, 1808.

I have an opportunity of writing by Mr. Bethune, who leaves town to-morrow for Falmouth, to embark for the United States in the British packet, and I cannot omit to take advantage of it, although I have still nothing conclusive to communicate.

The Hope arrived off Falmouth and landed Mr. Atwater on the 16th of last month, and immediately proceeded on her voyage to Havre, with a fair wind. Mr. Atwater arrived in London on the 20th, in the evening, and delivered your letter of the 18th of July.

My public letter of the 4th August will have apprised you of the footing on which my different interviews with Mr. Canning left the subject of the British orders in council; and my private letter of the 2d of that month will have made you acquainted with my intention to present, in an official note, what I had ineffectually suggested in conference.

To such a course there could not, even in the first instance, have been any other objection than that it was calculated to lead to discussion rather than to adjustment; but whatever might be its tendency, it is certain that I could have no inducement to resort to it, until it was indicated by Mr. Canning as indispensable, nor any motive to decline it afterwards.

At our last interview, and not before, it was unexpectedly found that it was in that mode only that I could obtain a knowledge of the light in which this Government thought fit to view the overture I had been directed to make to it; and I determined, in consequence, to lay before it, in writing, the intention of the President, with the same frankness which had characterized my verbal communications.

I have now the honor to transmit a copy of the note, which, in conformity with that determination, I delivered in person to Mr. Canning, on the 26th of last month, a few days after its date. To this note no answer has yet been returned, but it is to be presumed that it will not be much longer withheld.

You will perceive that some time had elapsed after I had sent off my despatches by the St. Michael (the 8th August) before my note was presented. The truth is, that I had employed a part of that time in framing a note of great length, which, when nearly completed, I thought it prudent to abandon, in favor of one that held out fewer invitations to unprofitable discussions, which, although I would not shun them if pressed upon me, I did not suppose it proper that I should seek.

I believed, too, that a little delay on my part would be far from being disadvantageous. There would still be sufficient time for obtaining a final answer to my proposal, in season for the meeting of Congress; and as the temper of this Government, so far as it had been tried, had not appeared to be favorable to my purpose, I believed that I should act in the spirit of my instructions, and consult the honor of my Government, by avoiding, under such circumstances, the appearance of urgency and precipitation.

Upon the terms or general plan of my note it is not, I hope, necessary to remark. You will discover that it was prepared under a persuasion that, whatever might be its effect, it was infinitely better to make it as conciliatory as, without a sacrifice of principle or national dignity, was possible.

The topics to be embraced by it were such as did not demand, but rather forbade, minute expositions. While it was difficult to urge, in their full force, without seeming to aim at exciting a disposition unfriendly to the object of my instructions, all the considerations which justified the United States in remonstrating against the British orders, it was yet more difficult, without a degree of harshness scarcely suited to the occasion, and without also the hazard of indiscretion, to display in detail the signal injustice and impolicy of persevering in them, after what I had proposed. This could be done, and had been done, in conversation; but it did not, upon trial, appear to be equally practicable in the more formal and measured proceeding which I was now called upon to adopt.

I considered, besides, that an overture so highly advantageous to Great Britain, which the United States were not bound to make by any obligations of equity, although it was wise to make it, did not require, with any view to the character of my country, or even to the success of the overture itself, to be again recommended by an anxious repetition of arguments already fully understood.

As soon as my note was prepared, I called at the Foreign Office to arrange an interview with Mr. Canning, for the purpose of enabling me to accompany the delivery of it with a communication which I deemed important, as well as of affording him an opportunity of asking and receiving such explanations as he might desire. The interview took place on the 26th of August.

It had occurred to me that it would be proper (and could not be injurious) to read to Mr. Canning, from your letter to me of the 18th July, a brief summary of the instructions under which I was acting. This had not been requested; but it could not be unacceptable, and it was, besides, well calculated to do justice to the liberal sentiments by which my instructions had been dictated, as well as to give weight to my efforts in the execution of them.

I was led, by the reading of these passages, (without having originally intended it,) into a more extensive explanation than I had before attempted of the influence which the proposal of my Government would have, in truth,

as well as in the judgment of the world, upon the supposed justice of their new system, as it affected the United States. To that explanation, with the particulars of which I will not, and indeed, for want of time, cannot, at present trouble you, I added a concise recapitulation of some of the prudential considerations which had been so often pressed before; and there I left the subject.

[Enclosed in the preceding despatch.]

Mr. Pinkney to Mr. Canning.

SIR:

GREAT CUMBERLAND PLACE, August 23, 1808.

I have had the honor, in consequence of the orders of the President, to recall your attention, in the course of several recent interviews, to the British orders in council of the 7th of January, and 11th November, 1807, and to the various other orders founded upon or in execution of them; and I now take the liberty to renew, in the mode which I have understood to be indispensable, my instances on that subject.

I need scarcely remind you, sir, that the Government of the United States has never ceased to consider these orders as violating its rights, and affecting most destructively its interests, upon grounds wholly inadmissible, both in principle and fact.

The letters of Mr. Madison to Mr. Erskine, of the 20th and 29th of March, 1807, produced by the official communication of that minister of the order of the 7th of January, and the answer of Mr. Madison of the 25th of March, 1808, to a like communication of the orders of the 11th of November, contained the most direct remonstrances against the system which these orders introduce and execute, and expressed the confident expectation of the President that it would not be persisted in.

That expectation has not yet been fulfilled; but it has, notwithstanding, not been relinquished. The President is still persuaded that its accomplishment will result from a careful review by His Majesty's Government, made in the spirit of moderation and equity, of the facts and considerations which belong to the occasion.

It is not my purpose to recapitulate in this note the statements and reasonings contained in the above-mentioned letters of Mr. Madison, in support of the claims of the Government of the United States, that the British orders be revoked. I content myself with referring to those letters for proofs which it is not necessary to repeat, and for arguments which I could not hope to improve.

But there are explanations which those letters do not contain, and which it is proper for me now to make. Even these, however, may be very briefly given, since you have already been made acquainted, in our late conversations, with all their bearings and details.

These explanations go to show that, while every motive of justice conspires to produce a disposition to recall the orders of which my Government complains, it is become apparent that even their professed object will be best attained by their revocation.

I have the honor to state to you, sir, that it was the intention of the President, in case Great Britain repealed her orders as regarded the United States, to exercise the power vested in him by the act of the last session of Congress, entitled "An act to authorize the President of the United States, under certain conditions, to suspend the operation of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several supplementary acts thereto," by suspending the embargo law and its supplements as regards Great Britain.

I am authorized to give you this assurance in the most formal manner; and I trust that, upon impartial inquiry, it will be found to leave no inducement to perseverance in the British orders, while it creates the most powerful inducements of equity and policy to abandon them.

On the score of justice, it does not seem possible to mistake the footing upon which this overture places the subject; and I venture to believe that in any other view there is as little room for doubt.

If, as I propose, your orders should be rescinded as to the United States, and our embargo rescinded as to Great Britain, the effect of these concurrent acts will be that the commercial intercourse of the two countries will be immediately resumed; while, if France should adhere to maxims and conduct derogatory to the neutral rights of the United States, the embargo, continuing as to her, will take the place of your orders, and lead, with an efficacy not merely equal to theirs, but probably much greater, to all the consequences that ought to result from them.

On the other hand, if France should concur in respecting those rights, and commerce should thus regain its fair immunities, and the law of nations its just dominion, all the alleged purposes of the British orders will have been at once fulfilled.

If I forbear to pursue these ideas through all the illustrations of which they are susceptible, it is because the personal conferences to which I have before alluded, as well as the obvious nature of the ideas themselves, render it unnecessary.

I cannot conclude this note without expressing my sincere wish that what I have now suggested, in conformity with the liberal sentiments and enlightened views of the President, may contribute, not only to remove the more immediate obstacles to the ordinary intercourse of trade between your country and mine, in a manner consistent with the honor of both, but to prepare the way for a satisfactory adjustment of every question important to their future friendship.

I have the honor to be, &c.

WILLIAM PINKNEY.

The Right Honorable GEORGE CANNING, &c.

Extract:—Mr. Pinkney to Mr. Madison.

DEAR SIR:

LONDON, September 21, 1808.

The Hope arrived at Cowes, from France, on the 13th instants.

Not having heard from Mr. Canning, although he returned to London on the 16th, I called again yesterday at Downing street, and was assured that the answer to my note would be sent to-night, or early to-morrow morning. Mr. Atwater will of course be able to leave town on Friday, and embark on Saturday, with a copy of it.

I have been told, since the arrival of the last British packet, (but do not believe it,) that there is more probability than I had anticipated that the late events in Spain and Portugal (which ought not to be considered as deciding any thing) will have an effect on public opinion in America against the continuance of the embargo, and favorable to all the purposes of Great Britain. If this were true, I should think that it was deeply to be lamented. I may misunderstand the subject, but I cannot persuade myself that any thing that has happened on this side the Atlantic ought to induce us to retreat in any degree from our present system.

If we should resolve to trade with Spain and Portugal (Great Britain and France persisting in their orders and decrees) in any way to which Great Britain would not object, we must suspend the embargo as to those countries only, or as to those countries *and Great Britain*, or we must repeal it altogether.

The temptation to the first of these courses is, even in a commercial sense, inconsiderable; the objections to it endless. The object to be gained (if no more was gained than ought to be gained) would be trifling. There could, indeed, be no gain. An inadequate market, redundantly supplied, would be more injurious than no market at all. It would be a lure to destruction, and nothing more.

A suspension of the embargo so limited in its nature as this would be, (supposing it to be in fact what it would be in form,) would have a most unequal and invidious operation in the different quarters of the Union, of which the various commodities would not, in the ports of Portugal and Spain, be in equal demand. A war with France would be inevitable, and such a war, so produced, from which we could not hope to derive either honor or advantage, would place us at the mercy of Great Britain, and, on that account, would in the end do more to cripple and humble us than any disaster that could otherwise befall us.

The actual state of Spain and Portugal is, moreover, not to be relied upon. My first opinion on that subject remains; but even the most sanguine will admit that there is great room for doubt. The Emperor of France is evidently collecting a mighty force for the reduction of Spain, and Portugal must share its fate. And even if that force should be destined (as some suppose) first to contend with Austria, the speedy subjugation of Spain is not the less certain. If France should succeed, Spain and Portugal would again fall under the British orders of November, as well as under the operation of the French decrees. Our cargoes would scarcely have forced their way to the ocean in search of this boasted market, before they would be once more in a state of prohibition; and we should, in the mean time, have incurred the scandal of suffering an improvident thirst of gain to seduce us from our principles into a dilemma presenting no alternative but loss, in all the senses of that word.

But it is not even certain what Great Britain would herself finally say to such a partial suspension of the embargo. She would doubtless at first approve of it; but her ultimate course, (especially if war between France and the United States were not the immediate consequence, or if the measure were eventually less beneficial to herself than might be supposed at the outset,) ought not to be trusted. That she would approve at first is hardly to be questioned; and the considerations upon which she would do so are precisely those which should dissuade us from it. Some of these are—the aid it would afford to her allies as well as to her own troops co-operating with them, and its consequent tendency to destroy every thing like system in our conduct; its tendency to embroil us with France; its tendency to induce us, by overstocking a limited market, to make our commodities of no value, to dissipate our capital, to ruin our merchants without benefiting our agriculture, to destroy our infant manufactures without benefiting our commerce; its tendency to habituate us to a trammelled trade, and to fit us for acquiescence in a maritime despotism. But there are other reasons—our trade with Spain and Portugal, while it lasted, would be a circuitous trade *with Great Britain and her colonies*, for their benefit; our productions would be carried in the first instance to Spain and Portugal, would be bought there for British account, and would find their way to the West Indies, or centre here, as British convenience might require; and thus, in effect, the embargo would be removed as to Great Britain, while it continued as to France, and we professed to continue it as to both. And if any profits should arise from this sordid traffic, they would become a fund to enable us to import into the United States, directly or indirectly, the manufactures of Great Britain, and thus relieve her in another way, while her orders would prevent us from receiving the commodities of her enemy. It would be far better openly to take off the embargo as to Great Britain, than, while affecting to continue it as to that Power, to do what must rescue her completely (and that, too, without advantage to ourselves) from the pressure of it, at the same time that it would promote her views against France in Portugal and Spain.

As to withdrawing the embargo from Great Britain as well as Spain and Portugal, while the British orders are unrepealed, the objections to that course are just as strong now as they were four months ago. The change in Spain and Portugal (if it were even likely to last) cannot touch the principle of the embargo as regards Great Britain, who re-asserts her orders of November in the very explanations of the 4th of July, under which we must trade with those countries, if we trade with them at all. If we include Great Britain in the suspension, and exclude France, we do now what we have declined to do before, for the sake of delusive commerce, which may perish before it can be enjoyed, and cannot in any event be enjoyed with credit, with advantage, or even with safety. We take part at once with Great Britain against France, at a time the least suited that could be imagined to such a determination; at a time when it might be said that we were emboldened by French reverses to do what before we could not resolve upon, or were tempted by the prospect of a scanty profit, exaggerated by our cupidity and impatience, to forget what was due to consistency, to character, to permanent prosperity. We sanction, too, the maritime pretensions which insult and injure us. We throw ourselves, bound hand and foot, upon the generosity of a Government that has hitherto refused us justice, and all this when the affair of the Chesapeake and a host of other wrongs are unredressed, and when Great Britain has just rejected an overture which she must have accepted with eagerness if her views were not such as it became us to suspect and guard against.

To repeal the embargo altogether would be preferable to either of the other courses, but would, notwithstanding, be so fatal to us, in all respects, that we should long feel the wound it would inflict, unless, indeed, some other expedient, as strong at least, and as efficacious in all its bearings, can (as I fear it cannot) be substituted in its place.

War would seem to be the unavoidable result of such a step. If our commerce should not flourish in consequence of this measure, nothing would be gained by it but dishonor; and how it could be carried on to any valuable purpose it would be difficult to show. If our commerce *should* flourish in spite of French and British edicts and the miserable state of the world, in spite of war with France, if that should happen, it would, I doubt not, be assailed in some other form. The spirit of monopoly has seized the people and Government of this country. We shall not, under any circumstances, be tolerated as rivals in navigation and trade. It is in vain to hope that Great Britain will voluntarily foster the naval means of the United States. Even as allies we should be subjects of jealousy. It would be endless to enumerate in detail the evils which would cling to us in this new career of vassalage and meanness, and tedious to pursue our backward course to the extinction of that very trade to which we had sacrificed every thing else.

On the other hand, if we persevere, we must gain our purpose at last. By complying with the little policy of the moment, we shall be lost. By a great and systematic adherence to principle, we shall find the end of our difficulties.

The embargo and the loss of our trade are deeply felt here, and will be felt with more severity every day. The wheat harvest is likely to be alarmingly short, and the state of the continent will augment the evil. The discontents among their manufacturers are only quieted for the moment by temporary causes. Cotton is rising, and will soon be scarce. Unfavorable events on the continent will subdue the temper, unfriendly to wisdom and justice, which now prevails here. But, above all, the world will, I trust, be convinced that our firmness is not to be shaken.

Our measures have not been without effect. They have not been *decisive*, because we have not been thought capable of persevering in self-denial, if that can be called *self-denial* which is no more than prudent abstinence from destruction and dishonor.

I ought to mention that I have been told by a most respectable American merchant here, that large quantities of such woollen cloths as are prohibited by our non-importation act have been and continue to be sent to Canada, with the view of being smuggled into the United States.

I need not tell you that I am not induced to trouble you with my hasty reflections because I think you stand in need of them. I give them merely because I believe that you are entitled to know the impressions which a public servant on this side of the water receives from a view of our situation.

P. S. September 24. Mr. Canning's answer, received last night, confirms all my late anticipations. It is a little extraordinary that, if a written proposal was required from me *with the idle motive mentioned in the accompanying paper*, no such motive was suggested at the time, and even that other motives *were* suggested. The fact probably is, that they wished to evade the overture, and hoped that it would not be formally made. Being made, it was difficult to dispose of it; and hence the delay.

Mr. Pinkney to Mr. Madison.

LONDON, September 24, 1808.

SIR:

I am now enabled to transmit to you a copy of Mr. Canning's answer, received only last night, to my note of the 23d of August. This answer was accompanied by a letter, of which also a copy is enclosed, recapitulating what Mr. Canning supposes to be "the substance of what has passed between us at our several interviews, previous to the presentation of my official letter."

To the accompanying paper I think it indispensable that I should reply without delay, supporting with politeness, but with firmness, the statements which I have already had the honor to make to you of the conversations in question, and correcting some errors upon points which Mr. Canning has thought fit to introduce into his letter, but which I had not supposed it necessary to mention in detail in my despatches.

I shall not detain Mr. Atwater with a view to this reply, but will take care to forward a copy of it by an early conveyance. My official note, and the answer to it, being perfectly explicit, Mr. Canning's misapprehensions (for such they are) of previous verbal communications can scarcely be very important in a public view; but it is, nevertheless, of some consequence, that, whatever may be the object of his statement, I should not make myself a party to its inaccuracies by even a tacit admission of them.

I do not perceive that a formal reply to the more official paper can now be of any advantage, but I shall probably take occasion to combine with my reply to the one paper some observations upon the other.

I regret extremely that the views which I have been instructed to lay before this Government have not been met by it as I had at first been led to expect. The overture cannot fail, however, to place in a strong light the just and liberal sentiments by which our Government is animated, and, in other respects, to be useful and honorable to our country.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of September 24.]

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, September 23, 1808.

SIR:

In laying before the King your letter of the 23d of August, and in communicating to you the enclosed answer which I have received His Majesty's commands to return to it, I confess that I feel some little embarrassment from the repeated references which your letter contains to what has passed between us in conversation—an embarrassment arising, in no degree, as you are perfectly aware, from any feeling of distrust in you, personally, but from a recollection of the misrepresentation, which took place in America, of former conferences between us. You gave me, on that occasion, the most satisfactory proof that such misrepresentation did not originate with you, by communicating to me that part of your despatch in which the conferences particularly referred to were related, and related correctly; but this very circumstance, while it establishes your personal claim to entire confidence, proves, at the same time, that a faithful report of a conference on your part is not a security against its misrepresentation. It was for that reason principally, that, after hearing with the most respectful attention all that you had to state to me verbally on the subject of the present overture, I felt myself under the necessity of requiring, as "indispensable," a written communication upon the subject. It is for that reason, also, that as, in your written communication, you refer me to our late conversations for the "bearings and details" of your proposal, I feel it necessary to recapitulate, as shortly as I can, what I conceive to have passed in those conversations, beyond what I find recorded in your letter.

The principal points in which the suggestions brought forward by you in personal conference appear to me to have differed, in some degree, from the proposal now stated by you in writing, are two: the first, that, in conversation, the proposal itself was not distinctly stated as an overture authorized by your Government; the second, that the beneficial consequences likely to result to this country from the acceptance of that proposal, were "pursued" through more ample "illustrations."

In the first of our conferences, I understood you to say little more, on the authority of your Government, than that you were instructed to remonstrate against the orders in council of the 7th of January, and of the 11th of November, 1807, but to add, as from yourself, an expression of your own conviction that, if those orders were repealed, the President of the United States would suspend the embargo with respect to Great Britain. Upon the consequences of such a suspension of the embargo, while it would still continue to be in force against France, you expatiated largely; still speaking, however, as I understood, your own individual sentiments. It was suggested by you that America, in that case, would probably arm her merchant ships against the aggressions of France, an expedient to which, you observed, it would be perfectly idle to resort against Great Britain. The collision of armed vessels would probably produce war, and the United States would thus be brought into the very situation in which we must wish to place them, that of hostility to France, and virtual, if not formal alliance with Great Britain.

In our second conference you repeated and enforced these arguments, calculated to induce the British Government to consent to the repeal of the orders in council; and in this conference, though not stating yourself to be authorized by your Government formally to offer the suspension of the embargo as an immediate consequence of that repeal, yet you did profess (as I understood you) a readiness to take upon yourself to make that offer, provided

that I would give you beforehand an unofficial assurance that, coupled with that offer so made, the demand of the repeal of the orders in council of January and November, 1807, would be favorably received. I, of course, declined to give any such previous assurance; but as you appeared to attach great importance to this suggestion, and as I was led to think that a compliance with it might relieve you from a difficulty in executing the instructions of your Government, I consented to take a few days to consider of it, and to reserve my definitive answer until I should see you again.

I never doubted, in my own mind, as to the inexpediency and impropriety of encouraging you to take an unauthorized step, by an unofficial promise that it should be well received. But, in a matter of such delicacy, I was desirous of either confirming or correcting my own opinion by the opinions of others. The result was, that, in a third interview, which took place shortly after the second, I had the honor to inform you, that, after the most mature deliberation, I found it impossible to yield to your suggestion; and that it therefore remained for you to frame your proposition according to the instructions of your Government, or to your own unbiassed discretion.

My own share in these several conferences, beyond what is implied in the above statement, was very small. I have, as you know, always rather wished to refer the argumentative discussion of the subject of the orders in council to the official correspondence I have more than once been taught to expect you to open upon it, than to engage with you in a verbal controversy, which, if confined to ourselves, would be useless; if afterwards to be reduced into writing for the purpose of being communicated to our respective Governments, superfluous.

But the representations which you have repeatedly made against the orders in council of January and November, as "violating the rights of the United States, and affecting most destructively their best interests, upon grounds wholly inadmissible, both in principle and in fact," I have uniformly maintained the "unquestionable right" of His Majesty to "resort to the fullest measures of retaliation, in consequence of the unparalleled aggression of the enemy, and to retort upon that enemy the evils of his own injustice;" and have uniformly contended that, "if third parties suffer from those measures, the demand of reparation must be made to that Power which first violates the established usages of war and the rights of neutral States."

There was, indeed, one point upon which I was particularly anxious to receive precise information, and upon which, from your candor and frankness, I was fortunate enough to obtain it. The connecting together, in your proposed overture, the suspension of the embargo and the repeal of the orders in council, (as well those of November as the preceding one of the 7th of January,) might appear to imply that the embargo had been the immediate consequence of those orders; and I was therefore desirous to ascertain whether, in fact, the orders in council of November had been known to the Government of the United States, previously to the message of the President proposing the embargo, so as to be a moving consideration to that message. I had the satisfaction to learn from you, sir, that such was not the fact; that rumors, indeed, might have reached America of *some* measure of further retaliation being in the contemplation of the British Government; that, perhaps, (as I understood you,) some more severe and sweeping measure might have been expected, but that of the orders in council of the 11th of November as having been actually issued, there was no certain knowledge in America, or at least none in the possession of the American Government, at the time of proposing the embargo.

Such, sir, is, according to the best of my recollection, correctly the substance of what has passed between us at our several interviews, previous to the presentation of your official letter; and such I have represented to have been the substance of what passed on these several occasions, in the report of our conferences which it has been my duty to make to the King.

If, in this recapitulation, there is any thing mistaken, or any thing omitted, you will do me the justice to believe the error unintentional, and you may rely on my readiness to set it right.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,
 GEORGE CANNING.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, *September 23, 1808.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, had the honor to receive the official letter addressed to him by Mr. Pinkney, minister plenipotentiary of the United States, respecting the orders in council issued by His Majesty on the 7th January and 11th November, 1807.

He has laid that letter before the King; and he is commanded to assure Mr. Pinkney that the answer to the proposal, which Mr. Pinkney was instructed to bring forward, has been deferred only in the hope that the renewed application, which was understood to have been recently made by the Government of the United States to that of France, might, in the new state of things which has arisen in Europe, have met with such a reception in France as would have rendered the compliance of His Majesty with that proposal consistent, as much with His Majesty's own dignity, and with the interests of his people, as it would have been with His Majesty's disposition towards the United States.

Unhappily there is now no longer any reason to believe that such a hope is likely to be realized, and the undersigned is, therefore, commanded to communicate to Mr. Pinkney the decision which, under the circumstances as they stand, His Majesty feels himself compelled, however unwillingly, to adopt.

The mitigated measure of retaliation, announced by His Majesty in the order in council of the 7th January, and the further extension of that measure (an extension in operation, but not in principle) by the orders in council of November, were founded (as has been already repeatedly avowed by His Majesty) on the "unquestionable right of His Majesty to retort upon the enemy the evils of his own injustice;" and upon the consideration, that "if third parties incidentally suffered by these retaliatory measures, they were to seek their redress from the Power by whose original aggression that retaliation was occasioned."

His Majesty sees nothing in the embargo laid on by the President of the United States of America, which varies this original and simple state of the question.

If considered as a measure of impartial hostility against both belligerents, the embargo appears to His Majesty to have been manifestly unjust, as, according to every principle of justice, that redress ought to have been first sought from the party originating the wrong. And His Majesty cannot consent to buy off that hostility, which America ought not to have extended to him, at the expense of a concession made, not to America, but to France.

If, as it has more generally been represented by the Government of the United States, the embargo is only to be considered as an innocent municipal regulation, which affects none but the United States themselves, and with which no foreign State has any concern; viewed in this light, His Majesty does not conceive that he has the right, or the pretension, to make any complaint of it, and he has made none. But, in this light, there appears not only no reciprocity, but no assignable relation, between the repeal, by the United States, of a measure of voluntary self restriction, and the surrender, by His Majesty, of his right of retaliation against his enemies.

The Government of the United States is not now to be informed that the Berlin decree of November 21st, 1806, was the practical commencement of an attempt, not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity; that, in this attempt, almost all the Powers of the European continent have been compelled, more or less, to co-operate; and that the American embargo, though most assuredly not intended to that end, (for America can have no real interest in the subversion of the British power, and her rulers are too enlightened to act from any impulse, against the real interests of their country) but, by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of the "blockade of the European continent," precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American Government would most effectually have contributed to its success.

To this universal combination His Majesty has opposed a temperate but a determined retaliation upon the enemy; trusting that a firm resistance would defeat this project, but knowing that the smallest concession would infallibly encourage a perseverance in it.

The struggle has been viewed by other Powers, not without an apprehension that it might be fatal to this country. The British Government has not disguised from itself that the trial of such an experiment might be arduous and long, though it has never doubted of the final issue. But if that issue, such as the British Government confidently anticipated, has providentially arrived, much sooner than could even have been hoped; if "the blockade of the continent," as it has been triumphantly styled by the enemy, is raised even before it had been well established; and if that system, of which extent and continuity were the vital principles, is broken up into fragments utterly harmless and contemptible; it is nevertheless important, in the highest degree, to the reputation of this country, (a reputation which constitutes great part of her power,) that this disappointment of the hopes of her enemies should not have been purchased by any concession; that not a doubt should remain to distant times of her determination and of her ability to have continued her resistance; and that no step, which could even mistakenly be construed into concession, should be taken on her part, while the smallest link of the confederacy remains undissolved, or while it can be a question whether the plan devised for her destruction has, or has not, either completely failed, or been unequivocally abandoned.

These considerations compel His Majesty to adhere to the principles on which the orders in council of the 7th of January, and the 11th of November, are founded, so long as France adheres to that system, by which His Majesty's retaliatory measures were occasioned and justified.

It is not improbable, indeed, that some alterations may be made in the orders in council, as they are at present framed; alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals, with a more severe pressure upon the enemy.

But of alterations to be made with this view only, it would be uncandid to take any advantage in the present discussion; however, it might be hoped that in their practical effect they might prove beneficial to America, provided the operation of the embargo were not to prevent her from reaping that benefit.

It remains for the undersigned to take notice of the last paragraph of Mr. Pinkney's letter. There cannot exist, on the part of Mr. Pinkney, a stronger wish than there does on that of the undersigned and of the British Government, for the adjustment of all the differences subsisting between the two countries.

His Majesty has no other disposition than to cultivate the most friendly intercourse with the United States.

The undersigned is persuaded that Mr. Pinkney would be one of the last to imagine, what is often idly asserted, that the depression of any other country is necessary or serviceable to the prosperity of this. The prosperity of America is essentially the prosperity of Great Britain; and the strength and power of Great Britain are not for herself only, but for the world. When those adjustments shall take place, to which, though unfortunately not practicable at this moment, nor under the conditions prescribed by Mr. Pinkney, the undersigned nevertheless confidently looks forward, it will perhaps be no insecure pledge for the continuance of the good understanding between the two countries, that they will have learned duly to appreciate each other's friendship; and that it will not hereafter be imputed to Great Britain, either on the one hand that she envies American industry as prejudicial to British commerce, or on the other hand that she is compelled to court an intercourse with America as absolutely necessary to her own existence.

His Majesty would not hesitate to contribute, in any manner in his power, to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal, as a measure of inconvenient restriction upon the American people.

The undersigned is commanded, in conclusion, to observe, that nothing is said in Mr. Pinkney's letter of any intention to repeal the proclamation by which the ships of war of Great Britain are interdicted from all those rights of hospitality in the ports of the United States which are freely allowed to the ships of His Majesty's enemies.

The continuance of an interdiction, which, under such circumstances, amounts so nearly to direct hostility, after the willingness professed and the attempt made by His Majesty, to remove the cause on which that measure had been originally founded, would afford but an inauspicious omen for the commencement of a system of mutual conciliation; and the omission of any notice of that measure, in the proposal which Mr. Pinkney has been instructed to bring forward, would have been of itself a material defect in the overture of the President.

But the undersigned is commanded no further to dwell upon this subject than for the purpose of assuring Mr. Pinkney that on this, and every other point in discussion between the two Governments, His Majesty earnestly desires the restoration of a perfect good understanding, and that His Majesty would decline no measure for the attainment of that object which should be compatible with his own honor and just rights and with the interests of his people.

The undersigned requests Mr. Pinkney will accept the assurances of his high consideration.

GEORGE CANNING.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, September 24, 1808.

SIR:

I have the honor to acknowledge the receipt of your answer to my official note of the 23d of last month, relative to the British orders in council of January and November, 1807, together with a statement of "the substance of what has passed between us at our several interviews, previous to the presentation of that note."

I shall lose no time in transmitting to my Government copies of both these papers, upon the last of which I will take the liberty in the course of a few days to trouble you with some observations.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

WILLIAM PINKNEY.

The Right Hon. GEORGE CANNING, &c. &c. &c.

Mr. Pinkney to Mr. Madison.

LONDON, October 11, 1808.

SIR:

I have the honor to transmit, enclosed, a copy of my reply to Mr. Canning's letter to me of the 23d of last month, accompanying his official answer of the same date to my note of the 23d of August.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

The Honorable JAMES MADISON, &c. &c. &c.

[Alluded to in the above letter of Mr. Pinkney.]

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, October 10, 1808.

SIR:

If my reply to the letter which you did me the honor to address to me on the 23d of last month should be of greater length than the occasion may be thought to require, you will, I am sure, impute it to its real cause, an earnest desire on my part, arising from a feeling of sincere respect for you, that the statement, which I am to give of facts deemed by you to be important, should be full as well as accurate.

I will not fatigue you, sir, with assurances that no person could be less disposed than I am to find fault with the object of your letter, which appears to be to guard against all misrepresentation of "what has passed in our late interviews beyond what you find recorded in my note." You have told me that I have, personally, no concern in that object, and I did not require to be told that my Government has as little. I understand, indeed, that the circumstance, which has suggested a peculiar motive for this proceeding, was one of those newspaper misrepresentations, which every day produces where the press is free, which find no credit, and beget no consequence, and for which it is greatly to be feared your expedient will provide no remedy. Of my conduct, when that circumstance occurred, in giving you unsolicited proofs that I had transmitted to Mr. Secretary Madison a faithful report of our conferences, mistaken by public rumor or private conjecture, it is not necessary for me to speak; for you have yourself done justice to it.

The motive to which I am indebted for the honor of your letter appears to have been instrumental in producing another effect equally unexceptionable. But you will allow me to say, that, until the receipt of that letter, I had not been apprised, by the slightest intimation, that it was in any degree owing to such a cause that you declined, on the part of His Majesty's Government, after two conferences, in which I had been suffered, if not encouraged, to unfold myself, individually as well as officially, at great length and with perfect frankness to give an answer to my verbal overture.

At our first interview (on the 29th of June) verbal communication was not discountenanced, but commended for, after I had made myself understood as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course; but immediately added that you presumed I did not, for that the course I had adopted was well suited to the occasion. My reply was, in substance, that the freedom of conversation was better adapted to our subject, and more likely to conduct us to an advantageous conclusion, than the constraint and formality of written intercourse, and that I had not intended to present a note. At the second interview (on the 22d of July) it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable as a preparatory course; and it was not until the third interview (on the 29th of July) that it was rejected as inadmissible. But even then I was not told, and had not the smallest suspicion, that this rejection was to be ascribed, either wholly or partially, to the motive which your letter has since announced to me. That this motive had, nevertheless, all the influence now imputed to it I am entirely confident, and I take notice of it only because, as I have not mentioned it to my Government in my official account of our conferences, I can no otherwise justify the omission, either to it or to you, than by showing that I had, in truth, no knowledge of the fact when that account was transmitted.

I may take occasion to set forth, in the present letter, the import of all that can be material of our several conversations, according to my recollection of them; but there are some points to which I ought to pay a more particular attention, because you have thought them entitled to it; although I should myself, perhaps, have been inclined to think that they had lost much of their importance by the presentation of my note and the receipt of your written answer; both of which are perfectly intelligible, upon these points at least, without the aid of the conferences that preceded them.

You observe, that "the principal points in which the suggestions brought forward by me, in personal conference, appear to you to have differed in some degree from the proposal stated by me in writing, are two: the first, that in conversation the proposal itself was not distinctly stated as an overture authorized by my Government; the second, that the beneficial consequences, likely to result to this country from the acceptance of that proposal, were "pursued" through more ample "illustrations."

With regard to the first of these supposed differences, I feel persuaded, sir, that, upon further recollection, it will occur to you, that, at our first conference, I told you explicitly that the substance of what I then suggested, (that is to say, that your orders being repealed as to us, we would suspend the embargo as to Great Britain,) was from my Government; but that the manner of conducting and illustrating the subject, upon which I had no precise orders, was my own. I even repeated to you the words of my instructions as they were upon my memory; and I did not understand, either then or afterwards, that there was any doubt as to their existence or their sufficiency, or any desire to have a more exact and formal communication of them while the result of our discussions was distant and uncertain. I said, undoubtedly, that I had been directed to require the revocation of the British orders in council; but I said also that, although the Government of the United States still supposed itself to be authorized to expect their repeal upon the ground of right as it existed from the first, (a subject, however, which I informed you I did not wish at that time to agitate,) I was, notwithstanding, empowered to give you the above-mentioned assurances, which would, as I presumed, hold out inducements to Great Britain, as well on the score of policy as on that of justice, to fulfil that expectation. I should scarcely have undertaken to offer such assurances as from myself, or upon my own "conviction" that the President would act in conformity with them. And I should still less (if that were possible) have ventured to ask of you that you would make them, in that form, the subject of repeated conferences, and even of reference to others, as placing the question of a recall or continuance of the orders in council upon new grounds of prudence and equity.

If it is merely intended (as I doubt not it is) to say that I did not make, or declare my intention to make, my overture in writing, before I had endeavored to prepare for it by personal explanations such a reception as I felt it deserved, and before I could ascertain what shape it would be most proper to give to it, or how it would be met by this Government, nothing can be more correct.

It was my sincere wish that my proposal, which I believed to be advantageous to Great Britain, as well as honorable to the United States, should be accepted; and accordingly I preferred a mode of proceeding, which, while it was calculated to avoid unprofitable discussions upon topics of some delicacy and great difficulty, would furnish opportunities for frank and friendly communication upon all the bearings of my proposal, and lead to the result at which I aimed, if that result should be practicable, in such way as, upon mature reflection, and after a liberal interchange of sentiments, should be found to be most for the honor of our respective Governments. These views were laid before you without reserve, and seemed to be approved; and I confess to you, sir, that when I was afterwards informed that, if I would obtain an answer to my overture, I must make it in writing, and that I must not look for any previous intimation of the nature of that answer, I did not allow myself any longer to anticipate with much confidence such an issue as I desired.

The second difference, which your letter supposes to exist between my note and verbal suggestions, cannot, I think, in any view, be very material. I will say something upon it, however.

My note declares that, if I forbear to pursue certain ideas through all the illustrations of which they are susceptible, it is because our personal conferences, as well as the obvious nature of the ideas themselves, render it unnecessary. This implies, undoubtedly, that more had been said in our conferences, explanatory of these ideas, than is to be found in the note itself; and that implication can scarcely be otherwise than true, if I "expatiated largely," as you very justly say I did, "upon the consequences of a suspension of the embargo as to Great Britain, while it still continued to be enforced against France."

The general idea to which the note refers is, that justice and interest conspired to recommend that you should take advantage of my proposal. The particular positions are, that if your orders and our embargo should be rescinded in the manner suggested, our commercial intercourse would be immediately revived; that, if France followed your example, and retracted her decrees, the avowed purpose of your orders would be accomplished; that, if France refused to retract, the American embargo, continuing as to her, would occupy the place of your orders, and perform their office even better than they could perform it themselves, without any of the disadvantages inseparable from such a system.

It is certain that, in our conversations, I endeavored to prove that these general and particular notions were founded in truth, by a variety of arguments, thrown out in a very desultory way, with more zeal than precision, and with that entire freedom which unlimited confidence in your candor, and a firm opinion that the views of my Government would derive new titles to respect from a full examination, were calculated to produce.

I should not deal ingenuously with you, sir, if I were to pretend that I think myself able to recapitulate these disjointed arguments as they were actually delivered; and I am quite sure that I shall consult your gratification, as well as my own credit, by declining such an undertaking. But I think I can state, in a condensed form, what I intended you should understand; and I presume that what I did say was not very wide of my real impressions.

Upon the footing on which my overture would place the *justice* of the British orders, I did not go into much detail at any one of the three interviews mentioned in your letter. But, combining my unconnected and occasional observations on that point, as they were made at different times, and more especially as they were afterwards given and enlarged upon when I had the honor to see you on the 26th of August, (of which, however, it is proper to say I have only a very scanty memorandum,) their import will not, perhaps, be found to be much, if at all, mistaken in such parts of the following statement as relate to that branch of the subject.

I meant to suggest, then, that upon your own principles it would be extremely difficult to decline my proposal; that your orders inculcate, as the duty of neutral nations, resistance to the maritime decrees of France, as overturning the public law of the world, and professedly rely upon that duty, and an imputed abandonment of it, for their inducement and their justification; that, of these orders, that of the 7th of January, 1807, (of which the subsequent orders of November are said, in your official reply to my note of the 23d of August, to be only an extension, "an extension in operation, not in principle,") was promulgated and carried into effect a few weeks only after the Berlin decree had made its appearance, when the American Government could not possibly know that such a decree existed, when there had been no attempt to enforce it, and when it had become probable that it would not be enforced at all to the prejudice of neutral rights; that the other orders were issued before the American Government, with reference to any practical violation of its rights, by an attempt to execute the Berlin decree in a sense different from the stipulations of the treaty subsisting between the United States and France, and from the explanations given to General Armstrong by the French Minister of Marine, and afterwards impliedly confirmed by General Champagny, as well as by a correspondent practice, had any sufficient opportunity of opposing that decree, otherwise than it did oppose it; that your orders, thus proceeding upon an assumed acquiescence not existing in fact, retaliated prematurely, and retaliated a thousand-fold, through the rights of the United States, wrongs rather threatened than felt, which you were not authorized to presume the United States would not themselves repel, as their honor and their interest required; that orders, so issued, were, to say the least of them, an unseasonable interposition between the injuring and the injured party, in a way the most fatal to the latter; that by taking justice into your own hands, before you were entitled to do so, at the expense of every thing like neutral rights, and even at the expense of other rights, justly the objects of yet greater sensibility, and by inflicting upon neutral nations, or rather upon the United States, the only neutral nation, injuries infinitely more severe and extensive than it was in the power of France to inflict, you embarrassed and confounded, and rendered impracticable, that very resistance which you demanded of us; that my proposal destroyed all imaginable motives for continuing, whatever might have been the motives for adopting, this new scheme of warfare; that it enabled you to withdraw, with dignity, and even with advantage, what should not have come between France and us; that its necessary tendency was to place us at issue with that Power, or, in other words, in the precise situation in which you have maintained we ought to be placed, if it should persist in its obnoxious edicts; that the continuance of our embargo, so modified, would be at least equivalent to your orders, for that, in their most efficient state, your orders could do no more, as regards the United States, than cut off their trade with France, and the countries connected with her, and that our embargo remaining as to France and those countries, would do exactly the same; that if the two courses were barely, or even nearly, upon a level, in point of expediency, Great Britain ought to be forward to adopt that which was consistent with the rights, and respectful to the feelings, of others; that my proposal, however, had powerful recommendations, which the orders in council had not; that it would re-establish, without the hazard of any disadvantage, before new habits had rendered it difficult if not impossible, a traffic which nourished your most essential manufactures, and various other important sources of your prosperity; that it would not only restore a connexion, valuable in all its views, but prepare the way for the return of mutual kindness, for adjustments greatly to be desired, and, in a word, for all those consequences which follow in the train of magnanimity and conciliation, associated with prudence and justice.

Among the observations intended to illustrate my opinion of the certain, probable, and possible effects of the concurrent acts which my proposal had in view, were those to which you alluded in the sixth paragraph of your letter. Having stated that renewed commercial intercourse between Great Britain and the United States would be the first effect, I remarked, in the progress of the conversation, that the edicts of France could not prevent that

intercourse, even if France should adhere to them; although Great Britain, by her superior naval means, might be able to prevent the converse of it; that the power of France upon the seas was in no degree adequate to such a purpose, and, if it were otherwise, that it was not to be supposed that the United States, resuming their lawful commerce with this country, after a recall of the British orders in council, would take no measures against systematic interruptions of that commerce by force and violence, if such should be attempted.

If, when I was honored with the different interviews before mentioned, I had been able to conjecture the nature of the arguments which were to have an influence against my proposal, as I now find them stated in your answer to my note, I should probably have ventured to suggest, in addition to the remarks actually submitted to your consideration, that, if "the blockade of the European continent," by France and the Powers subservient to or in combination with her, to which your orders, as "a temperate but determined retaliation," were opposed, has been "raised even before it had been well established," and if "that system," so opposed, "of which extent and continuity were the vital principles, has been broken up into fragments utterly harmless and contemptible," there seems scarcely to be left, in your own view of the subject, any intelligible justification for perseverance in such of the retaliatory measures of Great Britain as operate through the acknowledged rights of a Power, confessedly no party to that combination, and ready to fulfil her fair neutral obligations if you will suffer her to do so. Under such circumstances, to abandon, what it is admitted to have lost its own legitimate object, is not "concession;" it is simple justice. To France, indeed, it might be concession. But it is not France, it is the Government of America, neither subservient to France nor combined with France, a third party whose rights and interests your orders deeply affect, without any adequate necessity, according to your own showing, that requires their recall; and that, too, upon terms, which cannot but promote the declared purposes of these orders, if any remain to be promoted. I say "without any adequate necessity according to your own showing;" for I am persuaded, sir, you do not mean to tell us, as upon a hasty perusal of your answer to my note might be imagined, that those rights and interests are to be set at naught, "lest a doubt should remain to distant times of the determination and the ability of Great Britain to have continued her resistance," or that your orders may, indefinitely, give a new law to the ocean, lest the motive to their repeal should be mistaken by your enemy. If this might, indeed, be so, you will, perhaps, permit me to say, that, highly as we may be disposed to prize the firm attitude and vast means of your country, at this eventful moment, it would possibly suggest to some minds a reluctant doubt on the subject of your observation, "that the strength and power of Great Britain are not for herself only, but for the world."

I might also have been led to intimate that my proposal could apparently lose nothing by admitting, that, "by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of "the before-mentioned" blockade of the European continent, precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American Government would most effectually have contributed to its success." Yet, I should probably have thought myself bound to remind you, that, whatever may be the truth of this speculation, the same embargo withheld our tonnage and our productions from that communication with the colonies of your enemies and with the European continent, which you had asserted your right to prevent; which, as a direct communication (with the continent,) you had in fact prohibited; which, even through British ports, or in other qualified forms, you had professed to tolerate, not as that which could be claimed, but as an indulgence that could at any time be withdrawn; which, as a traffic for the United States to engage in, you had at least discouraged, not only by checks and difficulties in the way of its prosecution, but by manifesting your intentions to mould it into all the shapes which the belligerent, fiscal, or other peculiar policy of Great Britain might require, and to subject it to the exclusive jurisdiction of her municipal code, armed with all the prerogatives of that universal law to which nations are accustomed to look for the rights of neutral commerce.

In giving an account of our second conference you say "that, though not stating myself to be authorized by my Government formally to offer the suspension of the embargo as an immediate consequence of the repeal of the orders in council, yet I did profess my readiness to take upon myself to make that offer, provided that you would give me beforehand an unofficial assurance that, coupled with that offer so made, the demand of the repeal of the orders would be favorably received; that you, of course, declined to give any such previous assurance; but, as I appeared to attach great importance to this suggestion, and you were led to think that a compliance with it might relieve me from a difficulty in executing the instructions of my Government, you consented to take a few days to consider of it, and to reserve your definitive answer until you should see me again." You then observe that you "never doubted, in your own mind, as to the inexpediency and impropriety of encouraging me to take an unauthorized step, by an unofficial promise that it should be well received." I am sure you did not, sir; but I must take the liberty to say that I am equally sure that I never thought of asking you to give me encouragement to take an unauthorized step of any kind. I am, indeed, truly mortified that my conduct has appeared to you in that light; and I should not be readily consoled, if I did not reflect that, in condescending to listen, even for a moment, to what must have struck you as an irregularity, as vain and nugatory in its purpose as reprehensible in its principle, you must at least have given me credit for good intentions, and for a strong desire, sincerely felt, although erroneously obeyed, that our countries should find themselves in that relative position which suits the interests and tends to the happiness of both.

When I professed a readiness to make my proposal in writing, it was, as you state, provisionally; but I did not intimate that I was acting without authority, nor did I comprehend that such was, as I now know it to have been, your impression. The provisional nature of my offer arose out of circumstances, and was afterwards pressed upon conviction that, if it was meant to adopt the views of the President, nothing more could be necessary. I understood you to be desirous of ascertaining whether I was empowered and disposed, with a view to a final arrangement, to present what I had suggested, in a written form, as an overture originating with my Government. I said, of course, that, every thing being first matured, a note should be presented, but that I would, with your permission, take a little time to consider of the manner and terms. I did not at that time suppose that we were conversing about a written proposal which was to be made only to be rejected, or even for the purpose of deliberation; and consequently, in professing my willingness to make it as soon as we were prepared for it, I presumed that I had done all that you desired. And I was confirmed in this opinion, not only by your saying nothing, as I supposed, to the contrary, but by your requesting me, as I was about to leave the room, to employ myself, before the next interview, upon such a note as we had been talking of; and then retracting that request, by observing, that I would doubtless first desire to know what were your ideas and intentions upon the subject of it, with which I was given to understand I should be made acquainted at another conference.

At the third interview, after speaking of a transaction upon the lakes, of which your traders complained, and of another occurrence in the bay of Passamaquoddy, you observed, that you had thought long and anxiously upon what I had suggested to you; that the subject had at first struck you as being much more simple than upon careful examination it had been found to be; that, in the actual state of the world, it behooved both you and me to move in this affair with every possible degree of circumspection; that, without some explicit proposal on my part, in writing, upon which the British Government could deliberate and act, nothing could be done; and, finally, that you must leave me to consult my own discretion whether I would make such a proposal.

It appeared to me that, if this determination should be persisted in, my overture was not likely to be successful; and I urged, accordingly, the propriety of going on in a course which would lead us to a better issue. That course was, that we should understand one another as to our respective views, and that a concise note, which I had in fact prepared since the last meeting, should then be presented and acted upon. You informed me that my wish in this particular could not be acceded to; that, if I presented a note, you must be left at perfect liberty to decide upon what it proposed; that you could not give me even an intimation of the probable consequences of it; and, in a word, that you would neither invite nor discourage such a proceeding. You added that there were some points belonging to the subject which it would be proper to discuss in writing, one of which was the connexion between our embargo and your orders of November, supposed to be implied by my proposal. I remarked that, with an actual result in view, and with a wish to arrive at that result without delay, it could not be advisable to entangle ourselves in a written correspondence, undefined as to its scope and duration, upon topics on which we were not likely to agree; and that, if I were to frame my note, with a knowledge that it was to provoke argument, instead of leading at this crisis to a salutary change in the state of the world, you must be conscious that I too must argue. And where would this end? To what wholesome consequence would it conduct us? At the close of the interview I observed that, as the footing upon which the subject was now placed made delay of no importance, I should take time to prepare such further proceeding as the occasion required.

On the 26th of August I had the honor to see you again, and, after entering more at large than I had before believed to be proper into a consideration of the effect of my proposal on the equity of adhering to your orders in council, and, after reading to you parts of my instructions, I delivered an official note, in which the proposal was made in the form required.

Something was said at this interview of the affair of the Chesapeake, and the President's proclamation, which it is not, I presume, necessary to repeat. It will be sufficient to state, that you asked me what was to be done with these subjects? And that my reply was, that they had no connexion with the present; but that I could say, with confidence, that my Government had every disposition to attend to them, with a view to such an adjustment as would be honorable to both parties. I did not suppose that it was expected (for you did not intimate such an expectation) that renewed negotiation upon these points should, as well as the repeal, upon terms, of your orders in council, be invited by a formal overture from the Government of America.

I will not trouble you with many observations more.

You state in your letter that "there was one point upon which you were particularly anxious to receive precise information, and upon which, from my candor and frankness, you were fortunate enough to obtain it." This was, "whether in fact the orders in council of November had been known to the Government of the United States previously to the message of the President proposing the embargo, so as to be a moving consideration to that message?" I quote this passage principally that I may recall to your recollection that my suggestions upon the subject of it were not made officially, or as being authorized or furnished by any communication from my Government, or in answer to any direct inquiries on your part. They were very briefly made near the close, as I think, of our third interview, in consequence of your intimation, (intended, perhaps, to amount to an inquiry,) that my proposal implied that the embargo had been produced by the orders of November; to which you added that this could not be admitted, and, (as I comprehended what you said,) that it even required to be made the subject of some notice or discussion in writing, as intimately connected with my proposal, if it should be brought forward in that shape; and I understood you to assign this as one of the reasons why a written overture was indispensable. In replying to that intimation, and the remarks which followed it, I professed to speak, as I did in fact speak, from general information only, and disclaimed, as it was my duty to do, all authority to say more upon the nature and origin of the embargo than I had some time before communicated to you, in obedience to the orders of the President. The purpose of my observations was chiefly to show that there was no inducement for embarking in formal discussions upon this point; and I assured you that it was not in my power, either as respected instructions from my Government, or knowledge of facts, to do so. My opinion was, and I spoke accordingly, that it was one of those questions which might be left completely at rest, without the least injury to the wisdom or the justice of our conclusions upon the great object of our conferences. There could be no objection, however, to my giving you on this head such conjectural information as I was able; on the contrary, by fully disclosing to you my own materials for forming an opinion upon it, you would be enabled more distinctly to see that I could take no part in any discussion which you might propose to apply to it. And I could not but be assured that any anxiety you might feel to obtain a knowledge of the facts in question sprung from considerations which had every claim to my respect; for I knew that your mind was far above the reach of prejudice, which would ascribe the American embargo to participation in the councils or views of your adversary, or of any foreign Power whatsoever.

My suggestions were to the following effect: that I believed that no copy of your orders of November had arrived in the United States, at the date of the President's message; that a recent change in the conduct of France to our prejudice did appear to be known; that intelligence had been received, and a belief entertained, of your intention to adopt some further measure, as a measure of retaliation against France, by which our commerce and our rights would be affected; that there was reason to conclude that you had actually adopted such a measure; that (as I collected from American newspapers) this had appeared from private letters and the newspapers of this country, received in the United States some days before the message of the President, and probably known to the Government; that, in a word, various information concurred to show that our trade was likely to be assailed by the combined efforts of both the belligerent parties; and that the embargo was a measure of wise and peaceful precaution, adopted under this view of reasonably anticipated peril.

You observe, in another part of your letter, "that you have always rather wished to refer the argumentative discussion of the subject of the orders in council to the official correspondence which you have more than once been taught to expect me to open upon it." If I should object to any part of this statement, of which the substance is undoubtedly correct, it would be to the words "more than once." Your wish has always appeared to be such as you now represent it, and you had reason to expect that I would commence a written discussion of the orders of November soon after their publication. I had told you that I should do so, and you had said that there could be no objection to it. But you were afterwards informed that, upon reflection, I had determined to leave the subject where it was, until I should know the pleasure of my Government.

The orders had been officially communicated, not to me, but to Mr. Madison, through the British minister at Washington. It seemed, therefore, to be proper, (unless my instructions should make it otherwise,) that the view which the Government of the United States took of them should find its way to you through the same channel; and, accordingly, the letters of Mr. Madison, to which I have referred in my note of the 23d of August, did open at great length a discussion, which I could have no inducement to shun, although I did not continue to think myself authorized to commence it.

It only remains to add, that your share in our several conversations was, what you represent it to have been, not considerable; and that your manner, although reserved, was, as it always is, perfectly friendly.

I need not say that if, in this letter, written under the influence of sincere concern, the proposal I had the honor to lay before you has been unsuccessful, any thing is to be found which you could wish to be otherwise than it is, I shall be the first to regret that I have not been able to do justice to my own feelings and intentions.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

WM. PINKNEY.

Mr. Pinkney to Mr. Madison.

LONDON, November 25, 1808.

SIR:

I have the honor to send enclosed a copy of a letter, received last night from Mr. Canning, in answer to my letter to him of the 10th of last month.

The tone of this letter renders it impossible to reply to it with a view to a discussion of what it contains; although it is not without further inadvertencies as to facts, and many of the observations are open to exception. I intend, however, to combine, with an acknowledgment of the receipt of it, two short explanations. The first will relate to the new and extraordinary conjecture, which it intimates, that my authority was *contingent*; and the second will remind Mr. Canning that my letter of the 10th of October does not, as he imagines, leave unexplained the remark that "the *provisional* nature of my offer to make my proposal in writing arose out of circumstances;" but, on the contrary, that the explanation immediately follows the remark.

The Union is not yet returned from France. Lieutenant Gibbon arrived in London more than three weeks ago, and delivered your letter of the 9th of September, with duplicates of papers in the case of the Little William, and copies of letters which lately passed between the Department of State and Mr. Erskine.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

The Hon. JAMES MADISON, &c.

[Referred to in the preceding despatch.]

Mr. Canning to Mr. Pinkney.

SIR:

FOREIGN OFFICE, November 22, 1808.

I regret exceedingly that an unusual and unintermitting pressure of official business has prevented me from finding an earlier opportunity to reply to your letter of the 10th of last month.

The observations which I have to offer upon some parts of that letter are not, indeed, of such a nature, as to make it matter of any great importance whether you receive them a week sooner or later; as they refer less to any point of public interest to our two Governments than to what has passed personally between ourselves.

But I should have been much mortified if you could have been led to believe me deficient in attention to you; the manner as well as the substance of the communication, which I have had the honor to receive from you, entitling it to the most prompt and candid consideration. Your understanding of the motives which induced me to accompany my official note of the 23d September with my letter of the same date, is so far imperfect, as that you seem to imagine that the wish to guard against misrepresentation was the only motive which induced me to write that letter, and that, from that motive alone, I should, in any case, have troubled you with it. Whereas, I must have expressed myself very incorrectly indeed, if I did not convey to you the assurance, that if what had passed between us in conversation had not been referred to by you in your official letter of the 23d August, I certainly should not have thought it necessary or proper to preserve any written record of your verbal communications, which I understood at the time to be confidential, and which I certainly was so far from attempting or intending to "discountenance," that I have no doubt but I expressed myself (as you say I did) in favor of "the course which you adopted, as well suited to the occasion." But you state, at the same time, most correctly, that it was as a preparatory course, that I understood and encouraged this verbal and confidential communication. I never did, nor could understand it as being intended to supersede or supply the place of an official overture. I never did nor could suppose that the overture of your Government, and the answer of the British Government to it were intended to be intrusted solely to our respective recollections. Accordingly, when the period arrived at which you appeared to be prepared to bring forward an official proposal, I did, no doubt, express my expectation that I should receive that proposal in writing.

It is highly probable that I did not (as you say I did not) assign to you, as the motive of the wish which I then expressed, my persuasion that written communications are less liable to mistake than verbal ones; because that consideration is sufficiently obvious, and because the whole course and practice of office is, in that respect, so established and invariable, that I really could not have supposed the assignment of any specific motive to be necessary, or account for my requiring a written statement of your proposals previous to my returning an official answer to them.

I had taken for granted all along that such would, and such must be, the ultimate proceeding on your part, however you might wish to prepare the way for it by preliminary conversations.

In framing your note, I did not pretend to anticipate how much of what had been stated by you in our several conferences you would think it proper to repeat in writing. But, whatever the tenor of your note had been, I should have felt it right to conform strictly to it, in the official answer, avoiding any reference to any part of your verbal communications, except such as, by repeating them in writing, I should see that it was your intention to record as official.

I confess, however, I was not prepared for the mixed course which you actually did adopt, I am persuaded, (I am sincerely persuaded,) without any intention of creating embarrassment—that of referring generally to what had passed in our conferences, as illustrative of your official proposition, and as tending to support and recommend it, but without specifying the particular points to which such reference was intended to apply; a course which appeared at first sight to leave me no choice, except between the two alternatives of either recapitulating the whole of what you had stated in conversation for the purpose of comprehending it in the answer, or of confining myself to your written note, at the hazard of being suspected of suppressing the most material part of your statement.

The expedient to which I had recourse, of accompanying my official note with a separate letter, stating, to the best of my recollection, the substance of what I had heard from you in conversation, appeared to me, after much deliberation, to be the most respectful to you.

Such having been the motives which dictated my letter, I cannot regret that it was written, since it has produced, at a period so little distant from the transaction itself, an opportunity of comparing the impressions left on our minds, respectively, of what passed in our several conferences, and of correcting any erroneous impression on either side.

There are two points in which our recollections do appear to differ in some degree.

The first relates to the authority which you had, and that which I understood you to state yourself to have, at the time of our first conference, for bringing forward a direct overture, in the name of your Government; the second to the expectation which I stated myself to have entertained "more than once," of your opening an official correspondence on the subject of the orders in council.

With respect to the first point, you will give me credit, when I assure you that my understanding of what was said by you, not only in the first, but in our second conference, was precisely what I have stated it to be in my letter; and you will, I hope, forgive me, if, after the most attentive perusal of your letter of the 10th October, and after a careful comparison of different passages in it, while I am compelled, by your assurance, to acknowledge that I must have misapprehended you, I find grounds in your statement to excuse, if not to account for, my misapprehension.

According to your recollection, you told me explicitly, in our first conference, "that the substance of what you then suggested, that is to say, that our orders being repealed as to the United States, the United States would suspend the embargo as to Great Britain," was from your Government; "that the manner of conducting and illustrating the subject (upon which you had no precise orders) was your own," and you even quoted part of your instructions to me which was to that effect.

In a subsequent paragraph, you state that "nothing can be more correct than my apprehension that you did not make, nor profess to intend making, an overture, in writing, before you had endeavored to prepare for it such a reception as you felt it deserved, and before you could ascertain what shape it would be most proper to give to that overture, and how it would be met by the British Government."

And in another part of your letter, you admit that "when you expressed your readiness to make your proposal in writing, it was (as I have stated) *provisionally*;" and you inform me that "the provisional nature of your offer arose out of circumstances;" the nature of which circumstances you do not explain, nor have I any right to require such an explanation.

But, comparing these several statements together; seeing that, in our first interview, you declared no intention of making a proposal in writing; that, in our second interview, (a month or five weeks afterwards) you described that intention as "*provisional*" and contingent; and protesting at the same time (as I do in the most solemn manner) that I cannot find any trace in my memory of any communication whatever of any part of your instructions communicated to me as such; seeing also, that, whatever might be the nature and extent of your instructions from the President of the United States as to the substance of the overture to be made to the British Government, the manner, the time, and the conditions of that overture were evidently considered by you as left to your own discretion; it surely may be pardonable in me to have mistaken (as I most unquestionably must have done,) the precise limits at which the authority of your Government ended and your own discretion began, and to have imagined (which I very innocently did) that a proposition, over which you appeared to have a power so nearly absolute, was a proposition in a great measure of your own suggestion. I do not mean that I supposed you to bring forward such a measure without reference to the knowledge which you must of course have had of the general feeling, disposition, and intentions of your Government, but without its specific instructions for that purpose at that time.

In attributing to you this exercise of judgment, in addition to the many others, which it is confessed you were at liberty to exercise, I really intended to convey no imputation disrespectful to you; I can conceive abundance of cases in which it would have been not only excusable but highly meritorious.

My mistake, at least, was a very harmless one, as, whether the fact were that you had no precise authority to give in an official proposal, or that you had such an authority, but subject to contingencies which had not occurred, the practical result must be of necessity the same.

What these contingencies might be, it is not for me to inquire; but if they were of the nature of which I now cannot but conjecture they may have been; if the overture which you were authorized to make to the British Government was to be shaped and timed according to the result of any other overture to any other Government, I am then at once able to account for all those appearances which misled me into a belief of the want of a precise authority on your part. This consideration leads me to the other point, on which alone there appears a difference between us upon any matter of fact, but a difference by no means so wide as it appears.

Admitting the general correctness of my statement of the expectation which I was taught to entertain of a written communication from you, on the subject of the orders in council, you add, that it was, however, only in November last, and immediately after the publication of the orders in council, that you had directly announced to me your intention of opening a correspondence upon them—an intention, from which you afterwards desisted, "until you should receive the pleasure of your Government." The correctness of this statement I do not dispute; but you, I am sure, will agree with me, sir, in recollecting how many times, "more than once," since the period of that first intention of yours being announced and withdrawn, my expectations that you were about to "receive the pleasure of your Government" upon this subject have been excited by the notification in America, and the destination hither of ships employed by the United States, as it was generally supposed, for the special purpose of conveying representations or proposals from the American Government to the Governments of France and Great Britain, upon the subject of their respective maritime decrees and orders.

Such was the universal belief, both in America and in England, upon the arrival of the Osage, upon that of the Hope, of the St. Michael, and of another vessel named, I think, the Union. I have certainly no right to affirm that you shared in the expectation which so universally prevailed; I have no right to say that the Government of the United States designedly created that expectation; but that it did prevail, and that I very sincerely believed it to be well founded, you, I think, must do me the justice to recollect, as, in one instance, at least, that of the Osage, so strong was my persuasion that you must have received instructions from your Government, that I took the liberty of sending to you to inquire whether you had not some communication to make to me, and received for answer that you had none.

It is to these missions that I particularly referred, when I said that I had "more than once expected you to open a correspondence with me upon the subject of the orders in council." This expectation it was that alone prevented me sending instructions to Mr. Erskine to reply to the note addressed to him by Mr. Madison on the 25th of March, in answer to that note of Mr. Erskine's in which he communicated the orders in council, and in allusion to these missions, particularly to that of the Osage; and to the expectation, which had been founded here upon the return here of that vessel after its voyage to France, it was, that I made that declaration in Parliament, which, I see, has been the subject of some misapprehension (I will not say misrepresentation) in America; that, "since the termination of Mr. Rose's mission, the American Government had not made any communication here, in the shape of remonstrance, or in a tone of irritation." I am not aware, sir, that there is any other part of your letter which requires that I should trouble you with many observations.

Your report of your answer to the inquiry, which I took the liberty of making, "whether the orders in council of November were known to the Government of the United States previously to the message of the President pro-

posing the embargo, was to be a moving consideration to that message," does not appear to differ in any material degree from my statement of it. That your answer to such an inquiry was official, or authorized by your Government, I did not assert nor presume. I have already said that it was not till you had, in your official letter of the 23d of August, referred to what passed in conversation, that I should have thought any such reference allowable on my part; and, even then, the generality of your reference precluded me from judging correctly how much of what you had stated in conversation was from official authority, how much from your own personal information or opinion.

You inform me that your answer to this question was of the latter description only; but, even if it were only from your individual authority, it was very material and highly gratifying to learn that the embargo, which had been sometimes represented, both here and in America, as the direct and immediate consequence of the orders in council of November, and as produced solely by them, was, in your opinion, "a measure of *precaution* against reasonably *anticipated* peril."

The purpose of this letter is not to renew the discussion upon the subject of your proposal, but merely to clear up any misunderstanding which had existed between us in the course of that discussion. I cannot conclude it, however, without adverting very shortly to that part of your letter in which you argue that the failure of France, in the attempt to realize her gigantic project of the annihilation of the commerce of this country, removes all pretext for the continuance of the retaliatory system of Great Britain. This impotency of the enemy to carry his projects of violence and injustice into execution might, with more propriety, be pleaded with him as a motive for withdrawing decrees at once so indefensible and so little efficacious for their purpose, than represented as creating an obligation upon Great Britain to desist from those measures of defensive retaliation which those decrees have necessarily occasioned. If the foundation of the retaliating system of Great Britain was (as we contend it to have been) originally just, that system will be justifiably continued in force, not so long only as the decrees which produced it are mischievously operative, but until they are unequivocally abandoned; and, if it be thus consistent with justice to persevere in that system, it is surely no mean motive of policy for such perseverance, that a premature departure from it, while the enemy's original provocation remains unrepealed, might lead to false conclusions as to the efficacy of the decrees of France, and might hold out a dangerous temptation to that Power to resort to the same system on any future occasion; a result which, not Great Britain alone, but all commercial nations are deeply interested in preventing. I have now, sir, only to express my sense of the candor and liberality with which this discussion has been conducted on your part, and my acknowledgments for the justice which you render to my disposition to treat you, at all times, with reciprocal respect, and to listen to you with the attention to which, personally, as well as officially, you have every claim.

I cannot forego the hope that it may yet fall to our lot to be instrumental in the renewal of that good understanding between our two Governments, which is as congenial to the feelings as it is essential to the interests of both countries; which nothing but the forced and unnatural state of the world could have interrupted; and which there is, on the part of the British Government, the most anxious and unabated desire to restore.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

GEORGE CANNING.

Mr. Pinkney to Mr. Madison.

SIR:

LONDON, December 3, 1808.

I have the honor to send, enclosed, a copy of my reply to Mr. Canning's letter to me of the 22d ultimo. A copy of the letter, to which it is an answer, was transmitted a few days since by the British packet, and a duplicate has been sent to Liverpool.

The Union is not yet arrived from France, and we have no intelligence of her.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

The Honorable JAMES MADISON, &c.

[Enclosed in Mr. Pinkney's despatch of December 3.]

Mr. Pinkney to Mr. Canning.

SIR:

GREAT CUMBERLAND PLACE, November 28, 1808.

I have had the honor to receive your letter of the 22d instant, and to transmit a copy of it to my Government.

Without desiring to protract a discussion, in the conduct of which neither your sincerity nor mine will, I feel assured, be doubted by any one, I may be permitted to say, that the authority under which I acted in our late communications was not contingent, as you now appear to conjecture, and that the remark contained in my letter of the 10th of October, "that the provisional nature of my offer to make my proposal in writing arose out of circumstances," will be found explained, in the same letter, by passages which immediately follow the remark.

I have said, in my letter of the 10th of October, that "I had no precise instructions as to the manner of conducting and illustrating the subject confided to my management;" but you will suffer me to enter my friendly protest against all suppositions that the overture was left to my own discretion; that I had a power "nearly absolute" over it, or that it was, "in a great measure, of my own suggestion."

I will trouble you no further, sir, on this occasion, than to assure you that nothing could give me more sincere pleasure than to see fulfilled the hope which you express, that it may yet fall to our lot to be instrumental in the renewal of good understanding between our two Governments.

I have the honor to be, with the highest consideration, &c.

WILLIAM PINKNEY.

The Right Hon. GEORGE CANNING.

Mr. Canning to Mr. Pinkney.

SIR:

FOREIGN OFFICE, December 24, 1808.

In my official note of the 23d September, I stated to you the probability that some alterations might be made in the orders in council, with a view to adapt their operation more exactly to the altered state of Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy.

As this statement was, however, only incidental, and as I at the same time disclaimed any intention of taking advantage of such proposed alterations in the discussions then pending between us, seeing that, if made, they would not be founded on the admission of any of the principles for which you were contending, it was, perhaps, not necessary that I should trouble you with any further communication upon this subject. But the order, of which I have the honor to enclose a copy, having been passed by His Majesty in council on Wednesday last, I am desirous, previous to its actual publication, of explaining to you the grounds on which the more extended alterations which were in contemplation have been suspended.

It was intended to relax, in a certain degree, the regulations of the orders in council, with respect to such of the Powers in hostility with His Majesty as were not, or should not place themselves, in a state of hostility with Spain; but at the same time that this relaxation was extended to other Powers, to prohibit absolutely, by strict, rigorous, and unmitigated blockade, all intercourse whatever with France.

The adoption by these Powers, who were to have been the objects of such relaxations, of the views and projects of France with respect to Spain, does away all assignable ground of distinction between France and these Powers; and that part, therefore, of the intended alterations does not take place.

The alterations contained in the enclosed orders in council stand upon a separate ground, and, as I have more than once understood from you that the part of the orders in council which this order goes to mitigate is that which was felt most sorely by the United States, I have great pleasure in being authorized to communicate it to you.

I have the honor to be, &c.

GEORGE CANNING.

WILLIAM PINKNEY, Esq.

[Order in council, enclosed in Mr. Canning's letter of December 24.]

His Majesty, in virtue of the powers reserved to him, by two certain acts passed in the 48th year of His Majesty's reign, the one entitled "An act for granting to His Majesty, until the end of the next session of Parliament, duties of customs on the goods, wares, and merchandises therein enumerated, in furtherance of the provisions of certain orders in council;" the other entitled "An act for granting to His Majesty, until the end of the next session of Parliament, certain duties, on the exportation from Ireland, of goods, wares, and merchandise therein enumerated," is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that the operation of the aforesaid acts be suspended, as to any duties on exportation, granted by the said acts, so far as relates to articles being the growth, produce, or manufacture of any country, for the time being, in amity with His Majesty, and from the ports of which the British flag is not excluded, imported direct from such country into any port or place of the United Kingdom, either in British ships or in ships of the country of which such articles are the growth, produce, or manufacture.

And His Majesty is further pleased, with the advice aforesaid, to order, and it is hereby ordered, that the said duties on exportation be suspended, as to all goods, wares, or merchandise, which have been or may be condemned as prize, until further order shall be made therein.

Mr. Pinkney to Mr. Canning.

SIR:

GREAT CUMBERLAND PLACE, December 28, 1808.

I have had the honor to receive your letter of the 24th instant, communicating an order passed by His Majesty in council on Wednesday last, and have transmitted copies of these papers to my Government.

It is perfectly true, as the concluding paragraph of your letter supposes me to believe, that the United States have viewed with great sensibility the pretension of this Government (which, as a pretension, the present order plainly re-asserts, without much, if at all, modifying its practical effect) to levy imposts upon their commerce outward and inward, which the orders in council of the last year were to constrain to pass through British ports.

But it is equally true, that my Government has constantly protested against the entire system with which that pretension was connected, and has, in consequence, required the repeal, not the modification, of the British orders in council.

I have the honor to be, &c.

WM. PINKNEY.

Extract:—Mr. Pinkney to the Secretary of State.

LONDON, March 10, 1809.

I have received from Mr. Canning a notification of blockade, of which a copy is enclosed.

[Referred to in Mr. Pinkney's despatch of March 10, 1809.]

FOREIGN OFFICE, March 8, 1809.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Pinkney that His Majesty has judged it expedient to establish the most rigorous blockade of the isles of Mauritius and Bourbon; Mr. Pinkney is, therefore, requested to apprise the American consuls and merchants residing in England, that the isles above mentioned are, and must be, considered as being in a state of blockade, and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

Extract:—Mr. Pinkney to Mr. Smith.

LONDON, May 1, 1809.

I had the honor to receive, on the 25th of March, the letter of your predecessor of the 10th of February; and, on the 15th of last month, Lieutenant Reed delivered to me your letter of the 15th of March.

Upon the receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday, the 17th of April.

At the close of the conference, he told me that my communications were such as would require reflection, and would naturally make him anxious to see me again; and that he would fix as early a day as possible, and give me notice.

Our next interview took place on the 27th of April.

Mr. Canning read the new order in council, and then proceeded very briefly to suggest the practical alterations which it would introduce.

I thought I should best discharge my duty by forbearing useless discussion, and by receiving it as it was offered, but without making myself a party to it; an actual improvement, capable of future extension, under the auspices of just and friendly sentiments and enlightened policy.

Mr. Canning to Mr. Pinkney.

SIR:

FOREIGN OFFICE, April 30, 1809.

When I had the honor to transmit to you, on the 24th of December last, the orders in council passed on the 21st of that month, I referred to that passage of my official note of the 23d of September, 1808, in which I stated to you that "it is not improbable, indeed, that some alterations may be made in the orders in council, as they are at present framed—alterations calculated not to abate their spirit or impair their principle, but to adapt them more exactly to the different state of things which has fortunately grown up in Europe, and to combine all practicable relief to neutrals with a more severe pressure upon the enemy;" and I at the same time explained to you the grounds on which the design of the larger alterations which had been in contemplation in September was for the time laid aside. By the order of council, which I have now the honor to enclose to you, that design, as explained in my official note of September 23, is fully carried into execution.

I have the honor to be, &c.

GEORGE CANNING.

WILLIAM PINKNEY, Esq.

At the Court at the Queen's Palace, the 26th of April, 1809: Present, the King's Most Excellent Majesty in council.

Whereas, His Majesty, by his order in council of the 11th of November, 1807, was pleased, for the reasons assigned therein, to order that "all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, should from henceforth be subject to the same restrictions in point of trade and navigation as if the same were actually blockaded in the most strict and rigorous manner;" and also to prohibit "all trade in articles which are the produce or manufactures of the said countries or colonies;" and whereas, His Majesty, having been nevertheless desirous not to subject those countries which were in alliance or in amity with His Majesty to any greater inconvenience than was absolutely inseparable from carrying into effect His Majesty's just determination to counteract the designs of his enemies, did make certain exceptions and modifications expressed in the said order of the 11th of November, and in certain subsequent orders of the 25th of November, declaratory of the aforesaid order of the 11th of November and of the 18th of December, 1807, and the 30th of March, 1808:

And whereas, in consequence of divers events which have taken place since the date of the first-mentioned order, affecting the relations between Great Britain and the territories of other Powers, it is expedient that sundry parts and provisions of the said orders should be altered or revoked:

His Majesty is therefore pleased, by and with the advice of his privy council, to revoke and annul the said several orders, except as hereinafter expressed; and so much of the said several orders, except as aforesaid, is hereby revoked accordingly. And His Majesty is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all the ports and places as far north as the river Ems, inclusively, under the Government styling itself the Kingdom of Holland, and all ports and places under the Government of France, together with the colonies, plantations, and settlements in the possession of those Governments, respectively, and all ports and places in the northern parts of Italy, to be reckoned from the ports of Orbitello and Pesaro, inclusively, shall continue, and be subject to the same restrictions, in point of trade and navigation, without any exception, as if the same were actually blockaded by His Majesty's naval forces in the most strict and rigorous manner; and that every vessel trading from and to the said countries or colonies, plantations or settlements, together with all goods and merchandise on board, shall be condemned as prize to the captors.

And His Majesty is further pleased to order, and it is hereby ordered, that this order shall have effect from the day of the date thereof with respect to any ship, together with its cargo, which may be captured subsequent to such day, on any voyage which is and shall be rendered legal by this order, although such voyage, at the time of the commencement of the same, was unlawful, and prohibited under the said former orders; and such ships, upon being brought in, shall be released accordingly; and with respect to all ships, together with their cargoes, which may be captured in any voyage which was permitted under the exceptions of the orders above mentioned, but which is not permitted according to the provisions of this order, His Majesty is pleased to order, and it is hereby ordered, that such ships and their cargoes shall not be liable to condemnation, unless they shall have received actual notice of the present order before such capture, or, in default of such notice, until after the expiration of the like intervals, from the date of this order, as were allowed for constructive notice in the orders of 25th November, 1807, and the 18th of May, 1808, at the several places and latitudes therein specified.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and Judges of the Courts of Vice-admiralty, are to give the necessary directions herein as to them may respectively appertain.

STEPHEN COTTRELL.

10th CONGRESS.]

No. 216.

[2d CONGRESS.]

FRANCE.

COMMUNICATED TO CONGRESS, NOVEMBER 8, 1808.

(Confidential.)

NOVEMBER 8, 1808.

To the Senate and House of Representatives of the United States:

The documents communicated with my public message of this day contain such portions of the correspondence therein referred to of the ministers of the United States at Paris and London, as relate to the present state of affairs between those Governments and the United States, and as may be made public. I now communicate, confidentially, such supplementary portions of the same correspondences as I deem improper for publication, yet necessary to convey to Congress full information on a subject of their deliberations so interesting to our country.

TH: JEFFERSON.

Extract:—Mr. Madison, Secretary of State, to General Armstrong, Minister Plenipotentiary of the United States at Paris.

SIR:

DEPARTMENT OF STATE, May 22, 1807.

The two last letters received from you were of December 24, and January 16.

The decree of November 21, communicated in the first, had previously reached us, and had excited apprehensions which were repressed only by the inarticulate import of its articles, and the presumption that it would be executed in a sense not inconsistent with the respect due the treaty between France and the United States. The explanations given you by the Minister of Marine were seen by the President with much pleasure, and it only remains to learn that they have been confirmed by the express authority of the Emperor. We are the more anxious for this information, as it will fortify the remonstrances which have been presented at London against the British order of January 7th. Should it, contrary to expectation, turn out that the French decree was meant, and is to operate according to the latitude of its terms, you will, of course, have made the proper representations, grounded as well on the principles of public law, as on the express stipulations of the convention of 1800. Nothing, besides, could be more preposterous than to blend with an appeal to neutral rights and neutral nations, a gross infraction of the former, and outrage on the sentiments of the latter, unless it be to invite a species of contest on the high seas, in which the adversary has every possible advantage. But on the more probable supposition that the decree will not be unfavorably expounded, it will be still necessary to press on the French Government a despatch of such orders to their cruisers in every quarter, as will prevent a construction of the decree favorable to their licentious cupidity. The moment your letter was received, the answer of the French Minister of Marine to your note was communicated to General Turreau, with a call on him to transmit it immediately to the French Governors in the West Indies. This he readily engaged to do. But notwithstanding this precaution, there are proofs that the West India privateers have, under color of the edict, committed depredations which will constitute just claims of redress from their Government.

Mr. Erving has forwarded a Spanish decree also, avowedly pursuing the example and the views of the French Emperor. The terms of this decree are even more vague, or rather more broad, than those of the prototype; and if not speedily recalled or corrected, will doubtless extend the scene of spoliations already begun in that quarter; and, of course, thicken the cloud that hangs over the amity of the two nations.

Extract:—Mr. Armstrong to Mr. Monroe.

SIR:

PARIS, July 7, 1807.

The accounts you have had of recent captures made by French privateers of American vessels, under cover of the decree of November last, are not correct; at least, if such captures have been made, I know nothing of them; the only captures I have at any time heard of were those made from Porto Ferrajo. They are by no means of recent date, and have all (I believe,) been redressed by the council of prizes. Two of these cases, to which I attended personally, received decisions equally favorable and prompt; interest and damages were given to the plaintiffs, and I know not why decisions equally favorable should not have been given in the other cases. I have within a week been informed by Mr. Erving that he had reason to believe that a French privateer, then in a port of Spain, had plundered American ships, either going to or coming from England, of dry goods to the amount of three hundred dollars. Before any thing could be done in Spain for the recovery of these goods, the ship went to sea, and professedly for the purpose of returning to the port of her armament. Believing her to have arrived there, I put all the evidence I possessed before M. Decrès, who closes his answer with the following assurance. **“Your excellency may be assured that, as far as it depends on me, the captains of these vessels, or their owners, shall obtain, if there is ground for it, a prompt and full reparation.”* I quote this to show you that there is no disposition in the minister of this Government to sanction or protect such enterprises upon our commerce. From the uses you may be able to make of the facts, and their relation to your question generally, I subjoin a brief exposition of the construction now given to the November decree. It was, you know, admitted by both ministerial and judicial authorities, that this decree did not infract the provisions of the treaty of 1800, between the United States and France. Still it was contended that vessels of the United States, coming from any port of Great Britain, *since* the date of the edict, could not be admitted to entry in the ports of France. This rule, without some qualifications, was likely to become mischievous, and I accordingly obtained the following modifications of it, and hope to obtain a further modification, which will render it perfectly harmless. These changes took place as circumstances rose to produce them; for though the necessity for them was both foreseen and represented, it was only upon real, not upon hypothetical cases, that the ministers of His Majesty were willing to act.

1. Vessels leaving ports of the United States before a knowledge of the *arrêt* had been promulgated *there*, are not subject to the rule.

2. Vessels not coming *directly* from a British to a French port are not subject to the rule.

* *Votre excellence peut être assurée qu'il ne tiendra pas à moi, que les capitaines de ces navires, ou leurs propriétaires, n'obtiennent, s'il y a lieu, une réparation prompte et pleine.*

3. The *cargoes* of vessels coming *directly* from a British to a French port, and offered for entry, on proof that the touching of the ship in England, &c. was involuntary, are put in *depôt* or sequestration, until His Majesty shall have decided on the sufficiency of the proof offered; or they are at once given up to the consignees, on their giving security to abide the decision which shall be ultimately taken by the Emperor in their respective cases. The vessels can go out freely, and without impediment of any kind. The former rule, of which this is an amelioration, was, that *ships* as well as *cargoes*, coming under this description, should be sequestered, &c. The further alteration which I have asked, is, the establishment of some principle which shall regulate the kind and degree of proof required with respect to the alleged application of a *force majeure*, &c.; my own opinion is, that this may best be found in the greater or less correspondence which shall exist between the cargo when shipped in America, and when arrived here. If the correspondence be complete, the evidence ought to be considered as complete also, *that they were not in Great Britain for the purposes of commerce*; and, not being there for *these* purposes, the inference is fair, that their going there at all was involuntary. This is a rule the ministers will consent to; whether His Majesty will do so also will be known in a few days. He is expected here about the beginning of August.

Mr. Armstrong to Mr. Madison.

SIR:

PARIS, August 3, 1807.

We had yesterday our first audience of the Emperor since his return to Paris. Happening to stand near the minister of Denmark, I overheard His Majesty say to that minister, "So M. Baron, the Baltic has been violated." The minister's answer was not audible to me, nor did it appear to have been satisfactory to the Emperor, who repeated, in a tone of voice somewhat raised and peremptory, "But, sir, the Baltic has been violated." From Mr. Deyer he passed to myself and others, and lastly to the ambassador of Portugal, to whom, it is said, he read a very severe lecture on the conduct of his court. These circumstances go far to justify the whispers that begin to circulate, that an army is organizing to the south for the purpose of taking possession of Portugal, and another to the north for a similar purpose with regard to Denmark; and, generally, that having settled the business of belligerents, with the exception of England, very much to his own liking, he is now on the point of settling that of neutrals in the same way. It was, perhaps, under the influence of this suggestion, that Mr. Deyer, taking me aside, inquired whether any application had been made to me with regard to the *projected union* of all the commercial States against Great Britain, and on my answering in the negative, he replied, "You are much favored, but it will not last." I give you this detail, not from any importance it has in itself, but from the circumstance of its containing all that I have yet heard in relation to a project highly interesting to the United States, and of which you ought to be immediately apprised.

August 9. Not a syllable has yet been mentioned with regard to the projected union, &c. As far as I can learn, they are satisfied that the course we are pursuing is honest to ourselves, and not dishonest to either of the belligerents.

August 15. We had this morning an audience of the Emperor. The seizure of Copenhagen by the British gave room for a new conversation with the minister of Denmark, in the course of which he stated the British force to have been but ten or twelve thousand men; demanded what had become of the Prince Regent, and asked why the Government had not defended the city? As in the former audience from Baron Deyer he came directly to me, and, after some questions merely personal, he adverted to the outrage committed by the Leopard on the Chesapeake. "This," said he, "is abominable; they have pretended hitherto to visit merchantmen, and that they had a right to do so; but they, even they, have set up no such pretensions with respect to armed ships. They would now arrange it by giving up a right or usage which never existed; but they will arrange it; they are afraid to go to war with your country."

I have the honor to be, sir, your most obedient servant,

JOHN ARMSTRONG.

MR. MADISON.

Mr. Armstrong to Mr. Champagny.

SIR:

PARIS, August 9, 1807.

Your excellency is not unapprised that soon after the promulgation of the imperial decree of the 2d of November last, one of similar character and injunctions was issued by the Prince of Peace, in behalf of His Catholic Majesty. Under this order, sundry vessels belonging to the citizens of the United States have been captured on the high seas, brought into the ports of Spain, and are now before the Court of Admiralty for examination. To this brief statement I subjoin an extract from a letter of the 27th ultimo, from the *chargé des affaires* of the United States at Madrid, which will show your excellency that the fate of these vessels will depend, not on the construction which might be given to the Spanish decree by the Spanish tribunals, but on the practice which shall have been established by France, under her decree of November last; and that Prince Massirano has accordingly been directed to ask from your excellency such exposition of that decree, and of the practice under it, as shall regulate, on this head, the conduct of Spanish courts and cruisers towards neutral commerce in general. Assured, as I feel myself, that this exposition, whenever given, will not be less friendly and liberal than that already found in the decisions of His Imperial Majesty's council of prizes, and correspondence of his Minister of Marine, viz: that the provisions of the decree in question do not infract any of the rights of commerce stipulated by treaty between France and the United States; it is incumbent on me to pray your excellency, that it (the exposition required) be given as expeditiously as possible, to the end that the legitimate commerce of the United States be relieved from all further annoyance growing out of the doubtful meaning and operation of the Spanish decree aforesaid.

Your excellency will permit me to avail myself of this occasion to recall to your attention the subject of my letter of the 26th of June last. I learn from Antwerp that the cargoes mentioned in that letter are yet under sequestration, and that considerable loss, as well by diminution of price in the articles, as by accumulation of interest and charges, has been already incurred.

Your excellency will do me the honor to accept the assurances of my profound respect.

JOHN ARMSTRONG.

His Excellency the PRINCE OF BENEVENTO.

Mr. Champagny (Prince of Benevento) to Mr. Armstrong.

MONSIEUR:

Août 21, 1807.

J'ai reçu la lettre que vous m'avez fait l'honneur de m'adresser le 9 de ce mois, relativement à des bâtimens Américains conduits dans les ports d'Espagne, par suite des dispositions que cette Puissance a prises contre le commerce Anglais, à l'exemple de la France.

Comme l'exécution des mesures maritimes indiquées par le décret impérial du 21 Novembre, 1806, appartient naturellement à son excellence le Ministre de la Marine, et que d'ailleurs il a déjà eu l'honneur de vous adresser de premières observations sur l'application de ce décret, je me suis empressé de lui transmettre votre lettre, et de lui demander les nouvelles explications que vous pouvez désirer. Dès qu'elles m'auront été adressées, j'aurai l'honneur de vous en donner connaissance.

Agréez, monsieur, l'assurance de ma haute considération,

CHAMPAGNY.

Son Ex. le Gen. ARMSTRONG.

[TRANSLATION.]

Mr. Champagny to Mr. Armstrong.

SIR:

AUGUST 21, 1807.

I have received the letter which you did me the honor of addressing me on the 9th of this month, relative to American vessels carried into ports of Spain, in consequence of the measures taken by that Power against the English commerce, in imitation of France.

As the execution of the maritime measures indicated by the imperial decree of the 21st of November, 1806, rests naturally with his excellency, the Minister of Marine, and that, moreover, he has already had the honor of addressing you some first observations on the application of that decree, I transmitted without delay your letter, and asked from him the new explanations which you might desire. When they shall have been forwarded to me, I will have the honor of informing you of them.

Accept the assurance of my high consideration,

CHAMPAGNY.

His Excellency Gen. ARMSTRONG.

Mr. Armstrong to the French Minister of Exterior Relations.

SIR:

PARIS, September 24, 1807.

I have this moment learned that a new and extended construction, highly injurious to the commerce of the United States, was about to be given to the imperial decree of the 21st of November last. It is therefore incumbent upon me to ask from your excellency an explanation of His Majesty's views in relation to this subject, and, particularly, whether it be His Majesty's intention, in any degree, to infract the obligations of the treaty now subsisting between the United States and the French empire?

I pray your excellency, &c.

JOHN ARMSTRONG.

His Excellency the MINISTER OF EXTERIOR RELATIONS.

Mr. Regnier to the Procureur General of the Council of Prizes.

PARIS, le 18 Septembre, 1807.

J'ai soumis à Sa Majesté, l'Empereur et Roi, monsieur, les doutes que s'était formé son excellence le Ministre de la Marine et les Colonies sur l'étendue de quelques dispositions du décret impérial du 21 Novembre, 1806, qui a déclaré les Isles Britanniques en état de blocus. Voici quelles sont les intentions de Sa Majesté sur les points qui avaient mis en question:

1. Les bâtimens armés en guerre, peuvent-ils, en vertu du décret impérial du 21 Novembre dernier, *saisir sur les bâtimens neutres*, soit les propriétés Anglaises, soit même toutes marchandises provenant de manufactures du territoire Anglais?

Sa Majesté m'a fait connaître que, puis qu'elle avait jugé à propos de n'exprimer aucune exception dans son décret, il n'y avait pas lieu d'en faire dans l'exécution à l'égard de qui que ce pût être.

2. Sa Majesté a sursis à statuer sur la question de savoir si les armemens Français doivent s'emparer des bâtimens neutres qui vont en Angleterre, ou qui en sortent, lors même qu'il n'ont point à bord de marchandises Anglaises.

3. Sur la troisième question, qui était de savoir si les armemens Français sont passibles de la retenue ordonnée par l'article 6 du décret du 21 Novembre, Sa Majesté a déclaré que la disposition de cet article n'était susceptible d'aucune restriction; c'est-à-dire, que la retenue doit avoir lieu sur le produit de toutes les confiscations de marchandises et propriétés qui ont été, ou pourraient être, prononcées en exécution du décret, sans égard au lieu de la saisie ou à la qualité des saisissans.

Vous voudrez bien, monsieur, notifier ces décisions au conseil des prises, les faire consigner sur les registres, et m'accuser la réception de ma lettre.

Récevez, &c. &c.

Le Grand Juge, Ministre de la Justice,

REGNIER.

LE PROCUREUR GENERAL IMPERIAL, *Conseil des Prises.*

[TRANSLATION.]

PARIS, September 18, 1807.

I have submitted, sir, to His Majesty the Emperor and King, the doubts of his excellency the Minister of Marine and Colonies on the extent of some of the provisions of the imperial decree of November 21, 1806, which has declared the British Islands in a state of blockade. The following are the intentions of His Majesty on the points in question:

1. Can armed vessels, under the imperial decree of the 21st of November last, seize, in neutral vessels, either English property or merchandise proceeding from the manufactures of the English territories?

His Majesty notifies me, that since he had not thought proper to express any exception in his decree, there is no ground to make any in the execution, with respect to any thing whatsoever.

2. His Majesty has not decided the question, whether French armed vessels may possess themselves of neutral vessels going to or from England, although they have no English merchandise on board.

3. On the question whether French armed vessels are subject to the deduction ordered by the sixth article of the decree of November 21, His Majesty has declared that the provision of that article was not susceptible of any restriction; that is to say, that the deduction must take effect on the proceeds of all confiscations of merchandise and property which have been or may be pronounced in execution of the decree, without regard to the place of seizure or character of the captors.

You will be so good, sir, as to notify these decisions to the council of prizes, to have them entered in the registers, and to acknowledge the receipt of my letter.

Accept, &c. &c.

The Grand Judge, Minister of Justice,

REGNIER.

IMPERIAL PROCUREUR GENERAL of the Council of Prizes.

Mr. Champagny to Mr. Armstrong.

MONSIEUR:

FONTAINEBLEAU, le 7 Octobre, 1807.

Vous m'avez fait l'honneur de m'inviter le 24 Septembre à vous transmettre quelques éclaircissemens sur l'exécution du décret de blocus des isles Britanniques envers les bâtimens des Etats Unis.

Les dispositions de tous les réglemens et de tous les traités relatives à l'état de blocus ont paru applicables à la circonstance actuelle, et il résulte des explications qui viennent de m'être adressées par le procureur general impérial près le conseil des prises, que Sa Majesté a regardé tout bâtiment neutre, sortant des ports Anglais, avec des cargaisons de marchandises Anglaises, ou d'origine Anglaise, comme pouvant être valablement saisi par les bâtimens de guerre Français.

Le décret de blocus est rendu depuis près d'onze mois; les principales Puissances d'Europe, loin de réclamer contre ses dispositions, les ont adoptées. Elles ont reconnu qu'il fallait en rendre l'exécution complete pour la rendre plus efficace; et il a paru qu'il était facile d'accorder ces mesures avec la conservation des traités, sur-tout dans un temps où les infractions de l'Angleterre contre les droits de toutes les Puissances maritimes rendent leurs intérêts communs, et tendent à les unir pour le soutien de la même cause.

Recevez, monsieur, &c. &c.

CHAMPAGNY.

Son Exc. le Gén. ARMSTRONG, *Min. Plén. des Etats Unis.*

[TRANSLATION.]

SIR:

FONTAINEBLEAU, October 7, 1807.

You did me the honor on the 24th of September, to request me to send you some explanations as to the execution of the decree of blockade of the British islands as to vessels of the United States.

The provisions of all the regulations and treaties relative to a state of blockade have appeared applicable to the existing circumstance; and it results, from the explanations which have been addressed to me by the imperial procureur general of the council of prizes, that His Majesty has considered every neutral vessel going from English ports, with cargoes of English merchandise, or of English origin, as lawfully seizable by French armed vessels.

The decree of blockade has been now issued eleven months; the principal Powers of Europe, far from protesting against its provisions, have adopted them. They have perceived that its execution must be complete to render it more effectual, and it has seemed easy to reconcile these measures with the observance of treaties, especially at a time when the infractions by England of the rights of all maritime Powers render their interest common, and tend to unite them in support of the same cause.

Accept, &c. &c.

CHAMPAGNY.

His Ex. Gen. ARMSTRONG, *Min. Plen. of the United States.*

Mr. Armstrong to Mr. Madison.

SIR:

PARIS, November 12, 1807.

It was not till yesterday that I received from Mr. Skipwith a copy of the decree of the council of prizes in the case of the *Horizon*. This is the first unfriendly decision of that body, under the arrêt of the 21st of November, 1806. In this case, and on the petition of the defendant, the court has recommended the restitution of the whole cargo. I did not, however, think proper to join in asking, as a favor, what I believed myself entitled to as a right. I subjoin a copy of my note to the Minister of Foreign Affairs, and am, sir, your most obedient and very humble servant,

JOHN ARMSTRONG.

[Enclosed in Mr. Armstrong's letter of November 12.]

Mr. Armstrong to Mr. Champagny.

SIR:

PARIS, November 12, 1807.

The document to which these observations are prefixed will inform your excellency than an American ship, trading under the protection of the laws of nations, and of particular treaties, and suffering shipwreck on the coast of France, has recently been seized by His Majesty's officers, and adjudged by his council of prizes as follows, viz: "Our council puts at liberty the American vessel, the *Horizon*, shipwrecked the 30th of May last, near Morlaix; and, consequently, orders that the amount arising from the sale legally made of the wreck of the said vessel, together with the merchandise of the cargo, which, according to an estimate made in presence of the overseers of the administrations of the marine and custom-house shall have been acknowledged not to proceed from English manufactures, nor from English territory, shall be restored to Captain McClure, without deducting any

other expenses than those relative to the sale; and with regard to the other merchandise of the cargo, which, from the result of the said estimate, shall be acknowledged to come from manufactures, or English territory, by virtue of the fifth article of the decree of the 21st of November, 1806, they shall be confiscated for the use of the State; the whole to be sold by the forms prescribed in the regulations; and the application of the product to be made in conformity to the arrangements of the said decree, deduction being made for the expense of saving the goods, and that of the support of the crew, until the day that the captain shall receive the notification of the present decision."

The reasons upon which this decision are founded are at once so new and so alarming to the present friendly relations of the two Powers, that I cannot but discuss them with a freedom in some degree proportioned to my sense of their novelty and importance.

"Considering," says the council, "first, that the neutrality of the ship and cargo was sufficiently established, the whole ought to be restored, (agreeably to the provisions of the convention of the 30th of September, 1800,) provided no merchandise of English origin had been found in her, and, of course, that she had not been brought within the limits of the imperial decree of the 21st of November, 1806."

Here is an open and unqualified admission that the ship was found within the rules prescribed by the convention of 1800; that, according to these rules, her cargo and herself ought to have been restored; and that such would have been the fact, but for the operation of the decree of the 21st of November, 1806.

In the letter your excellency did me the honor to write to me on the 7th of October last, you thought it "easy to reconcile the obligations of this decree with the preservation of those arising from treaties." It was not for me to examine the means by which this reconciliation was to be effected: they no doubt fully existed, and yet exist, in His Majesty's good pleasure; and taking for granted this fact, I saw in the opinion nothing but proofs of friendly dispositions and pledges that these were not to be either wantonly destroyed or diminished. How inauspicious, however, to its authority, and the consolations derived from it, is this recent act of the council of prizes!—an act which explicitly acknowledges the opposite characters and conflicting injunctions of these two instruments; and which, of course, draws after it considerations the most serious to the Government of the United States.

The second reason of the council is, "that the decree declaring (British) merchandise good prize had principally in view captures made on the high seas; but that the question, whether shipwrecked goods ought to be restored or confiscated, having always been judged under the fourteenth article of the regulation of the 26th of July, 1778, and, according to their character, (which might have rendered lawful, or have even commanded their seizure at sea,) there is no room to introduce, in this case, any new distinction, which, however philanthropic it may appear, has not as yet been adopted as a rule by any maritime nation."

The doctrine resisted in this passage, and which inculcates the duty of extending protection to the unfortunate, is not new to His Majesty's council of prizes. They have themselves consecrated it by their decision of the 5th of March, 1800. By that decision they restored an enemy's ship, (the *Diana*) on the *single reason*, that "she had been *compelled to enter a French port by stress of weather*." "I should equally fail," says the attorney general, "in respect to myself and to the council, before whom I have the honor to represent the Government, were I not to maintain a principle consecrated by our laws, and by those of all nations. In all circumstances, let the loyalty of the French Government serve as the basis of your decisions. Prove yourselves at once generous and just; your enemies will know and respect your magnanimity." Such was the principle adopted by the council in the year 1800, and in the case of an enemy's ship; yet we are now told that this very principle, so honorable to the court, to the nation, and to human nature, is utterly unknown to all maritime people. And on what occasion do we hear this? When an enemy's ship is again thrown on the French coast? No: it has been reserved for the wreck of a neutral and a friendly vessel! for a ship of the United States! It is not denied, that, had this ship escaped the rocks and made the port of Morlaix, the only inhospitality to which she would have been exposed (under the most rigorous interpretation of the law in question) would have been that of being ordered again to sea. Has, then, the misfortune of shipwreck so far altered her condition, as to expose her to the injury of confiscation also? and is this among the principles which the defender of maritime rights means to consecrate by his power and his wisdom? It is impossible.

The third reason of the council is, "that the application of the fifth article aforesaid, in as far as it concerns the Americans and other nations, is the result both of the general expressions of that very article, and of the communication recently made by his excellency, the grand judge, concerning the primitive intention of the sovereign."

This reason will be found to be substantially answered in my reply to reason No. 5 of the council. It will be seen that the opinion given here that "the application of article fifth of the imperial decree, to American commerce, is the result of the general expressions of that very article," was not the opinion of the council on the 5th of March last, when they judged the case of the *Hibernia*. They then declared, *in totidem verbis*, that the decree "said nothing of its own influence on the convention of 1800" between the United States and France.

The fourth reason of the council is, "that the expedition in question having certainly been made with full knowledge of the said decree, no objection can be drawn, with any propriety, from the general rules forbidding a retrospective action, nor, even in this particular case, from the posterior date of the act in which the sovereign decides the question; since that act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but as a declaration of an anterior and positive disposition."

A distinction is here attempted to be taken between the interpretation of a doubtful point and the declaration of an anterior and positive rule. This distinction cannot be maintained: for, if the rule had been positive, there would have been no occasion for the declaration. Neither the Minister of Marine, nor the council of prizes, could have had any doubts on the subject; the execution of the decree would have been prompt and peremptory; nor would a *second act* on the part of His Majesty, after the lapse of twelve months, have been necessary to give operation to the *first*. Need I appeal to your excellency's memory for the facts on which these remarks turn? You know that doubts did exist. You know that there was, under them, *much hesitation* in pronouncing. You know that, as late as the 9th of August, I sought an explanation of the decree in question; and that even then your excellency (who was surely a competent and legitimate organ of His Majesty,) did not think yourself prepared to give it. The conclusion is inevitable. His Majesty's answer, transmitted to the court of prizes on the 18th of September last, through the medium of the grand judge, was in the nature of an *interpretation*, and, being so, could not, without possessing a retroactive quality, apply to events many months anterior in date to itself.

The fifth reason of the council, and the last which enters into my present view of the subject, is, "that, though one of the principal agents of His Majesty had given a contrary opinion, of which the council had at no period partaken, this opinion being that of an *individual*, could not, whatever consideration its author may merit, balance the formal declaration given in the name of His Majesty himself; and that, if the communication of this opinion had, as is alleged, given room to and served as a basis for many American shipments, and particularly of the one in question, this circumstance, which may call for the indulgence of His Majesty, in a case in which the confiscation is entirely to the advantage of the State, does not prevent a council, rigid in its duty, to pronounce in conformity to the decree of the 21st of November, and of the declaration which followed it."

It would appear from this paragraph that, not finding it easy to untie the knot, the council had determined to cut it. Pressed by the fact that an interpretation of the decree had been given by a minister of His Majesty, specially charged with its execution, they would now escape from this fact, and from the conclusions to which it evidently leads, by alleging, 1st, That at no time had the council partaken of the opinion given by the minister; and, 2d, That this opinion, being that of an *individual*, could not possess either the force or the authority of one truly ministerial.

It appears to me, as I think it will appear to your excellency, that the council have, in these statements, been less correct than is usual to them on similar occasions. If, as they now assert, they have never partaken of the minister's opinion; if they have never even hesitated on the question, whether the decree of November did or did not derogate from the treaty of 1800, why, I ask, suspend the American cases generally; or why decide as they did in the case of the Hibernia? If I mistake not, we find in this case the recognition of the very principle laid down by the Minister of Marine. That officer says, "In my opinion, the November decree does not work any change in the rules at present observed with respect to neutral commerce, and, consequently, none in the convention of the 8th Vendemiaire, year 9." And what says the council? "*Admitting* that this part of the cargo (the rum and ginger,) was of *British origin*, the dispositions of the November decree, [*which contain nothing with regard to their own influence over the convention of the 8th Vendemiaire, year 9,*] evidently cannot be applied to a ship leaving America on the 6th of the same month of November; and, of course, cannot have authorized her capture in the moment she was entering the neutral port of her destination." We have here three distinct grounds of exemption from the effects of the November decree:

1st. The *entire silence* of that decree, with regard to its own influence over the convention of 1800.

2d. The *early period* at which the ship left the United States; and,

3d. The *neutral character* of the port to which she was destined. If such, sir, were the principles admitted by the council on the 25th of March last, with what correctness can it be now said, "that at no period have they partaken of the opinion of the minister?"

The second fact asserted by the council is, that the interpretation of the decree in question, given on the 24th of December, 1806, was *private*, not *public*; or, in other words, that it was the interpretation of the *man*, not that of the *minister*, and, as such, cannot outweigh the more recent declaration coming directly from His Majesty himself.

On the comparative weight of those declarations I shall say nothing, nor shall I do more to repel the first part of the insinuation, (*that the minister's declaration was that only of the individual,*) than to submit to your excellency my letter of the 20th of December, 1806, claiming from that minister an *official* interpretation of the decree in question, and his answer of the 24th of the same month, giving to me the interpretation demanded.

To your excellency, who, as late as the 21st of August last, considered the Minister of Marine as the natural organ of His Majesty's will, in whatever regarded the decree aforesaid, and who actually applied to him for information relating to it, this allegation of the council of prizes, and the reasoning founded upon it, cannot but appear very extraordinary, and will justify me in requesting that His Majesty may be moved to set aside the decision in question, on the ground of error in the opinion of the council.

If, in support of this conclusion, I have drawn no arguments from the treaty of 1800, nor from the laws of nations, your excellency will not be at a loss to assign to this omission its true cause. It would surely have been a useless formality to appeal to authorities, not only practically, but even professedly extinct. In the letter of the Minister of Justice of the 18th of September, we are told by His Majesty himself, that, "since *he* had not judged proper to make any exception in the letter of his decree, there was no room to make any in its execution;" and in the report of your excellency's predecessor, of the 20th of November, 1806, we have these memorable words:

"England has declared these places blockaded, before which she had not a single ship of war.

"She has done more; for she has declared in a state of blockade places which all her assembled forces were incapable of blockading—immense coasts, and a vast empire.

"Afterwards, drawing from a chimerical right, and from an assumed fact, the consequence that she might justly make her prey of every thing going to the places laid under interdiction by a simple declaration of the British Admiralty, and of every thing arising therefrom, and carrying this doctrine into effect, she has alarmed neutral navigators, and driven them to a distance from ports whither their interests attracted them, and which the law of nations authorized them to frequent.

"Thus it is that she has turned to her own profit, and to the detriment of Europe, but more particularly of France, the audacity with which she mocks at *all rights, and insults even reason itself.*

"Against a Power which forgets to such a pitch all ideas of justice and all humane sentiments, what can be done but to forget them for an instant one's self?"

Words cannot go further to show the extinguished authority, in the one case, of the treaty subsisting between the United States and His Imperial Majesty, and, in the other, of the law of nations; to appeal to them, therefore, would be literally appealing to the dead.

Accept, sir, &c. &c.

JOHN ARMSTRONG.

To His Excellency the MINISTER OF FOREIGN RELATIONS.

Mr. Armstrong to Mr. Madison.

SIR:

PARIS, December 1, 1807.

I have this moment received a letter from His Majesty's Minister of Foreign Relations, of which I subjoin a copy; and am, sir, with very high consideration, your most obedient and most humble servant,

JOHN ARMSTRONG.

[Enclosed in the above.]

[TRANSLATION.]

Mr. Champagny to General Armstrong.

SIR:

MILAN, November 24, 1807.

The execution of the measures taken against the English commerce has frequently caused reclamations on your part. The intention of His Majesty, without doubt, is, that every particular abuse may be repressed; but the Federal Government cannot make any complaint against the measures themselves; and while the United States allow that their vessels may be visited by England, that she may drag them into her ports and turn them from their destination; while they do not oblige England to respect their flag and the merchandise which it covers; while they

permit that Power to apply to them the absurd rules of blockade which it has set up, with the view of injuring France; they bind themselves, by that tolerance towards England, to allow also the application of the measures of reprisals which France is obliged to employ against her. His Majesty regrets, without doubt, to have been forced to recur to such measures: he knows all that the commercial classes may have to suffer in consequence of them, particularly those who, having habitual relations with England, using a common language, and often mixing their interests, might more frequently occasion an apprehension of some commercial connivance with the English, inasmuch as they would have greater facilities in covering it. This circumstance made it necessary to use towards them precautions more exact, and an unceasing watchfulness, in order not to be exposed to abuses which might result from a less constant vigilance. But it is not to France, it is to England, that these inconveniences to individuals ought to be imputed. She it is who has given the example of measures unjust and illegal, and infringing on the sovereignty of nations. To oblige her to renounce them, it has become necessary to combat her with her own arms; in violating the rights of all nations she has united them all by a common interest; and it is for them to have recourse to force against her, to forbid her the search (*la visite*) of their vessels, the taking away of their crews, and to declare themselves against measures which wound their dignity and their independence. The unjust pretensions of England will be kept up as long as those whose rights she violates are silent; and what Government has had more to complain of against her than the United States? All the difficulties which have given rise to your reclamations, sir, would be removed with ease, if the Government of the United States, after complaining in vain of the injustice and violations of England, took with the whole continent the part of guarantying itself therefrom. England has introduced into the maritime war an entire disregard for the rights of nations; it is only in forcing her to a peace that it is possible to recover them. On this point the interest of all nations is the same, all have their honor and their independence to defend.

Accept, sir, &c.

CHAMPAGNY.

Mr. Armstrong to Mr. Madison.

SIR:

PARIS, December 27, 1807.

I forward by Mr. McElhony a copy of a second and very extraordinary decree of this Government with regard to neutral commerce. Whether it be meant to stimulate Great Britain to the commission of new outrages, or to quicken us in repelling those she has already committed, the policy is equally unwise, and so decidedly so, that I know not a single man of consideration who approves of it. It is, however, not less true that it is as difficult to find one who will hazard an objection to it. T*****d, who in this way is permitted to go further than any other person, dare not avow his opinion of it, nor (bad as he thinks it) will he do more than state that the present moment would appear to dictate some modifications. To this point he stands engaged to go, and I wait the result with much anxiety. The Emperor is expected here on the last day of the month.

I have the honor to be, with very great respect, sir, your most obedient and humble servant,

JOHN ARMSTRONG.

P. S.—As Mr. Lee thinks it probable that both the copies of my despatch of the 15th November are taken to England, I send a third copy of it with this. There is no longer a doubt that the Emperor wished to get hold of the royal family of Portugal. There is a degree of wickedness that makes even scoundrels honest. This is verified in the conduct of Aranjó. In every other act of his life he betrayed his master; in this he served, and perhaps saved him. The assailant confided to him his whole secret, and, abandoned as he was, he could not lend himself to its execution.

I have seen a letter from the Minister of Marine, in which he says, "The vessels of friendly and allied Powers now in the ports of the empire shall not be permitted to depart until further orders." The professed object of this measure is "to prevent their falling into the hands of the enemy;" the real object to induce the British to arrest all such vessels [of ours] as may be within their grasp. Thus the two rivals are to go on endeavoring which can most outrage law and justice. The letter above mentioned was written to the minister of Denmark. A similar notice has not yet been sent to me: it is therefore possible that His Majesty's care is restricted to vessels of Powers both friendly and allied; that it is a squeeze purely fraternal. If so, we may escape for this time. I state this, however, as a thing barely possible.

I am, sir, with very high consideration, your most obedient servant,

JOHN ARMSTRONG

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, January 22, 1808.

The conjecture offered in my last letter, with regard to the embargo of our vessels, turns out to be correct; the order was intended to be confined to the vessels of friendly and allied Powers, or Powers having both these characters; the word neutral crept into it merely by mistake. An extract from the minister's letter to me on this subject is as follows, to wit: "No order has been given to retain neutral vessels in the ports of the empire; and as soon as I knew of the error committed in this respect, I hastened to correct it, and to notify expressly that neutral vessels, and particularly those of the United States, should enjoy an entire freedom." I subjoin, also, a copy of a letter, in answer to the remonstrances I have made against the new arrê of the 17th of December last; by this you will see that the captures under this decree, like those under that of November, 1806, are in the nature of detention, and that, in the contingency of an exclusion of British commerce from the United States, the ships and cargoes will be immediately released. I expect, from one moment to another, the Emperor's orders for immediately raising all the sequestrations which have taken place under the November decree.

[Referred to in Mr. Armstrong's despatch of January 22, 1808.]

Translation of a letter from Mr. Champagny to General Armstrong, dated

SIR:

PARIS, January 15, 1808.

The different notes which you have done me the honor to address to me have been laid before His Majesty.

The proceedings of England towards all Governments are so contrary to the law of nations, and all the rules constantly observed even among enemies, that no recourse against this Power is any longer to be found in the ordinary means of repression. In order to annoy her, it is become necessary to turn against her the arms which she makes use of herself; and, if transient inconveniences result therefrom, it is to her alone that they are to be imputed. Since England respects no laws, how could they be respected with regard to her? The maritime laws which she violates, ought they still to be a protection to her? And if some Powers tolerate the infractions committed on their independence, could they have the right to require that France alone should restrain herself within limits which her enemy has every where overleaped?

The United States, more than any other Power, have to complain of the aggressions of England. It has not been enough for her to offend against the independence of their flag, nay, against that of their territory and of their inhabitants, by attacking them even in their ports, by forcibly carrying away their crews; her decrees of the 11th November have made a fresh attack on their commerce and on their navigation, as they have done on those of all other Powers.

In the situation on which England has placed the continent, especially since her decrees of the 11th November, His Majesty has no doubt of a declaration of war against her by the United States, whatever transient sacrifices war may occasion; they will not believe it consistent either with their interest or dignity to acknowledge the monstrous principle and the anarchy which that Government wishes to establish on the seas. If it be useful and honorable for all nations to cause the true maritime law of nations to be re-established, and to avenge the insults committed by England against every flag, it is indispensable for the United States, who, from the extent of their commerce, have oftener to complain of these violations. War exists, then, in fact, between England and the United States; and His Majesty considers it as declared from the day on which England published her decrees. In that persuasion, His Majesty, ready to consider the United States as associated with the cause of all the Powers who have to defend themselves against England, has not taken any definitive measures towards the American vessels which may have been brought into our ports; he has ordered that they should remain sequestered until a decision may be had thereon, according to the disposition which shall have been expressed by the Government of the United States.

Extract:—Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, *February 8, 1808.*

Your letters and communications by Doctor Bullus were duly delivered on the 14th day of December; the same conveyance brought a copy of the sentence pronounced by the French prize court in the case of the *Horizon*, giving a judicial effect to the decree of November 21, 1806, as expounded in the answer of Mr. Champagny to your letter of the 12th November, 1807.

Whilst the French Government did not avow or enforce a meaning of the decree of November, 1806, in relation to the United States extending its purview beyond the municipal limits, it could not, in strictness, be regarded as an infraction either of our neutral or conventional rights; and, consequently, did not authorize more than a demand of reasonable explanations of its doubtful import, or friendly expostulations with respect to the rigor and suddenness of its innovations.

The case is now essentially changed. A construction of the decree is avowed and executed, which violates as well the positive stipulations of the convention of September 30, 1800, as the incontestable principles of public law. And the President charges you to superadd, to whatever representations you may have previously made, a formal remonstrance in such terms as may be best calculated either to obtain a recall of the illegal measure, so far as it relates to the United States, or to have the effect of leaving, in full force, all the rights accruing to them from a failure to do so.

That the execution of local laws against foreign nations on the high seas is a violation of the rights of the former and the freedom of the latter, will probably not be questioned. A contrary principle would, in fact, imply the same exclusive dominion over the entire ocean as is enjoyed within the limits of the local sovereignty, and a degradation of every other nation from its common rights and equal rank.

If it be contended that the decree, as a retaliation on the other belligerent, at the expense of neutral nations, is justified by a culpable acquiescence in the prior measures of that belligerent operating through neutrals, you will be able to deny such acquiescence; and to urge, moreover, that, on every supposition, the retaliating measure could not be justly enforced in relation to neutrals, without allowing them, at least, a reasonable time for choosing between due measures against the prior wrong and an acquiescence in both. The copy of the representations to the British Government, through its minister here, on the subject of its orders of January, 1807, will at once disprove an acquiescence on the part of the United States, and explain the grounds on which the late extension of the French decree of November, 1806, is an object of just remonstrance.

The conduct of the French Government in giving this extended operation to its decree, and, indeed, in issuing one with such an apparent or doubtful import against the rights of the sea, is the more extraordinary, inasmuch as the inability to enforce it on that element exhibited the measure in the light of an empty menace, at the same time that it afforded pretexts to her enemy for severe retaliations, for which ample means are found in her naval superiority.

The accumulated dangers to which the illegal proceedings of the belligerent nations have subjected the commerce and navigation of the United States, have at length induced Congress to resort to an embargo on our own vessels, as a measure best fitted for the crisis; being an effectual security for our mercantile property and mariners now at home and daily arriving, and, at the same time, neither a measure nor just cause of war. Copies of this act were soon after its passage transmitted to Mr. Pinkney, with an authority to assure the British Government that it was to be viewed in this light, and that it was not meant to be the slightest impediment to amicable negotiations with foreign Governments. He was requested to avail himself of an opportunity of communicating to you and Mr. Erving this view of the subject; and I hope that you will have been thence enabled to present it to the French Government. Not relying, however, on that indirect opportunity, I send by this another copy of the act, with an instruction from the President, that you make it the subject of such explanations as will guard against any misconception of the policy which led to it. It is strictly a measure of precaution, required by the dangers incident to external commerce, and, being indiscriminate in its terms and operation towards all nations, can give no just offence to any. The duration of the act is not fixed by itself, and will, consequently, depend on a continuance or cessation of its causes, in a degree sufficient, in the judgment of the Legislature, to induce or forbid its repeal. It may be hoped that the inconveniences, felt from it by the belligerent nations may lead to a change of

conduct which imposed the inconveniences of it on ourselves. France herself will be a sufferer, and some of her allies far more so. It will be very agreeable to find in that consideration, and still more in her sense of justice, a sufficient motive to an early manifestation of the respect due to our commercial rights. The example would be worthy of the professions which she makes to the world on this subject.

February 18. Since the above was written I have been under a degree of indisposition, which has suspended the proposed continuation of it, and which now will oblige me to be very brief; the more so, as the vessel has been some days detained, which was engaged for the special purpose of conveying public despatches and private letters to Europe.

The delay has enabled me to inform you that Mr. Erskine, a few days ago, communicated, by instructions from his Government, its late decrees of November 11th, and those forming a sequel to them. The communication was accompanied with assurances that much regret was felt by His Britannic Majesty at the necessity which the conduct of his enemy had created for measures so embarrassing to neutral commerce, and that His Majesty would readily follow an example of relinquishing such a course, or even of making relaxations *pari passu* with his enemy.

Whether these intimations have any reference to the distinction between such parts of the French decree as operate municipally on shore, and such as, operating on the high seas, violate the rights of neutrals, or to a distinction between the former restriction and the late extension of the decree with respect to the United States, Mr. Erskine did not seem authorized to say. The probability is that neither of these distinctions entered into the views of the British cabinet. But it is certainly neither less the duty nor the true policy of the Emperor of the French so to vary his decree as to make it consistent with the rights of neutrals, and the freedom of the seas, and particularly with his positive stipulations to the United States. This may be the more reasonably expected, as nothing can be more clear, as has been already observed, than that the effect of the decree, as far as it can be carried into effect, would not be sensibly diminished by abolishing its operation beyond the limits of the territorial sovereignty.

In remonstrating against the injustice and illegality of the French decree, I am aware that you may be reminded of antecedent injuries to France and her allies through British violations of neutral commerce. The fact cannot be denied, and may be urged with great force, in our remonstrances against the orders to which Great Britain has given a retaliating character, since the French decree might on the same ground be pronounced a retaliation on the preceding conduct of Great Britain. But ought the legitimate commerce of neutrals to be thus the victim and the sport of belligerents contending with each other the priority of their destructive innovations, and, without leaving either of them to neutrals, even the opportunity or the time for disproving that culpable acquiescence which is made the pretext by both for the wrongs done to them? And I must repeat that, apart from all questions of this nature, the French decree, or at least the illegal extensions of it to the United States, remain chargeable with all the impolicy which has been pointed out.

I find by accounts from Hamburg, Bremen, Holland, and Leghorn, that the trade and property of our citizens have been much vexed by regulations subaltern to those of the original decree of November 21, 1806. How far the complaints are founded on proceedings violating our public rights, or on such as are unfriendly and inequitable towards our citizens who have placed their property within those jurisdictions, you will be able to decide better than we can do at this distance; and the President refers to your own judgment the kind of representation to the French Government which those and other analogous cases may require.

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, February 17, 1808.

Enclosed is a copy of the answer from the Minister of Marine, to my letter of the 13th instant, in relation to the sale of a part of the cargo of the ship James Adams. It would now appear, that the promises of forbearance made by another Department are applicable only to vessels sequestered in the ports, and not to such as have been captured at sea.

[TRANSLATION.]

Extract:—From a letter of the Minister of Marine to General Armstrong.

FIFTH DIVISION OF PRIZES, PARIS, February 15, 1808.

I observe to you, moreover, the question now is, not as to a vessel sequestered in port, but as to a prize made at sea, and seized for a contravention of the decree of the 17th December last; that the provisional sale ordered on account of the "average" is for the interest as well of the captured as of the captors, and that it is directed according to the case provided for by the regulation of the 2d Prairial, 11th year.

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, February 22, 1808.

Mr. Patterson offers so good a conveyance that I cannot but employ it. Nothing has occurred here since the date of my public despatches (the 17th instant,) to give to our business an aspect more favorable than it then had; but, on the other hand, I have come at the knowledge of two facts, which, I think, sufficiently show the decided character of the Emperor's policy with regard to us: these are, 1st, that in a council of administration held a few days past, when it was proposed to modify the operation of the decrees of November, 1806, and December, 1807, (though the proposition was supported by the whole weight of the council,) he became highly indignant, and declared that these decrees should suffer no change, and that the Americans should be compelled to take the positive character, either of allies or of enemies: 2d; that on the 27th of January last, twelve days after Mr. Champagny's written assurances that these decrees should work no change in the property sequestered until our discussions with England were brought to a close, and seven days before he repeated to me verbally these very assurances, the Emperor had, by a special decision, confiscated two of our ships and their cargoes, (the Julius Henry and Juniatta,*) for want merely of a document, not required by any law or usage of the commerce in which they had been engaged. This act was taken, as I am informed, on a general report of sequestered cases, amounting to one hundred and sixty, and which, at present prices, will yield upwards of one hundred millions of francs; a sum the magnitude of which alone renders hopeless all attempts at saving it. Danes, Portuguese, and Americans will be the principal sufferers.

If I am right in supposing that the Emperor has definitively taken his ground, I cannot be wrong in concluding that you will immediately take yours.

* These cases have been referred to the Grand Judge.

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, March 9, 1808.

The conversation alluded to in the copy of the letter of _____ did not take place till the 8th instant, when the Emperor declared, that if means could be found to make an exception to the operation of the November decree, such exception should have his consent.

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, March 15, 1808.

I stated in my last letter the substance of a declaration made by the Emperor, viz: that if means could be found to except American property from the operation of the decree of November, 1806, without infringing the principles of the decrees, he would immediately make the exception. No time was lost in communicating this declaration to me; and I was invited to point out the means it required, and assured that they should be immediately submitted to His Majesty. Little as I liked the proposition, and much as I doubt the sincerity of the declaration out of which it grew, I could not refuse any agency of mine in rescuing so much of the American property sequestered in the ports of France as should come within this new rule. I accordingly wrote the note, (a copy of which is subjoined to this letter,) pointing out, in a few words, the property to which that rule would apply. This note was put into the Emperor's hand by the Prince of Benevento, who, though six days have now elapsed, has not yet received an answer.

[Note referred to in the extract from Mr. Armstrong's letter of the 15th March, 1808.]

The imperial decree of November, 1806, contains no authority to sequester the cargoes of neutral vessels touching at English ports, and subsequently coming into those of France, excepting in cases in which the captains or supercargoes may have made false declarations. The penalty provided by that decree for offences other than those of false declarations is *immediate departure* from the empire; and as in these cases no false declarations have been made, nor are alleged to have been made, so no penalty, other than that of departure from the empire can be legally inflicted.

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, April 5, 1808.

I received the despatches you did me the honor to address to me by Mr. Lewis, on the 26th ultimo.

Though I had complained often and earnestly of both the principles and operation of the Emperor's decrees of November, 1806, and December, 1807, (having written at least twenty notes on the different cases which have arisen under them,) yet, as the President's orders were express, that, on receipt of your letter, I should superadd, to whatever representations might have been previously made, a formal remonstrance against those decrees, I did not lose a moment in writing and presenting the enclosed note; the terms of which will, I hope, appear to be such as were proper or necessary to the case, and calculated either to obtain a recall of the illegal measures, or to leave in full force the rights accruing to the United States from a failure on the part of France to recall them. To this note I have not yet received an answer, nor have I reason to expect one soon, as the Emperor has left Paris, (it is said for Spain,) and had, at no time before he set out, indicated any alteration in the views which originally produced the decrees in question.

Mr. Pinkney found means (in the return to the continent of M. D'Alopeus) to communicate the President's views on the subject of the general embargo, and particularly the desire he had that it should not be considered as a measure of hostility against any foreign nation. Some explanations of this kind, were, perhaps, necessary in England, where, from the misrepresentations of our own people, the character of the policy was likely to be misunderstood; but as neither the same nor any other reason existed for making them here, none have been offered.

[Enclosed in the preceding despatch.]

Mr. Armstrong to Mr. Champagny.

PARIS, April 2, 1808.

Sir:

Having submitted to the Government of the United States copies of the imperial decrees of the 21st of November, 1806, and 17th December, 1807, and of the expositions which your excellency has been pleased, at different times, to give of them, I have recently received the instructions of the President to remonstrate against both the provisions and operation of the said decrees, on the ground of their infracting, as well the positive stipulations of a particular treaty, as the incontestable principles of public law.

In discharging this duty, your excellency will permit me to recall to your remembrance the twelfth and fourteenth articles of the treaty made between the United States and France, on the 30th of September, 1800. These articles provide—

1st. That "it shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass not only directly from the places and ports of the enemy aforesaid to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be or be not under the jurisdiction of the same Power, unless such ports or places shall be actually blockaded, besieged, or invested."

2d. That "vessels sailing for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, may be turned away from such port or place, but they shall not be detained, nor any part of their cargo (not contraband) confiscated, unless, after notice of such blockade or investment, they shall again attempt to enter; but they shall be permitted to go to any other port or place they shall think proper."

3d. That "free ships shall give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties,

although the whole lading, or any part thereof, should appertain to the enemies of either; contraband goods being always excepted."

These stipulations are not more clear in themselves, nor of more indisputable application and authority in the present case, than the injunctions of public law by which they are enforced, viz: That local regulations (excepting by virtue of convention) cannot apply to foreign nations on the high seas, without violating the rights of the one, and the freedom of the other; that blockades can only exist when places are so invested that no serious attempt can be made to approach them without exposing the parties making them to imminent danger; that merchant vessels may be visited without any degradation to the flag of the nation to which they belong, &c. But why multiply proofs of a position which is not denied? Does not the official report of your enlightened predecessor of the 21st of November, 1806, admit the illegitimacy of the original decree? Does it not expressly say, that the doctrines of blockade introduced by England are monstrous and indefensible? and that the practice, like the doctrine, is a mockery of right, and an insult upon reason? After strictures so severe, because so just, what can be said for the policy of France, which differs in nothing from that of England? Has your excellency attempted to defend either the theory or the practice of this policy, on the ground of its conformity to the principles of public law? Or have you done more at any time, or on any occasion, than to seek a justification for it on the bare suggestion that the United States have acquiesced in the measures of England? And how has even this suggestion been maintained? By an exposition of the wrongs inflicted on American commerce! and which have been notoriously practised by all the belligerents in turn. Have not the ships of the United States been encountered by all? Have they not been turned from their original destination? Have they not been dragged into foreign ports for adjudication? Have they not, in several instances, been burnt on the high seas? Is not the argument, founded on this state of things, equally good for either, or for all the belligerents? And can France derive from it rights which do not equally accrue to her enemies? There is, however, another and a better answer to this suggestion, which your excellency has already seen in the letter I had the honor of writing to you on the 16th of February last, viz: that the suggestion is neither well nor plausibly founded; and that the United States neither have submitted, nor will submit, to the usurpations of Great Britain nor to those of any other nation.

Accept, sir, &c.

JOHN ARMSTRONG.

His Excellency the MINISTER OF FOREIGN RELATIONS.

Extract:—Mr. Armstrong to Mr. Madison.

PARIS, April 12, 1808.

I have detained Mr. Lewis till to-day, on the supposition that my letter of the 2d instant would be answered. This was, however, a mere accommodation to forms, as the absence of the Emperor and of the Minister of Foreign Relations rendered this supposition highly improbable. There being then no public reason for Mr. Lewis's longer stay in Paris, and the permission to the Osage to prosecute her voyage to England not including one to return to France, I have thought it best that he should embark with such despatches as were ready, proceed to Falmouth in England, and thence, after receiving Mr. Pinkney's orders, return with all possible expedition to the United States. He has accordingly been instructed to this effect.

Extract:—Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, May 2, 1808.

Since my last, of which Lieutenant Lewis was the bearer, I have received your several letters of 27th of December, 22d of January, 15th and 17th of February, with their respective enclosures.

That of the 15th of January, from Mr. Champagny to you, has, as you will see by the papers herewith sent, produced all the sensations here which the spirit and style of it were calculated to excite in minds alive to the interests and honor of the nation. To present to the United States the alternative of bending to the views of France against her enemy, or of incurring a confiscation of all the property of their citizens carried into the French prize courts, implied that they were susceptible of impressions by which no independent and honorable nation can be guided; and to prejudge and pronounce for them the effect which the conduct of another nation ought to have on their councils and course of proceeding, had the air at least of an assumed authority, not less irritating to the public feelings. In these lights the President makes it your duty to present to the French Government the contents of Mr. Champagny's letter; taking care, as your discretion will doubtless suggest, that while you make that Government sensible of the offensive tone employed, you leave the way open for friendly and respectful explanations, if there be a disposition to offer them; and for a decision here on any reply which may be of a different character.

Congress closed their session on the 25th ultimo. For a general view of their proceedings, I refer to the series of newspapers heretofore and now forwarded, and to other prints which are added. Among their acts of chief importance is that which vests in the President an authority to suspend, in whole or in part, the embargo laws.

The conditions on which the suspending authority is to be exercised will engage your particular attention. They appeal equally to the justice and the policy of the two great belligerent Powers now emulating each other in violations of both. The President counts on your best endeavors to give to this appeal all the effect possible with the French Government. Mr. Pinkney will be doing the same with that of Great Britain. The relation in which a recall of its retaliating decrees by either Power will place the United States to the other, is obvious, and ought to be a motive to the measure proportioned to the desire which has been manifested by each to produce collisions between the United States and its adversary, and which must be equally felt by each to avoid one with itself.

Should wiser councils or increasing distresses induce Great Britain to revoke her impolitic orders against neutral commerce, and thereby prepare the way for the removal of the embargo, as it applies to her, France could not persist in the illegal part of her decrees, if she does not mean to force a contest with the United States. On the other hand, should she set the example of revocation, Great Britain would be obliged, either by following it to restore to France the full benefit of neutral trade, which she needs, or, by persevering in her obnoxious orders after the pretext for them had ceased, to render collisions with the United States inevitable.

In every point of view, therefore, it is so clearly the sound policy of France to rescind so much at least of her decrees as trespass on neutral rights, and particularly to be the first in taking the retrograde step, that it cannot be unreasonable to expect that it will be immediately taken.

The repeal of her decrees is the more to be expected, above all, if Great Britain should repeal, or be likely to repeal, hers, as the plan of the original decree at Berlin did not extend to a violation of the freedom of the seas, and was restricted to a municipal operation for nearly an entire year, notwithstanding the illegal British orders of January, 1807, and as a return of France to that restricted scope of her plan would so immaterially diminish its operation against the British commerce; that operation being so completely in the power of France on land, and so little in her power on the high seas.

But although we cannot of right demand from France more than a repeal of so much of her decrees as violate the freedom of the seas, and a great point will be gained by a repeal of that part of them, yet, as it may not have the effect of inducing a repeal of the whole illegal system of the British Government, which may seek pretexts or plead a necessity for counteracting the unprecedented and formidable mode of warfare practised against her, it will be desirable that as little room as possible should be left for this remaining danger to the tranquil enjoyment of our commercial rights.

In whatever degree the French Government may be led to change its system, you will lose no time in transmitting the information to this Department and to Mr. Pinkney, and by hired conveyances, if necessary. A correspondent instruction is given to Mr. Pinkney.

It is of the greater importance that you should receive from each other the earliest notice of any relaxations, as each Government is under a pledge to follow such an example by the other. And it is not of less importance that the President or Congress should be acquainted with the facts, that the proceedings here may be accommodated to them.

That you may know the grounds on which the British orders of November have been arranged by this Government, I enclose a copy of the answer to Mr. Erskine's note communicating them, a copy of the note being also enclosed.

The other documents communicated will put you in full possession of the relations of the United States with Great Britain, as resulting from the issue of our general negotiations, and from that of the mission of Mr. Rose.

This despatch is forwarded by Mr. Baker, who takes his passage from Baltimore, in a vessel engaged, as was the Osage which sailed from New York, for the special purpose of public and mercantile correspondences with Europe. She will proceed in the first instance to L'Orient, where she will leave Mr. Baker, and thence proceed with despatches for Mr. Pinkney to Falmouth, where she will remain a few days to receive communications from him: she will then return to L'Orient, in order to bring back Mr. Baker, with your communications.

Extract:—Mr. Armstrong to Mr. Madison.

SIR:

PARIS, June 25, 1808.

The St. Michael arrived at L'Orient on the 1st instant, and, like the Osage, was immediately put under sequestration. It was not till the 8th that Mr. Baker arrived here.

The remonstrance ordered, with respect to the terms of Mr. Champagny's letter of the 15th of January, shall be executed the moment the Prince of Benevento returns from Valençay, and I hope in a way which, while it makes the French Government sensible of the offensiveness of those terms, will not obstruct the road to friendly and respectful explanations on its part.

To give this a chance of finding Mr. Livingston at Bordeaux, I must close it here.

With very high respect, sir, your obedient servant,

JOHN ARMSTRONG.

J. MADISON, Esq., *Secretary of State.*

Mr. Armstrong to Mr. Madison.

SIR:

PARIS, July 18, 1808.

I avail myself of the detention of the Arcturus, to transmit copies of two letters which I have written to M. de Champagny; the one in execution of the President's orders with regard to the offensive terms employed by that minister in his note of the 15th of January last; the other demanding from him, on the part of His Government, an avowal or disavowal of the conduct of Rear Admiral Baudin in burning or otherwise destroying, on the high seas, four American ships and their cargoes.

I have the honor to be, sir, with very high consideration,

your most obedient and very humble servant,

JOHN ARMSTRONG.

JAMES MADISON, Esq., *Secretary of State.*

[Referred to in Mr. Armstrong's despatch of 18th July.]

Mr. Armstrong to Mr. Champagny.

SIR:

PARIS, July 10, 1808.

Your excellency will see, by the enclosed extracts from two letters which His Majesty's Minister of Marine has done me the honor to address to me on the 18th of April and 13th of June last, that the property taken from the four American ships destroyed by Rear Admiral Baudin has been placed under the jurisdiction of the Imperial Council of Prizes, to be judged by it, as a case of ordinary capture.

To your excellency it will be unnecessary to remark that, whatever may be the decision of the council in relation to the merchandise which has been saved, the case presents a question of much higher import, and entirely beyond the jurisdiction of a maritime court, viz. the kind and degree of reparation which shall be due for the ships and merchandise which have been destroyed. And, by way of opening this subject, your excellency will permit me to ask whether His Majesty's Government does or does not justify the conduct of Rear Admiral Baudin in burning or otherwise destroying, on the high seas, the ships and merchandise of a neutral and friendly Power?

I pray your excellency, &c.

JOHN ARMSTRONG.

M. CHAMPAGNY.

[Referred to in Mr. Armstrong's letter of July 18.]

Extract:—Mr. Armstrong to Mr. Champagny.

SIR:

PARIS, July 4, 1808.

It has been made the duty of the undersigned to bring to the view of the French Government an official note addressed to him, on the 15th of January last, by His Majesty's Minister of Exterior Relations, and which, in the opinion of the President, is calculated to derogate from the rights of the United States, as an independent nation. The note is in the following words, viz:

(See Mr. Champagny's letter of the 15th of January, 1808, page 244.)

On this note the undersigned would remark—

1st. That the United States have a right to elect their own policy with regard to England, as they have with regard to France, and that it is only while they continue to exercise this right, without suffering any degree of restraint from either Power, that they can maintain the independent relation in which they stand to both: whence, it follows, that, to have pronounced, in the peremptory tone of the preceding note, the effects which the measures of the British Government ought to have produced on their counsels and conduct, was a language less adapted to accomplish its own object than to offend against the respect due from one independent nation to another; and,

2dly. That the alternative to be found in the last paragraph, and which leaves the United States to choose between an acquiescence in the views of France against Great Britain, and a confiscation of all American property sequestered by order of His Imperial Majesty, is equally offensive to both Governments; to France, as it would impute to her a proposition founded in wrong to individuals; and to the United States, as it would imply on their part a subjection to pecuniary interests totally inconsistent with their principles, and highly dishonorable to their character.

His excellency will be persuaded that the President, in directing the undersigned to make this representation, had no object in view beyond that of seeking an explanation, which cannot but tend to promote the harmony of the two Powers.

The Minister Plenipotentiary of the United States,

JOHN ARMSTRONG.

His Excellency the MINISTER OF FOREIGN RELATIONS.

Mr. Madison to Mr. Armstrong.

SIR:

DEPARTMENT OF STATE, July 21, 1808.

Herewith you will receive a copy of the papers relating to one of the vessels which were destroyed at sea by the French frigates returning from the West Indies. I observe that, in your letter to Mr. Champagny of the 2d of April, you have incidentally noticed this occurrence. If ample reparation should not have been made to the sufferers, the President thinks it proper that, as their cases become authenticated, you should present them in terms which may awaken the French Government to the nature of the injury and the demands of justice. The burning of neutral vessels detained on the high seas is the most distressing of all the modes by which belligerents exert force contrary to right, and, in proportion as it is destitute of apology, ought at least to be the promptitude and amplitude of the redress.

If it be contended that the destruction in these cases proceeded solely from the danger that otherwise intelligence might reach a pursuing or hovering force, it may be answered, that, if such a plea were of greater avail, it would only disprove an hostility of intention, without diminishing the obligation to indemnify, on the most liberal scale, the injured individuals. It may be added, that, if the outrage on the individuals was not meant as an hostility towards their nation, the latter might justly expect a tender of such explanations as would leave no doubt on this subject.

I have the honor to be, &c.

JAMES MADISON.

General ARMSTRONG, *Minister Plenipotentiary of the U. S., Paris.*

Extract:—Mr. Madison to Mr. Armstrong.

DEPARTMENT OF STATE, July 22, 1808.

Your despatches by Lieutenant Lewis were delivered on the 8th instant.

It is regretted that the interval between his arrival and the date of your letter to Mr. Champagny, during which I presume some verbal intercommunication must have taken place, had produced no indication of a favorable change in the views of the French Government with respect to its decrees; and still more that, instead of an early and favorable answer to your letter, it should have been followed by such a decree as is reported to have been issued on the 22d April, at Bayonne. The decree has not yet reached the United States, and therefore its precise import cannot be ascertained. But if it should be, as it is represented, a sweeping stroke at all American vessels on the high seas, it will not only extend our demands of reparation, but is rendered the more ominous with respect to the temper and views of the Emperor towards the United States by the date of the measure.

The arrival of Mr. Baker with my letter of May 2d, of which a copy is herewith sent, will have enabled you to resume the subject of the decrees, with the fairest opportunity that could be given to the French Government for a change of the unjust and unwise course which has been pursued; and I assure myself that you will not have failed to turn the communications with which you are furnished to the best account. If France does not wish to throw the United States into the war against her, for which it is impossible to find a rational or plausible inducement, she ought not to hesitate a moment in revoking at least so much of her decrees as violate the rights of the sea, and furnish to her adversary the pretext for his retaliating measures. It would seem as if the imperial cabinet had never paid sufficient attention to the smallness of the sacrifice which a repeal of that portion of its system would involve, if an act of justice is to be called a sacrifice.

The information by the return of the Osage from England is not more satisfactory than that from France. Nothing was said on the subject of the Chesapeake, nor any thing done or promised as to the orders in council. It is probable that further accounts from the United States were waited for, and that the arrival of the St. Michael will have led to a manifestation of the real views of that Government on those and other subjects. In the mean time, it cannot be doubted that hopes were cherished there of some events in this country favorable to the policy

of the orders, and particularly that the offensive language and proceedings of France would bring on a hostile resistance from the United States; in which case the British Government would be able to mould every thing to its satisfaction. There is much reason to believe that, if the British Government should not concur in a mutual abolition of the orders and of the embargo, it will result from an unwillingness to set an example which might be followed, and might, consequently, put an end to the irritating career of her enemy, on which the calculation is built. Might not use be made of this view of the matter in those frank and friendly conversations which sometimes best admit topics of a delicate nature, and in which pride and prejudice can be best managed without descending from the necessary level? In every view, it is evidently proper, as far as respect to the national honor will allow, to avoid a style of procedure which might co-operate with the policy of the British Government, by stimulating the passions of the French.

Extract of a letter from General Armstrong to the Secretary of State, dated

SIR:

PARIS, July 26, 1808.

It would have given me the highest pleasure to have drawn from this Government such explanations on the general subject of our differences with them as would have met the friendly and equitable views of the United States; but I owe it, as well to you as to myself, to declare that every attempt for that purpose hitherto made has failed, and under circumstances which by no means indicate any change in their aspect for the better.

With very high consideration, I am, sir, your most obedient servant,

JOHN ARMSTRONG.

JAMES MADISON, Esq., *Secretary of State.*

Extract:—Mr. Armstrong to the Secretary of State.

PARIS, August 7, 1808.

I wrote a few lines to you yesterday. Two weeks have gone by without any new condemnation. My remonstrances continue to be unanswered.

P. S. I enclose a copy of my note of yesterday to M. de Champagny.

[Referred to and enclosed in Mr. Armstrong's despatch of August 7, 1808.]

Extract:—Mr. Armstrong to Mr. Champagny.

PARIS, August 6, 1808.

Mr. Armstrong presents his compliments to M. de Champagny, and begs leave to inform him that, having for some months past made trial of the artificial waters of Rivoli without any useful effect, his physician has prescribed for him those of Bourbon l'Archambault. Should M. de Champagny have any communication to make to Mr. Armstrong, he will be pleased to address them as usual to the Hotel de Légation Américaine, Rue Vaugirard, No. 100, whence they will be regularly and promptly transmitted to Bourbon.

On leaving Paris, Mr. Armstrong thinks proper to express his regrets that the political relations of the two Powers should continue to wear an aspect less auspicious to their future good understanding than is wished for by those who are the friends of both.

That His Majesty has a right to make such municipal regulations as he may deem proper, with regard to foreign commerce, neither is, nor has been, denied: for example, he may forbid the entry into the ports of France of American ships which have touched in England, or been destined to England; and he may either sequester or confiscate such vessels of the United States as shall infract these laws, after due promulgation and notice thereof; but beyond this the United States hope and believe that His Majesty will not go.

M. de Champagny will not fail to seize the distinction which these remarks present, between the authority of municipal regulations and that of public law; and will decide whether it does or does not offer a ground on which the good understanding, so long and so usefully maintained between the United States and France, may be preserved, and a degree of intercourse between them renewed, which shall have the effect of re-animating their former industry.

Does His Majesty fear that the balance of trade, arising from this renewed industry, would go to the advantage of England? Means are certainly not wanting to prevent this consequence. Would it not be entirely avoided by making it a condition of the commerce in question, that all ships leaving France shall take (in some article or articles of their produce or manufacture) the full amount of the cargoes they bring hither?

Ships sailing under this regulation would or would not go voluntarily to England. If they went voluntarily, it would only be because that country afforded the best markets for the productions of France; in which case the habitual results would be entirely changed, and England, ceasing to receive a balance for her manufactures, would begin to pay one to the United States on the productions of France. Could France wish a state of commerce more prosperous than this?

If, on the other hand, the American ships did not go voluntarily to England, but were captured and sent in for adjudication, it may be fairly presumed that the United States could no longer hesitate about becoming a party to the war against England.

Thus, in either case, the interests of His Majesty would be directly advanced by the measure: in the one, the wants of France and her colonies would be not only regularly supplied, but she would herself become an entrepôt for the supply of the continent; in the other, the wishes of His Majesty, as expressed in February last, would be directly promoted.

Mr. Armstrong has the honor of renewing to M. de Champagny the assurances of his very high consideration.

To His Excellency M. DE CHAMPAGNY, *Minister of Exterior Relations.*

Extract:—Mr. Armstrong to Mr. Madison.

BOURBON L'ARCHAMBAULT, August 28, 1808.

Since my arrival at this place, I have been honored by the receipt of your despatch of the 21st ultimo, and would immediately return to Paris to renew my discussions with M. de Champagny, either personally, as you suggest, or by writing, had I not the most solemn conviction that any new experiment, made at the present moment, in either form, and of official character, would certainly be useless, and probably injurious.

(Confidential.)

Extract:—Gen. Armstrong to Mr. Madison.

BOURBON L'ARCHAMBAULT, August 30, 1808.

We have somewhat overrated our means of coercing the two great belligerents to a course of justice. The embargo is a measure calculated, above any other, to keep us whole and keep us in peace; but, beyond this, you must not count upon it. Here it is not felt, and in England (in the midst of the more recent and interesting events of the day) it is forgotten.

I hope that, unless France shall do us justice, we will raise the embargo, and make in its stead the experiment of an armed commerce. Should she adhere to her wicked and foolish measures, we ought not to content ourselves with doing this; there is much, very much besides that we can do, and we ought not to omit doing all we can, because it is believed here that we cannot do much, and even that we will not do what we have the power of doing.

10th CONGRESS.]No. 217.[2d SESSION.

SPAIN.

REPORTED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 16, 1808, AND JUNE 9, 1809.

Mr. LOVE, from the committee to whom was referred, on the 16th instant, the petition of thirty-six American citizens confined, under sentence of slavery, at Carthagena, in South America, made the following report:

That it appears, from the statement of the petitioners, that, in February, 1806, they sailed from New York on board the *Leander*, a ship owned by Samuel G. Ogden, the command of which was, after getting to sea, assumed by General Miranda.

That, from New York, the said ship sailed to Jacmel, where the said Miranda procured two schooners, on board which the petitioners were placed, which, together with the *Leander*, sailed, under the command of Miranda, about the last of March, in the same year, for the northern parts of South America, and arrived on the coast of Terra Firma in the latter part of April following.

That, upon their arrival on the said coast, the two schooners, on board which the petitioners were embarked, were captured by two Spanish armed vessels: the ship *Leander*, with Miranda on board, having made her escape.

That the petitioners, together with ten others, were convicted by a Spanish tribunal, at Porto Cabello, of the crime of piracy, from the circumstances of suspicion which attached to their situation, and not from any act of that kind committed on the high seas; that the ten others abovementioned were sentenced to death, and the petitioners some to eight, others to ten years' slavery, which they now are suffering; some chained together, others closely confined under heavy irons and a guard, destined to other places and to a similar punishment.

The petitioners state that they were entrapped into the service of the said Miranda, on the said expedition, by assurances, made at the time of their engagements, that they were to be employed in the service of the United States, and under the authority of the Government. For a truth of their statement, and a confirmation of the charges they make against certain persons of having thus deceived and betrayed them into an involuntary co-operation in the design of fitting out an armament against a nation in amity with the United States, they refer to the testimony of several persons, said to be inhabitants of the city of New York, and to have had proposals made to them similar to those by which the petitioners were induced to engage on board the *Leander*.

The petitioners also state that no opportunity was offered them of escaping from the service of the said Miranda and his associates; that they were restrained under the most rigorous discipline, and at Jacmel, the only place where an opportunity of escape might have been probable, they were strictly guarded to prevent it. For the truth of this they refer to certain captains of vessels then at Jacmel belonging to the ports of Philadelphia and Baltimore.

The committee further report that the foregoing statements of the petitioners are unaccompanied by any competent testimony in support of them, and, at the same time, are uncontradicted by any opposing circumstances; they are of opinion that a very strong probability of the petitioners not having been guilty of the crime of wilfully engaging in the unlawful expedition of Miranda attends their application; first, because the petitioners have made a detailed statement of facts relative to the deception practised on them, referring to such species of evidence as to render their contradiction easy, if not founded in truth, and thus lessen their claim on their country, and diminish their hopes of liberation; second, because it is presumed they were proven to the Spanish tribunal before which they were convicted to have been offenders in a secondary degree, those who were proven to have been more heinously guilty having been sentenced to suffer death.

The committee, however, are of opinion, that, should the petitioners have been guilty of a crime against the United States by a voluntary or otherwise culpable infraction of its laws, the dictates of humanity, no less than the principles of justice, ought to influence the Legislature of the United States to adopt the proper means for restoring them to their country, in order that they may expiate the offence by a punishment suited to but not transcending the magnitude of their crime.

The committee, therefore, beg leave to submit the following resolution for the consideration of the House:

Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain from the Viceroy of Grenada, in South America, or other proper authority, the liberation of thirty-six American citizens, condemned on a charge of piracy, and now held in slavery in the vaults of St. Clara, in Carthagena, and that the sum of ——— dollars be appropriated to that purpose.

VAULTS OF ST. CLARA, CARTHAGENA, *September 16, 1808.*

To the honorable the Congress of the United States of America in Congress assembled, the petition of thirty-six American citizens confined at Carthagena, South America, under sentence of slavery, humbly sheweth:

That we, your petitioners, were brought from New York in the armed ship *Leander*, Thomas Lewis, commander, on the 2d of February, 1806, together with a number of others, mostly inhabitants of that State and city, under the most specious engagements of their country; to establish which, they beg leave to state that Colonel William Smith, then surveyor of the port of New York, William Armstrong, Daniel D. Durning, and John Fink, butcher, of the city of New York, declared they were authorized to enlist a number of men to go to New Orleans, to serve as guards to the United States' mails, and a number of others as mechanics. Some backwardness on the part of several of your petitioners to engage being discovered by William Smith, he read passages from letters to prove his authority, and several paragraphs from newspapers to convince them of the validity of their engagements. William Armstrong and Daniel D. Durning were appointed to command them, and were to accompany them to the city of Washington, where they were to receive clothing and accoutrements, and thence to New Orleans. The ship *Leander*, owned by Samuel G. Ogden, and formerly in the St. Domingo trade, was procured for the conveyance of your petitioners to the city of Washington, for which purpose she was hauled down to the watering place, where your petitioners went on board her the 1st day of February, 1806, and the next day (the 2d) the ship put to sea. Shortly after *Miranda*, under the name of *Martin*, and a number of persons hitherto unknown to your petitioners, appeared on board, in the character of his officers; which, for the first time, awakened strong suspicions in the breasts of your petitioners that they had been entrapped into the power of wicked and designing men, and that, too, when retreat was impracticable. From New York your petitioners were carried to *Jacmel*, in the island of St. Domingo, where they were exercised in military duty, under the most arbitrary stretch of power, by *Miranda* and his officers. At *Jacmel* several attempts to escape proved abortive, from the vigilance of our oppressors, they having procured guards to be stationed in all the passes leading from *Jacmel* to other parts of the island, where your petitioners might expect to receive aid and protection from their countrymen. At *Jacmel* two schooners were hired, on board of which your petitioners were sent, under the care of a number of officers, whose wariness still remained unabated, and on the 27th March, 1806, the ship, accompanied by the two schooners, proceeded towards the coast of *Terra Firma*, where, after touching at the island of *Aruba* for refreshments, she arrived on the 28th of April, when two armed vessels hove in sight, which, after some manœuvring, the ship engaged, but soon ran away, leaving the two schooners to be captured. They were carried into *Porto Cabello*, where your petitioners were proceeded against as pirates, a number of warlike implements being found on board, which were placed there without the knowledge of your petitioners. And on the 12th July following the process against us closed at *Caraccas*, sentencing ten, whom they considered to be criminally engaged, to be hanged and beheaded, and the remainder, your petitioners, to eight and ten years' slavery on the public works at *Omoa*, *Boca Chica*, and the island of *Porto Rico*. Your petitioners were all sent to this place, where those sentenced to *Boca Chica* were put to work, chained two and two, and the residue, in double irons and close confinement, strongly guarded, waiting for an opportunity to be sent to their respective places. Upon several occasions your petitioners were told by William Armstrong, Thomas Lewis, and others, that they were sent out by the Government of the United States. To prove to the satisfaction of your honorable body the truth of the above statement, your petitioners beg you will examine Robert Laverty, John Stagg, John Ritter, Matthew Morgan, Richard Platt, Adam Ten Brook, and John Miller, of New York, who were under the same engagements with your petitioners. Francis White and Thomas McAllister, butchers in the Bear market, New York, Mr. Brinkeroff, tavern keeper, near the Bear market, David Williams, John Garret, and a Mr. Kemper, weigh-master, whose son was executed at *Porto Cabello*, were present when all or most of your petitioners were engaged, and can prove beyond all doubt that your petitioners could have had no other idea than that of entering into the service of the United States. Captain Bomberry, of the ship *Mary*, of Baltimore, Captain Israel, of the brig *Robert and Mary*, Captain Waldron, of the schooner *Victory*, and Captain Abbott, of the brig *Charleston Packet*, all of Philadelphia, were eye-witnesses to the tyranny and oppression under which your petitioners labored while at *Jacmel*. When the crew of the *Bee*, one of the schooners which was chartered by the *Leander*, refused to go in her, a number of officers from the ship, with Lewis at their head, came on board the *Bee*, and, after beating and cutting the men with sticks and sabres in the most brutal manner, dragged them on board the *Leander*, put them into irons under a strong guard, and kept them there until the moment of sailing, when they were sent on board the *Bee*, with orders to keep near and to leeward of the ship. Another man who had effected his escape from a French privateer, and found his way to *Jacmel*, with the hope of getting a passage home in some of his country vessels, was seized at the instance of Thomas Lewis, commander of the *Leander*, and colonel under *Miranda*, thrown into prison, and compelled to go in the expedition or to starve in jail.

Your petitioners are confident that, when your honorable body become thoroughly acquainted with the circumstances of art and deception which betrayed them into the expedition, the destination of which they had no knowledge until it was too late to retreat, you will not only punish such of their betrayers as are within the reach of your power, but will adopt proper measures to restore your unfortunate petitioners to liberty and their families. We beg leave to mention that Jeremiah Powell, who was an officer of high confidence in the expedition, was pardoned without hesitation by the Spanish monarch, on the application of his father. Your petitioners have embraced many opportunities to convey to your honorable body the prayer of a petition, but, from the length of time elapsed since they sent off their last, and not hearing of any measures being adopted in their favor, they fear none ever arrived; and by the present opportunity several copies of this petition have been transmitted to gentlemen residing in different parts of the United States, with the hope that some of them may arrive safe.

Your petitioners cannot for a moment believe that the United States will suffer officers under her constitution to kidnap her citizens into expeditions and services fitted out and maintained by a foreign outlaw against Powers with whom she is at amity and peace, under the specious pretence of engaging them into the service of their country, without punishing the aggressors, and using every effort to regain her citizens. Such is the case of your unfortunate petitioners, who entreat you, as children would a parent, to relieve them from total destruction, on the brink of which they have been thrown by the practice of frauds and villainies hitherto unheard of.

A short time since a British ship of war arrived at this place, the commander of which, Edward Kittoe, Esq. upon being applied to by nine of our companions, who declared themselves to be British born subjects, and being made acquainted with the circumstances which led to our capture, immediately sent on a petition to the Viceroy of this kingdom, in behalf of us all, but particularly for such as are British subjects, whom we expect will eventually be liberated. Nothing but humanity and a strong desire to relieve distress could have induced Captain Kittoe to this step, who, we are confident, as much as ourselves, regrets its failure of success, and to whom we feel every way indebted, and shall ever recollect it with gratitude and thanks.

When your petitioners remonstrate against any harsh treatment of these people, they invariably ask, "Why don't your country liberate you? it rests solely with them."

Your petitioners feel confident, from the justness of their claim to the interference and protection of the constituted authorities of their country, measures will be adopted to restore them to liberty; and having no doubt that your honorable body will afford them that protection which citizens have a right to claim from their country, your petitioners beg that your honorable body will convey them an answer, and your petitioners, as in duty bound, will ever pray, &c.

Robert Saunders,
Benjamin Davis,
Henry Sperry,
Joseph Hickle,
Ellery King,
William Long,
Daniel Newbury,
William Cartwright,
Samuel Tozier,
James Hyatt,
Abram Head,
Robert Stevenson,

Samuel Price,
Robert Reins,
Hugh Smith,
Benjamin Nicolson,
George Ferguson,
William Pride,
Pompey Grant,
David Heckle,
Bennett B. Negus,
John Moore,
John M. Elliott,
Henry Ingersoll,

John Parcels,
John Hayes,
David Winton,
Matthew Buchanan,
Alexander Buchanan,
James W. Grant,
John Edsall,
Thomas Gill,
Joseph Bennett,
Phineas Raymond,
Peter Nautly,
Stephen Burtis.

CARTHAGENA, August 12, 1808.

On my arrival at this place, I was applied to in behalf of the unfortunate men captured under the orders of General Miranda, who are under sentence of transportation to the different public works at Omoa, Porto Rico, &c., among whom are several British subjects, (whose names are inserted below.) I am well aware of the enormity of their crime, as I understand they were taken without colors or papers; but, as a British officer, I conceive it a duty to plead for those in distress wherever they may be found; and I trust, from the known lenity of your excellency's character, I shall not plead in vain. The men in question are originally of British descent, and are allied to my nation by many ties. They have no consul, no minister to prefer the prayer of their petition to your excellency, having been prevented by the war between our nations from making known their situation to the President of the United States. Suffer me, therefore, to address your excellency, and beg for their release, on a solemn promise that they will never be found again in arms on a similar occasion. As I am the bearer of welcome tidings to the inhabitants of the province under your excellency's command, make me also the bearer of them to the unhappy sufferers now confined in Carthagena. It is true I am unauthorized to make this request in the name of the British Government for the men in general, but I am convinced the step will be approved; and if your excellency will lend a favorable ear to my petition, the circumstance will not pass unnoticed on their part; at all events, your excellency will have the prayer of many individuals for your eternal happiness, and among them will be found, not the least fervent, those of your excellency's most humble servant,

EDWARD KITTOE,
Commander of H. B. M. Ship Sebrina.

P. S. If my request for the liberation of all General Miranda's men is by your excellency deemed unreasonable or improper, I beg to confine it particularly to such as are British subjects: that is an indispensable duty I owe to them and to my country.

Names of British subjects under sentence of transportation at Carthagena:

John Moore,
Peter Nautly,
John Hayes,

Thomas Gill,
Joseph Bennett,
James Grant,

Samuel Tozier,
Robert Stevenson,
Hugh Smith, (a boy.)

VAULTS OF ST. CLARA, CARTHAGENA, September 16, 1808.

RESPECTED SIR:

I have taken the liberty to direct to your care a memorial of thirty-six American citizens, who have been lying in shackles more than two years, a great proportion of which time in stocks, upon the broad of their backs, not even taken out to answer the ordinary calls of nature, with the request that you would present, or procure it to be presented to the Legislature of the United States; and, should it be acted upon the approaching session of Congress, to be good enough, by the first convenient opportunity, to acquaint us with what is to be done, and what prospect we have of being liberated from this loathsome confinement, little short of death. I enclose you a copy of a petition, which the commander of a British frigate presented to the Viceroy of this kingdom, in our behalf, with liberty to publish it in the Telegraph, with a suitable caption, should you think proper. Indeed, I think it would serve our cause. However, its effect I submit to your better judgment, well convinced you will feel disposed to succor suffering humanity; and, if unable to bring to condign punishment the authors of our misfortunes, you will not withhold your aid to release us from this miserable condition. Our number has been reduced by deaths and escapes from forty-seven to thirty-six. I also enclose to your charge, a letter for my father, which I beg you would put on board some of the wood shallops belonging to Otter Point, which always may be found at the wharf, the foot of the Marsh market; or, if they cannot conveniently be found, to leave it at Mrs. Hay's, in Old Town, not far from Mr. Asque's, near the Baptist meeting, with the injunction to send it on as speedily as possible. For a description of the fraud and deception which placed us in this unhappy situation, I refer you to the memorial itself.

I am, your obedient humble servant,

ROBERT SAUNDERS, JUN.

Mr. THOMAS DOBBIN, *Printer, Baltimore.*

[The following report on the same subject was made to the House of Representatives, 9th June, 1809.]

The committee to whom was referred, on the 31st ultimo, the petition of sundry American prisoners confined under sentence of slavery, at Carthagena, in South America, report:

That it appears, from the statement of the petitioners, they were, by various misrepresentations and deceptions, incautiously drawn into the service of General Miranda, in an expedition, *hostile in its intention*, against one of the Spanish settlements in South America; that they were engaged, under various pretences, of serving

their country; and, acting in conformity to its laws, some *ostensibly* were to go to New Orleans, and act as guards to the United States' mail; others were to follow their different mechanical professions in that country; and the residue were engaged for a direct voyage to St. Domingo and back to New York; and, that they had no suspicion that they were engaging in a hostile enterprise against a nation in amity with the United States.

That, accordingly, the petitioners were embarked at New York, in the month of February, 1806, on board the ship *Leander*, Thomas Lewis, commander; that, when the vessel had got to sea, General Miranda, *by the name of Martin*, assumed the chief command; and several other persons, till then unknown to the petitioners, appeared as officers on board; that the petitioners were carried to Jacmel, in the island of St. Domingo, where they were exercised in military duty by Miranda and his officers, under the most arbitrary stretch of power; that at Jacmel several attempts were made to escape, which proved abortive; guards having been placed in all the passes, and every precaution taken to prevent it.

That, at Jacmel, Miranda procured two schooners, on board of which the petitioners were placed, which schooners, together with the *Leander*, proceeded, about the last of March, in the same year, under the command of Miranda, to the northern part of South America; and arrived on the coast of Terra Firma in the latter part of April following.

That, on their arrival on the said coast, the two schooners, on board of which the petitioners were placed, were captured by two Spanish armed vessels; that the petitioners, together with ten others, were convicted by the Spanish tribunal at Porto Cabello, of piracy, from the circumstances of suspicion that attached to their situation, and not from any act of that kind committed by them; that the ten others above mentioned were sentenced to death, and the petitioners, some of them to eight, and others to ten years' slavery, the punishment of which sentence they are now suffering under heavy irons, and other circumstances of distress, painful to the feelings of humanity to relate.

The committee, under a persuasion that the facts stated by the petitioners are substantially true, and on a full view of all the circumstances of this case, are induced to submit the following resolution for the consideration of the House:

Resolved, That the President of the United States be requested to adopt the most immediate and efficacious means in his power to obtain the liberation of the petitioners, if it shall appear to his satisfaction that they were involuntarily drawn into the unlawful enterprise in which they were engaged; and that — dollars be appropriated to that purpose.

GREAT BRITAIN AND FRANCE.

REPORTED TO THE HOUSE OF REPRESENTATIVES, NOVEMBER 22, 1808.

The committee to whom was referred so much of the message of the President of the United States of the 8th instant as respects our relations with foreign Powers, report in part:

After a period of twenty-five years of peace, hardly interrupted by recent hostilities, and of prosperity unparalleled in the history of nations, the United States are, for the first time since the treaty which terminated the revolutionary war, placed in a situation equally difficult, critical, and dangerous.

Those principles recognised by the civilized world, under the name of law of nations, which heretofore controlled belligerent Powers, regulated the duties of neutrals, and protected their rights, are now avowedly disregarded or forgotten by Great Britain and France. Each of those two nations captures and condemns all American vessels trading with her enemy or her enemy's allies; and every European Power having become a party in the contest, the whole of our commerce with Europe and European colonies becomes liable to capture by either one or the other. If there be any nominal exception, it is made on a condition of tributes, which only adds insult to the injury.

The only plea urged in justification of those hostilities, is that of retaliation, grounded on a presumed acquiescence of the United States in previous aggressions by the other party. Waiving a discussion of the correctness of the principle of retaliation—a principle doubtful in itself, and altogether inadmissible to the extent to which it has been carried, and when operating on the neutral rather than on the enemy—it is altogether untrue that the United States have ever voluntarily acquiesced in the unlawful aggressions of either nation, omitted or delayed any measures calculated to obtain redress, or in any respect deviated from that impartiality to which they were bound by their neutrality. France has alluded to the violations of the national flag, and of the sovereignty of the United States in the instances of Pierre's murder, of the outrage on the Chesapeake, and of the destruction of the *Impetuous*. The measures taken to obtain redress in those cases are of public notoriety, and it may be added, that with the exception of the last, those aggressions on the sovereignty of the United States did not affect their neutrality, and gave no right to France either of complaint or interference. Setting aside irregularities of less importance, and equally chargeable to both nations, such as the British order of June, 1803, and the decree of the French General Ferrand, the principal violations by England of the neutral rights of America prior to the Berlin decree of November, 1806, and which, if acquiesced in, might have given grounds of complaint to France, are, the capture of American vessels laden with colonial produce, founded on a renewal of that pretended principle generally called the "rule of 1756;" the impressment of American seamen, compelled thereby to become the auxiliaries of England against France; and proclamation or nominal blockades, particularly that of the coast from the river Elbe to Brest, notified in May, 1806.

It will not be asserted that the United States ever tamely acquiesced in either of those pretensions. It will not be denied that, with respect to the two first, the most strenuous efforts were incessantly made to procure an alteration of the British system.

It is true that to the nominal proclamation blockades of England the United States had opposed only spirited and repeated remonstrances, and that these had not always been successful. But the measures which a neutral nation may be supposed bound to take against the infractions of its neutrality, must always bear a certain proportion to the extent and nature of the injury received, and to the means of opposition. It cannot certainly be pre-

tended that a hasty resort to war should, in every such instance, have become the duty of America. Nor can the irregularities of England in declaring in a state of blockade a certain extent of coast, part of which was not, and the whole of which could not, even by her powerful navy, be actually invested and blockaded, be pleaded in justification of that decree by which France, without an efficient fleet, pretends to announce the blockade of the dominions of a Power which has the incontestable command of the sea, and before no port of which she can station a single vessel.

The Milan decree of 1807 can still less rest for its defence on the supposed acquiescence of the United States in the British orders of the preceding month, since those orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree. And it is proper here to add, that the French have, particularly by the sequestration of certain vessels in their ports, and by burning our ships on the high seas, gone even beyond the tenor of their own extraordinary edicts.

The allegation of an acquiescence in the Berlin decree of November, 1806, by which alone the British Government pretends to justify the orders of council, is equally unfounded. In the note on that subject, addressed on the 31st December, 1806, by the British Government to the American ministers, after having stated that "they would not believe that the enemy would ever seriously attempt to enforce such a system," the following declaration is expressly made: "If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, His Majesty might probably be compelled, however reluctantly, to retaliate in his just defence, &c." The two requisites necessary in the opinion of Great Britain to justify retaliation are stated to be, the execution of the decree, and the acquiescence of neutral nations. Yet within eight days after, and in the face of that declaration, without waiting for ascertaining either of those facts, the retaliating British order of January 7th, 1807, was issued, which, contrary to the acknowledged law of nations, subjected to capture vessels of the United States sailing from the ports of one belligerent to a port of another belligerent.

The United States, in the meanwhile, and without delay, had taken the necessary steps to ascertain the manner in which the French Government intended to execute their decree.

That decree might be construed merely as a municipal law forbidding the introduction of British merchandise, and the admission of vessels coming from England. Under that aspect, and if confined to that object, the neutral rights of America were not affected by its operation.

A belligerent may, without any infraction of neutral rights, forbid the admission into his ports of any vessel coming from the ports of his enemy. And France had undoubtedly the same right to exclude from her dominions every species of British merchandise, which the United States have exercised, in forbidding the importation of certain species. Great Britain might be injured by such regulations; but America had no more right to complain of that part of the decree, than France had to object to the American non-importation act. So far, indeed, as respects the United States, they were placed by the municipal part of the decree in the same situation in relation to France, in which they are placed in their intercourse with Great Britain, by the permanent laws of that country. The French decree forbids American vessels to import British merchandise into France. The British navigation act forbids American vessels to import French merchandise into England. But that broad clause of the Berlin decree which declared the British islands in a state of blockade, though not followed by regulations to that effect, still threatened an intended operation on the high seas. This, if carried into effect, would be a flagrant violation of the neutral rights of the United States, and, as such, they would be bound to oppose it. The minister of the United States at Paris immediately applied for explanation on that subject; and the French Minister of Marine, on the 24th December, 1806, seven days before the date of the above-mentioned note of the British Government, stated, in answer, that the decree made no alteration in the regulations then observed in France with regard to neutral navigation, or to the commercial convention of the United States with France that the declaration of the British islands being in a state of blockade, did not change the existing French laws concerning maritime captures; and that American vessels could not be taken at sea for the mere reason of their being going to or returning from an English port.

The execution of the decree comported for several months with those explanations: several vessels were arrested for having introduced articles of English growth or manufacture, and among them some which, being actually from England, and laden with English colonial produce, had entered with forged papers, as if coming from the United States. But no alteration of the first construction given by the French Government took place until the month of September, 1807. The first condemnation on the principle that the decree subjected neutral vessels to capture on the high seas, was that of the *Horizon* on the 10th of October following; prior to that time there could have been no acquiescence in a decree infringing the neutral rights of the United States, because till that time it was explained, and, what was more important, executed in such manner as not to infringe those rights, because till then no such infraction had taken place. The ministers of the United States at London, at the request of the British minister, communicated to him, on the 18th October, 1807, the substance of the explanations received, and of the manner in which the decree was executed; for they were at that time ignorant of the change which had taken place.

It was on the 18th September, 1807, that a new construction of the decree took place, an instruction having on that day been transmitted to the council of prizes by the Minister of Justice, by which that court was informed that French armed vessels were authorized under that decree to seize, without exception, in neutral vessels, either English property or merchandise of English growth or manufacture. An immediate explanation having been asked from the French Minister of Foreign Relations, he confirmed, in his answer of the 7th October, 1807, the determination of his Government to adopt that construction. Its first application took place on the 10th of the same month, in the case of the *Horizon*, of which the minister of the United States was not informed until the month of November; and, on the 12th of that month, he presented a spirited remonstrance against that infraction of the neutral rights of the United States. He had in the meanwhile transmitted to America the instruction to the council of prizes of the 18th September. This was received on the — of December, and a copy of the decision in the case of the *Horizon* having at the same time reached Government, the President, aware of the consequences which would follow that new state of things, communicated immediately to Congress the alterations of the French decree, and recommended the embargo, which was accordingly laid on the 22d December, 1807; at which time it was well understood in this country that the British orders of council of November preceding had been issued, although they were not officially communicated to our Government.

On the 11th of November preceding the British orders of council had been issued, declaring that all the ports of France, of her allies, and of any other country at war with England, and all other ports of Europe, from which, although not at war with England, the British flag was excluded, should thenceforth be considered as if the same were actually blockaded; that all trade in articles of the produce or manufactures of the said countries should be deemed unlawful; and that every vessel trading from or to the said countries, together with all goods and merchandise on board, and also all articles of the produce or manufacture of the said countries, should be liable to capture and condemnation.

These orders cannot be defended on the ground of their being intended as retaliating on account of the Berlin decree, as construed and uniformly executed from its date to the 18th September, 1807, its construction and execution having till then infringed no neutral rights. For, certainly, the monstrous doctrine will not be asserted, even by the British Government, that neutral nations are bound to resist, not only the acts of belligerent Powers, which violate their rights, but also those municipal regulations, which, however they may injure the enemy, are lawful, and do not affect the legitimate rights of the neutral. The only retaliation to be used in such cases must be such as will operate on the enemy without infringing the rights of the neutral. If solely intended as a retaliation on the Berlin decree, as executed prior to the month of September, the British orders of council should have been confined to forbidding the introduction into Great Britain of French or enemy's merchandise, and the admission into British ports of neutral vessels coming from a French or other enemy's port. Indeed, the ground of retaliation, on account of any culpable acquiescence of neutrals in decrees violating their rights, is abandoned by the very tenor of the orders; their operation being extended to those countries from which the British flag was excluded, such as Austria, although such countries were neither at war with Great Britain, nor had passed any decree in any way affecting or connected with neutral rights.

Nor are the orders justifiable on the pretence of and acquiescence on the part of the United States in the French decree as construed and executed subsequent to the 18th September, 1807, when it became an evident infraction of their rights, and such as they were bound to oppose. For their minister at Paris immediately made the necessary remonstrances, and the orders were issued not only without having ascertained whether the United States would acquiesce in the injurious alteration of the French decree, but more than one month before that alteration was known in America. It may even be asserted that the alteration was not known in England when the orders of council were issued; the instruction of the 18th September, 1807, which gave the new and injurious construction not having been promulgated in France, and its first publication having been made in December, 1807, and by the American Government itself.

The British orders of council are therefore unjustifiable on the principle of retaliation, even giving to that principle all the latitude which has ever been avowedly contended for. They are in open violation of the solemn declaration made by the British ministers in December, 1806, that retaliation, on the part of Great Britain, would depend on the execution of an unlawful decree, and on the acquiescence of neutral nations in such infraction of their rights. And they were also issued notwithstanding the official communication made by the ministers of the United States, that the French decree was construed and executed so as not to infringe their neutral rights, and without any previous notice or intimation denying the correctness of that statement. The Berlin decree, as expounded and executed subsequent to the 18th September, 1807, and the British orders of council of the 11th November ensuing, are, therefore, as they affect the United States, contemporaneous aggressions of the belligerent Powers, equally unprovoked and equally indefensible on the presumed ground of acquiescence. These, together with the Milan decree of December, 1807, which filled the measure, would, on the principle of self-defence, have justified immediate hostilities against both nations on the part of the United States. They thought it more eligible in the first instance, by withdrawing their vessels from the ocean, to avoid war, at least for a season, and, at the same time, to snatch their immense and defenceless commerce from impending destruction.

Another appeal has, in the mean time, been made, under the authority vested in the President for that purpose, to the justice and true interest of France and England. The propositions made by the United States, and the arguments urged by their ministers, are before Congress. By these the very pretext of the illegal edicts was removed; and it is evident that a revocation by either nation, on the ground on which it was asked, either must have produced what both pretended to have in view, a restoration of the freedom of commerce and of the acknowledged principles of the law of nations; or, in case of refusal by the other belligerent, would have carried into effect, in the most efficient manner, the ostensible object of the edicts, and made the United States a party in the war against him. The effort has been ineffectual. The propositions have been actually rejected by one of the belligerent Powers, and remain unanswered by the other. In that state of things, what course ought the United States to pursue? Your committee can perceive no other alternative but abject and degrading submission—war with both nations, or a continuance and enforcement of the present suspension of commerce. The first cannot require any discussion. But the pressure of the embargo, so sensibly felt, and the calamities inseparable from a state of war, naturally create a wish that some middle course might be discovered, which should avoid the evils of both, and not be inconsistent with national honor and independence. That illusion must be dissipated; and it is necessary that the people of the United States should fully understand the situation in which they are placed.

There is no other alternative but war with both nations, or a continuance of the present system. For war with one of the belligerents, only, would be submission to the edicts and will of the other; and a repeal, in whole or in part, of the embargo, must necessarily be war or submission.

A general repeal, without arming, would be submission to both nations. A general repeal, and arming of our merchant vessels, would be war with both, and war of the worst kind, suffering the enemy to plunder us without retaliation upon them.

A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other.

The last position is the only one on which there can be any doubt; and it will be most satisfactorily demonstrated by selecting amongst the several modifications which might be suggested, that which may, on first view, appear the least exceptionable; a proposition to repeal the embargo so far only as relates to those Powers, which have not passed or do not execute any decrees injurious to the neutral rights of the United States.

It is said that the adoption of that proposition would restore our commerce with the native Powers of Asia and Africa, and with Spain, Portugal, Sweden, and Russia. Let this be taken for granted, although the precise line of conduct now pursued by most of those nations in relation to the United States is not correctly ascertained. So far as relates to any advantages which would result from that measure, if confined to its ostensible object, it will be sufficient to observe that the exports of articles of the domestic produce of the United States, during the year ending the 30th September, 1807, amounted to forty-eight millions seven hundred thousand dollars, and that the portion exported to the countries above enumerated falls short of seven millions; an amount too inconsiderable, when compared with the bulk of our exports, to deserve attention, even if a question affecting the independence of the nation was to be decided by considerations of immediate profit.

But the true effect of the proposition would be to open an indirect trade with Great Britain, which, through St. Bartholomew and Havana, Lisbon, Cadiz, or Gottenburg, would receive, at prices reduced by glutted markets, and for want of competition, all the provisions, naval stores, raw materials for her manufactures, and other articles which she may want. Whether she would be satisfied with that favorable state of things, or whether, considering that boon as a pledge of unqualified submission, she would, according to the tenor of her orders, interrupt our scanty commerce with Russia, and occasionally, under some new pretext, capture rather than purchase the cargoes intended for her own use, is equally uncertain and unimportant. Nor can it be doubted that a measure which

would supply exclusively one of the belligerents, would be war with the other. Considered merely as a question of profit, it would be much more eligible at once to raise the embargo in relation to Great Britain, as we would then at least have the advantages of a direct market with the consumer. But the proposition can only be defended on the ground that France is the only aggressor, and that, having no just reason to complain of England, it is our duty to submit to her orders. On that inadmissible supposition, it would not only be more candid, but also a more dignified as well as a more advantageous course, openly to join England, and to make war against France. The object would be clearly understood, an ally would be obtained, and the meanness of submission might be better palliated.

It appears unnecessary to pursue any further the examination of propositions which the difficult situation of the United States could alone have suggested, and which will prove more inadmissible or impracticable as the subject is more thoroughly investigated. The alternative is painful; it is between a continued suspension of commerce and war with both England and France. But the choice must ultimately be made between the two, and it is important that we should be prepared for either the one or the other.

The aggressions of England and France, collectively, affecting almost the whole of our commerce, and persisted in notwithstanding repeated remonstrances, explanations, and propositions the most candid and unexceptionable, are, to all intents and purposes, a maritime war waged by both nations against the United States. It cannot be denied that the ultimate and only effectual mode of resisting that warfare, if persisted in, is war. A permanent suspension of commerce, after repeated and unavailing efforts to obtain peace, would not properly be resistance; it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean. The present unsettled state of the world, the extraordinary situation in which the United States are placed, and the necessity, if war be resorted to, of making it at the same time against both nations, and these the two most powerful of the world, are the principal causes of hesitation. There would be none in resorting to that remedy, however calamitous, if a selection could be made on any principle of justice, or without a sacrifice of national independence.

On a question of such difficulty, involving the most important interests of the Union, and which has not, perhaps, until lately been sufficiently considered, your committee think the House alone competent to pronounce a decisive opinion; and they have, in this report, confined themselves to an exposition of the subject, and to such introductory resolutions as will be equally applicable to either alternative. The first of these, being merely declaratory of a determination not to submit to foreign aggressions, may, perhaps, at a first view, appear superfluous. It is, however, believed by the committee, that a pledge by the representatives of the nation that they will not abandon its essential rights, will not, at this critical moment, be unacceptable. The misapprehensions which seem to have existed, and the misrepresentations which have been circulated respecting the state of our foreign relations, render also such declaration expedient; and it may not be useless that every foreign nation should understand that its aggressions never will be justified or encouraged by any description of American citizens. For the question for every citizen now is, whether he will rally round the Government of his choice, or enlist under foreign banners? Whether he will be for his country, or against his country?

The committee respectfully submit the following resolutions:

1. *Resolved*, That the United States cannot, without a sacrifice of their rights, honor, and independence, submit to the late edicts of Great Britain and France.
2. *Resolved*, That it is expedient to prohibit, by law, the admission into the ports of the United States of all public or private armed or unarmed ships or vessels belonging to Great Britain or France, or to any other of the belligerent Powers having in force orders or decrees violating the lawful commerce and neutral rights of the United States; and also the importation of any goods, wares, or merchandise, the growth, produce, or manufacture of the dominions of any of the said Powers, or imported from any place in the possession of either.
3. *Resolved*, That measures ought to be immediately taken for placing the country in a more complete state of defence.

10th CONGRESS.]

No. 219:

[2d SESSION.]

GREAT BRITAIN, FRANCE, AND SPAIN.

COMMUNICATED TO CONGRESS, DECEMBER 23, 1808.

DECEMBER 23, 1808:

To the Senate of the United States:

According to the request of the Senate, in their resolution of November 14, that copies should be laid before them of all the orders and decrees of the belligerent Powers of Europe, passed since 1791, affecting the commercial rights of the United States, I now transmit them a report of the Secretary of State of such of them as have been attainable in the Department of State, and are supposed to have entered into the views of the Senate.

TH: JEFFERSON.

DEPARTMENT OF STATE, *December 21, 1808.*

The Secretary of State, in pursuance of the resolution of the Senate of the 14th of November, respectfully reports to the President of the United States copies of such belligerent acts, decrees, orders, and proclamations as affect neutral rights of commerce, and as have been attainable in the Department of State, with the exception, however, of sundry acts, particularly blockades, of doubtful import or inferior importance, which it was supposed would have inconveniently extended the delay and the size of the report.

JAMES MADISON.

I. THE ACTS, ORDERS IN COUNCIL, &c. OF GREAT BRITAIN.

- 1793, March 25. Extract from the Russian treaty.
 May 25. " " Spanish.
 July 14. " " Prussian.
 August 30. " " Austrian.
 June 8. Additional instructions with respect to corn, meal, &c.
 Nov. 6. Detention of neutral vessels, laden with French colonial productions, &c.
- 1794, January 8. Revocation of the last order, and the enactment of other regulations.
- 1798, January 25. Revocation of the last one, and the enactment of new regulations.
- 1799, March 22. Blockade of all the ports of Holland.
 Nov. 27. Suspension of the blockade of Holland.
- 1803, June 24. Direct trade between neutrals and the colonies of enemies not to be interrupted, unless, upon the outward voyage, contraband supplies shall have been furnished by the neutrals.
- 1804, April 12. Instructions concerning blockades, communicated by Mr. Merry.
 " " Conversion of the siege of Curaçoa into a blockade.
 Aug. 9. Blockade of Fécamp, &c.
- 1805, Aug. 17. Direct trade with enemy's colonies subjected to restrictions, &c.
- 1806, April 8. Blockade of the Ems, Weser, &c.
 May 16. Blockade from the Elbe to Brest.
 Sept. 25. Discontinuance of the last blockade in part.
- 1807, January 7. Interdiction of the trade, from port to port, of France.
 June 26. Blockade of the Ems, &c.
 Oct. 16. Proclamation recalling seamen.
 Nov. 11. Three orders in council.
 " 25. Six do. do.
- 1808, Jan. 2. Blockade of Carthage, &c.
 March 28. Act of Parliament for carrying orders of council into effect.
 April 11. Order in council permitting neutral vessels, without papers, to carry supplies to the West Indies.
 " 14. Act of Parliament prohibiting exportation of cotton, wool, &c.
 " " " " making valid certain orders in council.
 May 4. Blockade of Copenhagen and of the island of Zealand.
 June 23. Act of Parliament regulating trade between the United States and Great Britain.
 Oct. 14. Admiral Cochrane's blockade of French Leeward islands.

Extract from a convention between His Britannic Majesty and the Empress of Russia, signed at London, the 25th of March, 1793.

ART. 3. Their said Majesties reciprocally engage to shut all their ports against French ships; not to permit the exportation, in any case, from their said ports for France, of any military or naval stores, or corn, grain, salt meat, or other provisions; and to take all other measures in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

ART. 4. Their Majesties engage to unite all their efforts to prevent other Powers, not implicated in this war, from giving, on this occasion of common concern to every civilized State, any protection whatever, directly or indirectly, in consequence of their neutrality, to the commerce or property of the French, on the sea, or in the ports of France.

Extract from a treaty between His Britannic Majesty and the King of Spain, signed at Aranjuez, the 25th of May, 1793.

ART. 4. Their said Majesties engage reciprocally to shut their ports against French vessels; not to permit that there shall, in any case, be exported from their ports for France either warlike or naval stores, or wheat, or other grains, salted meat, or other provisions; and to take every other measure in their power to distress the trade of France, and reduce her by that means to just conditions of peace.

ART. 5. Their said Majesties also engage, the present war being generally interesting to every civilized State, to unite all their efforts in order to prevent those Powers which do not take part in the said war, from affording in consequence of their neutrality, any protection, direct or indirect, on the seas or in the ports of France, to the commerce and property of the French.

Extract from a convention between His Britannic Majesty and the King of Prussia, signed at the camp before Mayence, the 14th July, 1793.

ART. 3. The high contracting parties having already taken the resolution to shut all their ports against French ships, and not to permit the exportation, in any cases, from their said ports for France, of any military or naval stores, or corn, grain, salt meat, or other provisions, they reciprocally engage to continue those measures, and promise to employ all other means which shall be in their power for injuring the commerce of France, and for bringing her, by such means, to just conditions of peace.

ART. 4. Their Majesties engage to unite all their efforts to prevent, on this occasion of common concern to every civilized State, other Powers, not implicated in the war, from giving, in consequence of their neutrality, any protection whatever, directly or indirectly, to the commerce or property of the French, on the sea, or in the ports of France.

Extract from a convention between the Emperor of Austria and His Britannic Majesty, signed at London, the 30th August, 1793.

ART. 2. Their said Majesties reciprocally engage to shut their ports against French vessels; not to permit, in any instance, warlike or naval stores, corn, grain, salted meat, or other provisions, to be exported from their said ports for France, and to take all other means in their power to annoy the commerce of France, and thereby to reduce her to just conditions of peace.

ART. 3. Their Majesties engage to unite all their efforts to prevent other Powers, who shall not take part in this war, from giving, on this occasion of common interest to every civilized State, any protection whatever, direct or indirect, in consequence of their neutrality, to the commerce or to the property of the French, at sea or in the ports of France.

GEORGE R.

Additional instructions to the commanders of His Majesty's ships of war and privateers that have or may have letters of marque against France. Given at our court at St. James's, the eighth day of June, 1793, and in the thirty-third year of our reign.

1st. That it shall be lawful to stop and detain all vessels laden wholly or in part with corn, flour, or meal, bound to any port in France, or any port occupied by the armies of France, and to send them to such ports as shall be most convenient, in order that such corn, meal, or flour, may be purchased on behalf of His Majesty's Government, and the ships be released after such purchase, and after a due allowance for freight; or that the masters of such ships, on giving due security, to be approved of by the Court of Admiralty, be permitted to proceed to dispose of their cargoes of corn, meal, or flour, in the ports of any country in amity with His Majesty.

2d. That it shall be lawful for the commanders of His Majesty's ships of war and privateers, that have or may have letters of marque against France, to seize all ships, whatever be their cargoes, that shall be found attempting to enter any blockaded port, and to send the same for condemnation, together with their cargoes, except the ships of Denmark and Sweden, which shall be prevented from entering on the first attempt, but on the second shall be sent in for condemnation likewise.

3d. That in case His Majesty shall declare any port to be blockaded, the commanders of His Majesty's ships of war and privateers that have or may have letters of marque against France, are hereby enjoined, if they meet with ships at sea, which appear from their papers to be destined to such blockaded port, but to have sailed from the ports of their respective countries before the declaration of the blockade shall have arrived there, to advertise them thereof, and to admonish them to go to other ports; but they are not to molest them afterwards, unless it shall appear that they have continued their course with intent to enter the blockaded port, in which case they shall be subject to capture and condemnation: as shall likewise all ships wheresoever found, that shall appear to have sailed from their ports, bound to any port which His Majesty shall have declared to be blockaded, after such declaration shall have been known in the country from which they sailed; and all ships which, in the course of the voyage, shall have received notice of the blockade in any manner, and yet shall have pursued their course with intent to enter the same.

GEORGE R.

Additional instruction to the commanders of all our ships of war and privateers that have or may have letters of marque against France. Given at our court at St. James's, the sixth day of November, 1793, and in the thirty-fourth year of our reign.

That they shall stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and shall bring the same, with their cargoes, to legal adjudication in our Courts of Admiralty.

By His Majesty's command:

H. DUNDAS.

GEORGE R.

Instructions to the commanders of our ships of war and privateers that have or may have letters of marque against France. Given at our court at St. James's, the eighth day of January, 1794.

Whereas, by our former instruction to the commanders of our ships of war and of privateers, dated the 6th day of November, 1793, we signified that they should stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and should bring the same, with their cargoes, to legal adjudication: We are pleased to revoke the said instruction, and, in lieu thereof, we have thought fit to issue these, our instructions, to be duly observed by the commanders of all our ships of war and privateers that have or may have letters of marque against France:

1. That they shall bring in, for lawful adjudication, all vessels, with their cargoes, that are laden with goods the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe.

2. That they shall bring in, for lawful adjudication, all ships, with their cargoes, that are laden with goods the produce of the said islands, the property of which goods shall belong to subjects of France, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands that is or shall be blockaded by the arms of His Majesty or his allies, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4. That they shall seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and shall send them into some convenient port belonging to His Majesty, in order that they, together with their cargoes, may be proceeded against, according to the rules of nations.

GEORGE R.

Instructions to the commanders of our ships of war and privateers that have or may have letters of marque against France, Spain, or the United Provinces. Given at our court at St. James's, the 25th day of January, 1798, in the thirty-eighth year of our reign.

Whereas, by our former instructions to the commanders of our ships of war and privateers, dated 8th January, 1794, we signified that they should bring in, for lawful adjudication, all vessels, with their cargoes, that were laden with goods the produce of the *French West India Islands*, and coming directly from any port of the said islands to any port in Europe; and likewise all ships, with their cargoes, that were laden with goods the produce of the said islands, the property of which goods should belong to subjects of France, to whatsoever ports the same might be bound; and that they should seize all ships that should be found attempting to enter any port of the said islands that was or should be blockaded by the arms of His Majesty or his allies, and should send them in, with their cargoes, for adjudication; and, also, all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and should send them into some convenient port belonging to His Majesty, in order that they, together with their cargoes, might be proceeded against, according to the law of nations: And whereas, in consi-

deration of the present state of the commerce of this country, as well as of that of neutral countries, it is expedient to revoke the said instructions, we are pleased hereby to revoke the same; and, in lieu thereof, we have thought fit to issue these our instructions, to be observed from henceforth by the commanders of all our ships of war and privateers that have or may have letters of marque against *France, Spain, and the United Provinces*.

1. That they shall bring in, for lawful adjudication, all vessels, with their cargoes, that are laden with goods the produce of any island or settlement belonging to France, Spain, or the United Provinces, and coming directly from any port of the said islands or settlements to any port in Europe, not being a port of this kingdom, nor a port of that country to which such ships, being neutral ships, shall belong.

2. That they shall bring in, for lawful adjudication, all ships, with their cargoes, that are laden with goods the produce of the said islands or settlements, the property of which goods shall belong to subjects of *France, Spain, or the United Provinces*, to whatsoever ports the same may be bound.

3. That they shall seize all ships that shall be found attempting to enter any port of the said islands or settlements that is or shall be blockaded by the arms of His Majesty, and shall send them in, with their cargoes, for adjudication, according to the terms of the second article of the former instructions, bearing date the 8th day of June, 1793.

4. That they shall seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands or settlements, and shall send them into some convenient port belonging to His Majesty, in order that they, together with their cargoes, may be proceeded against, according to the rules of the law of nations.

By His Majesty's command:

PORTLAND.

Lord Grenville to Mr. King.

DOWNING STREET, *March 22, 1799.*

The undersigned, Secretary of State of His Britannic Majesty, has received His Majesty's commands to acquaint Mr. King, minister plenipotentiary of the United States of America, that the King, judging it expedient to avail himself of the superiority of his naval forces for the defence of his dominions, has signified his commands to the Lords Commissioners of the Admiralty to cause the most rigorous blockade to be established at the entrance of all the ports of Holland, which will be maintained and enforced in the strictest manner, according to the usages of war acknowledged and observed in similar cases.

Mr. King is therefore requested to apprise the American consuls and merchants residing in England that the above-mentioned ports of the United Provinces are, and must be considered as being in a state of blockade, and that from this time no neutral vessel can be suffered to enter them, upon any consideration, or under any pretence whatsoever; and that all the measures authorized by the law of nations and the respective treaties between His Majesty and the different neutral Powers will henceforth be adopted and executed with respect to vessels destined for the said ports, or such as shall attempt to enter them after this notice.

Lord Grenville to Mr. King.

The undersigned, Secretary of State, has received His Majesty's command to inform Mr. King that His Majesty has judged it expedient to suspend for the present the blockade of all the ports in the United Provinces, which was established by His Majesty's orders,* and which was announced to Mr. King by the undersigned, in his note dated March 22d last.

GRENVILLE.

Additional instructions by the commissioners for executing the office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c.

The right honorable Lord Pelham, one of His Majesty's principal Secretaries of State, having transmitted us, as additional instructions, under His Majesty's signet and sign manual, dated the 24th June, 1803, as follows:

To the commanders of His Majesty's ships of war and privateers.

In consideration of the present state of commerce, we are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel which shall be carrying on trade directly between the colonies of enemies, and the neutral country, to which the vessel belongs, and laden with the property of inhabitants of such neutral country: provided, that such neutral vessels shall not be supplying, nor shall have, on the outward voyage, supplied the enemy with any articles contraband of war, and shall not be trading with any blockaded port.

By His Majesty's command:

PELHAM.

We send you herewith a printed copy of the said additional instructions for your information and guidance, dated 13th July, 1803.

[Signed by the Lords of the Admiralty.]

To the *Judge of the Vice-admiralty court of the island of Ceylon.*

Mr. Merry to Mr. Madison.

SIR:

WASHINGTON, *April 12, 1804.*

Mr. Thornton not having failed to transmit to His Majesty's Government an account of the representation which you were pleased to address to him under date of the 27th October, last year, respecting the blockade of the islands of Martinique and Guadaloupe, it is with great satisfaction, sir, that I have just received His Majesty's commands, signified to me by his principal Secretary of State for Foreign Affairs, under date of the 6th January

* Supposed to be those of November 27, 1799.

last, to communicate to you the instructions which have, in consequence of your representation, been sent to Commodore Hood, and to the judges of the Vice-admiralty courts in the West Indies.

I have, accordingly, the honor to transmit to you, sir, enclosed, the copy of a letter from Sir Evan Nepean, secretary to the Board of Admiralty, to Mr. Hammond, His Majesty's Under Secretary of State for Foreign Affairs, specifying the nature of the instructions which have been given.

His Majesty's Government doubt not that the promptitude which has been manifested in redressing the grievance complained of by the Government of the United States, will be considered by the latter as an additional evidence of His Majesty's constant and sincere desire to remove any ground of misunderstanding that could have a tendency to interrupt the harmony which so happily subsists between this Government and that of the United States.

I have the honor to be, &c.

ANTHONY MERRY.

SIR:

ADMIRALTY OFFICE, *January 5, 1804.*

Having communicated to the Lords of the Admiralty, Lord Hawkesbury's letter of the 23d ultimo, enclosing the copy of a despatch which his lordship had received from Mr. Thornton, His Majesty's chargé d'affaires in America, on the subject of the blockade of the islands of Martinique and Guadaloupe, together with the report of the Advocate General:

Thereupon, I have their lordships' commands to acquaint you, for his lordship's information, that they have sent orders to Commodore Hood not to consider any blockade of those islands as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them, and that they have also sent the necessary directions on the subject to the judges of the Vice-admiralty courts in the West Indies and America.

I am, &c.

GEORGE HAMMOND, Esq.

EVAN NEPEAN.

Mr. Merry to Mr. Madison.

WASHINGTON, *April 12, 1804.*

SIR:

I have the honor to acquaint you that I have just received a letter from Rear Admiral Sir John Duckworth, commander-in-chief of His Majesty's squadron at Jamaica, dated the 2d of last month, in which he desires me to communicate to the Government of the United States that he has found it expedient for His Majesty's service to convert the siege, which he lately attempted, of Curaçoa, into a blockade of that island.

I cannot doubt, sir, that this blockade will be conducted conformably to the instructions which, as I have had the honor to acquaint you in another letter of this date, have been recently sent on this subject to the commander-in-chief of His Majesty's forces, and to the judges of the Vice-admiralty courts, in the West Indies, should the smallness of the island of Curaçoa still render necessary any distinction of the investment being confined to particular ports.

I have the honor to be, &c.

ANT. MERRY.

Circular from Lord Harrowby to the ministers of the neutral nations residing in London, communicated to Colonel Monroe.

DOWNING STREET, *August 9, 1804.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that the King has judged it expedient (for the protection of his subjects and the annoyance of his enemies) to establish the most rigorous blockade at the entrances of the ports of Fécamp, St. Valéry-aux-Caux, Dieppe, Treport, the Somme, Etaples, Boulogne, Calais, Gravelines, Dunkirk, Nieuport, and Ostend, and to maintain and enforce the same in the strictest manner, according to the usages of war acknowledged in similar cases. Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of the above-mentioned ports are, and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe, &c. &c.

HARROWBY.

GEORGE R.

To our Courts of Admiralty, and to the commanders of our ships of war and privateers. Given at our court at St. James's, the 17th day of August, 1805, in the 45th year of our reign.

We are pleased hereby to direct the commanders of our ships of war and privateers not to seize any neutral vessel, which shall be carrying on trade directly from the colonies of the enemy to the ports of this kingdom, and laden solely with the property of inhabitants of the neutral country to which the ship belongs; provided such neutral ship has already cleared out, or shall clear out, from such colony, prior to the 1st day of November next, and shall not have supplied the enemy with any articles contraband of war on the outward voyage, and shall not have entered or be coming from any blockaded port. And in case any neutral vessel, trading as aforesaid, hath been, or shall be detained or brought before any of our Courts of Admiralty, it is our will and pleasure that such ships, together with their cargoes, be forthwith liberated.

By His Majesty's command:

HAWKESBURY.

Mr. Fox to Mr. Monroe.

DOWNING STREET, April 8, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that, in consequence of His Majesty the King of Prussia having taken possession of various parts of the electorate of Hanover, and other dominions belonging to His Majesty, in a forcible and hostile manner; and having also notified, that all British ships shall be excluded from the ports of the Prussian dominions, and from certain other ports in the north of Europe, and not suffered to enter or trade therewith, in violation of the just rights and interests of His Majesty and his dominions, and contrary to the established law and practice of nations in amity with each other: His Majesty has judged it expedient to establish the most rigorous blockade at the entrances of the Ems, the Weser, the Elbe, and the Trave, and to maintain and enforce the same in the strictest manner, according to the usages of war, acknowledged and allowed in similar cases.

Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of the above-mentioned rivers are and must be considered as being in a state of blockade; and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockades after this notice.

The undersigned requests Mr. Monroe to accept the assurance of his high consideration.

C. J. FOX.

Mr. Fox to Mr. Monroe.

DOWNING STREET, May 16, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that the King, taking into consideration the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of his subjects, has thought fit to direct that the necessary measures should be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive; and the said coast, rivers, and ports are and must be considered as blockaded; but that His Majesty is pleased to declare that such blockade shall not extend to prevent neutral ships and vessels, laden with goods not being the property of His Majesty's enemies, and not being contraband of war, from approaching the said coast, and entering into and sailing from the said rivers and ports (save and except the coast, rivers, and ports from Ostend to the river Seine, already in a state of strict and rigorous blockade, and which are to be considered as so continued,) provided the said ships and vessels so approaching and entering (except as aforesaid) shall not have been laden at any port belonging to or in the possession of any of His Majesty's enemies; and that the said ships and vessels so sailing from the said rivers and ports (except as aforesaid) shall not be destined to any port belonging to or in the possession of any of His Majesty's enemies, nor have previously broken the blockade.

Mr. Monroe is therefore requested to apprise the American consuls and merchants residing in England, that the coast, rivers, and ports above mentioned, must be considered as being in a state of blockade, and that from this time all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Monroe, &c.

C. J. FOX.

Lord Howick to Mr. Monroe.

DOWNING STREET, September 25, 1806.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Monroe, that the King having been pleased, on the 16th of May last, to cause it to be signified that he had directed the necessary measures to be taken for the blockade of the coast, rivers, and ports, from the river Elbe to the port of Brest, both inclusive, His Majesty is now pleased to declare, that so much of such blockade as extended from the river Elbe to the river Ems, both inclusive, is for the present discontinued; and that, from the date hereof, the navigation of the coast, rivers, and ports, from the river Elbe to the river Ems, both inclusive, is as free as if such blockade had not taken place.

The undersigned requests Mr. Monroe to accept the assurances, &c.

HOWICK.

At a court at the Queen's Palace, the 7th of January, 1807: Present, the King's Most Excellent Majesty in council.

Whereas the French Government has issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with His Majesty's dominions, and also to prevent such nations from trading with any other country in any articles, the growth, produce, or manufacture of His Majesty's dominions; and whereas the said Government has also taken upon itself to declare all His Majesty's dominions to be in a state of blockade, at the time when the fleets of France and her allies are themselves confined within their own ports by the superior valor and discipline of the British navy; and whereas such attempts, on the part of the enemy, would give to His Majesty an unquestionable right of retaliation, and would warrant His Majesty in enforcing the same prohibition of all commerce with France, which that Power vainly hopes to effect against the commerce of His Majesty's subjects, a prohibition which the superiority of His Majesty's naval forces might enable him to support by actually investing the ports and coasts of the enemy with numerous squadrons and cruisers, so as to make the entrance or approach thereto manifestly dangerous; and whereas His Majesty, though unwilling to follow the example of his enemies by proceeding to an extremity so distressing to all nations not engaged in the war, and carrying on their accustomed trade, yet feels himself bound, by due regard to the just defence of the rights and interests of his people not to suffer such measures to be taken by the enemy, without taking some steps on his part to restrain this violence, and to retort upon them the evils of their own injustice; His Majesty is thereupon pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that no vessel shall be permitted to trade from one port to another, both which ports shall belong to or be in the possession of France or her allies, or shall be so far under their control as that British vessels may not trade freely thereat; and the commanders of His

Majesty's ships of war and privateers shall be, and are hereby, instructed to warn every neutral vessel coming from any such port, and destined to another such port, to discontinue her voyage, and not to proceed to any such port; and any vessel, after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this His Majesty's order, which shall be found proceeding to another such port, shall be captured and brought in, and together with her cargo shall be condemned as lawful prize; and His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty, and the Courts of Vice-admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

Extract of a letter from the honorable David M. Erskine, Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty, to the Secretary of State of the United States.

PHILADELPHIA, June 26, 1807.

I have the honor to inform you that His Majesty has judged it expedient to re-establish the most rigorous blockade at the entrances of the rivers Ems, Weser, and Elbe, inclusive, in consequence of the present position of the enemy upon the continent, which enables him to command the navigation of those rivers.

BY THE KING.

A Proclamation for recalling and prohibiting British seamen from serving foreign Princes and States.

GEORGE R.

Whereas, it hath been represented to us, that great numbers of mariners and seafaring men, our natural born subjects, have been enticed to enter into the service of foreign States, and are now actually serving as well on board the ships of war belonging to the said foreign States, as on board the merchant vessels belonging to their subjects, notwithstanding our former proclamation recalling them, contrary to the duty and allegiance which our said subjects owe unto us, and to the great disservice of their native country; we have, therefore, thought it necessary, at the present moment, when our kingdom is menaced and endangered, and when the maritime rights on which its power and greatness do mainly depend, are disputed and called in question, to publish, by and with the advice of our privy council, this our royal proclamation: We do hereby strictly charge and command all masters of ships, pilots, mariners, shipwrights, and other seafaring men, being our natural born subjects, who may have been enticed into the pay or service of any foreign State, or do serve in any foreign ship or vessel, that forthwith they, and every of them, do, (according to their bounden duty and allegiance, and in consideration that their native country hath need of all their services,) withdraw themselves, and depart from, and quit such foreign service, and do return home to their native country; or do enter on board such of our ships of war as they may chance to fall in with, either on the high seas, or in any rivers, waters, havens, roads, ports, or places whatsoever or wheresoever.

And for the better execution of the purposes of this our royal proclamation, we do authorize and command all captains, masters, and others, commanding our ships and vessels of war, to stop and make stay of all and every such person and persons (being our natural born subjects) as shall endeavor to transport or enter themselves into the service of any foreign State, contrary to the intent and command of this our royal proclamation, and to seize upon, take, and bring away all such persons as aforesaid, who shall be found to be employed or serving in any foreign merchant ship or vessel as aforesaid; but we do strictly enjoin all such, our captains, masters, and others, that they do permit no man to go on board such ships and vessels belonging to States at amity with us, for the purpose of so seizing upon, taking, and bringing away such persons aforesaid, for whose discreet and orderly demeanor the said captains cannot answer; and that they do take especial care that no unnecessary violence be ever done or offered to the vessel, or to the remainder of the crew, from out of which such persons shall be taken.

And in case of their receiving information of any such person or persons being employed, or serving on board of any ship of war belonging to such foreign State at amity with us, we do authorize and command our captains, masters, and others commanding our ships of war, to require of the captain or commander of such foreign ship of war, that he do forthwith release and discharge such person or persons, being our natural born subject or subjects; and if such release and discharge shall be refused, then to transmit information of such refusal to the commander-in-chief of the squadron, under whose orders such captain or commander shall be then serving; which information the said commander-in-chief is hereby strictly directed and enjoined to transmit, with the least possible delay, to our minister residing at the seat of Government of that State to which the said foreign ship of war shall belong, or to our Lord High Admiral, or Lords Commissioners of the Admiralty, for the time being, in order that we, being apprized of such proceeding, may forthwith direct the necessary steps to be taken for obtaining redress from the Government to which such foreign ship of war shall belong, for the injury done to us by the unwarranted detention of our natural born subjects in the service of a foreign State.

And whereas, it hath been further represented unto us, that divers mariners and seafaring men, our natural born subjects, have been induced to accept letters of naturalization, or certificates of citizenship, from foreign States, and have been taught to believe that, by such letters or certificates they are discharged from that duty of allegiance which, as our natural born subjects, they owe to us: Now we do hereby warn all such mariners, seafaring men, and others, our natural born subjects, that no such letters of naturalization, or certificates of citizenship, do or can in any manner divest our natural born subjects of the allegiance, or in any degree alter the duty which they owe to us, their lawful Sovereign. But in consideration of the error into which such mariners and seafaring men as aforesaid may have been led, we do hereby publish and declare our free pardon to all such, our subjects, who, repenting of the delusion under which they have acted, shall immediately, upon knowledge of this our royal proclamation, withdraw themselves from foreign service, and return to their allegiance to us; and we do declare that all such, our subjects, who shall continue in the service of foreign States, in disregard and contempt of this our royal proclamation, will not only incur our just displeasure, but are liable to be proceeded against for such contempt, and shall be proceeded against accordingly; and we do hereby declare, that if any such masters of ships, pilots, mariners, seamen, shipwrights, and other seafaring men, (being our natural born subjects) shall be taken in any foreign service by the Algerines, or other Barbary Powers, and carried into slavery, they shall not be reclaimed by us as subjects of Great Britain.

And we do hereby notify that all such, our subjects, as aforesaid, who have voluntarily entered, or shall enter, or voluntarily continue to serve, on board of any ships of war belonging to any foreign State at enmity with us, are and will be guilty of high treason; and we do, by this our royal proclamation, declare that they shall be punished with the utmost severity of the law.

Given at our court at the Queen's Palace, the sixteenth day of October, one thousand eight hundred and seven, and in the forty-seventh year of our reign. God save the King.

At the court at the Queen's Palace, the 11th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas certain orders, establishing an unprecedented system of warfare against this kingdom, and aimed especially at the destruction of its commerce and resources, were, some time since, issued by the Government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation all vessels, with their cargoes, which should continue to trade with His Majesty's dominions:

And whereas, by the same order, "all trading in English merchandise is prohibited, and every article of merchandise belonging to England, or coming from her colonies, or of her manufacture, is declared lawful prize:"

And whereas the nations in alliance with France, and under her control, were required to give, and have given, and do give, effect to such orders:

And whereas His Majesty's order of the 7th of January last has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation, but, on the contrary, the same have been recently enforced with increased rigor:

And whereas His Majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights, and for supporting that maritime power which the exertions and valor of his people have, under the blessing of Providence, enabled him to establish and maintain; and the maintenance of which is not more essential to the safety and prosperity of His Majesty's dominions, than it is to the protection of such States as still retain their independence, and to the general intercourse and happiness of mankind:

His Majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with His Majesty, and all other ports or places in Europe, from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, shall, from henceforth, be subject to the same restrictions in point of trade and navigation, with the exceptions hereinafter mentioned, as if the same were actually blockaded by His Majesty's naval forces, in the most strict and rigorous manner: And it is hereby further ordered and declared, that all trade in articles which are of the produce or manufacture of the said countries or colonies, shall be deemed and considered to be unlawful; and that every vessel trading from or to the said countries or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries or colonies, shall be captured and condemned as prize to the captors.

But although His Majesty would be fully justified, by the circumstances and considerations above recited, in establishing such system of restrictions with respect to all the countries and colonies of his enemies, without exception or qualification, yet His Majesty being, nevertheless, desirous not to subject neutrals to any greater inconvenience than is absolutely inseparable from the carrying into effect His Majesty's just determination to counteract the designs of his enemies, and to retort upon his enemies themselves the consequences of their own violence and injustice; and being yet willing to hope that it may be possible (consistently with that object) still to allow to neutrals the opportunity of furnishing themselves with colonial produce for their own consumption and supply, and even to leave open, for the present, such trade with His Majesty's enemies as shall be carried on directly with the ports of His Majesty's dominions, or of his allies, in the manner hereinafter mentioned:

His Majesty is, therefore, pleased further to order, and it is hereby ordered, that nothing herein contained shall extend to subject to capture or condemnation any vessel, or the cargo of any vessel, belonging to any country not declared by this order to be subjected to the restrictions incident to a state of blockade, which shall have cleared out with such cargo from some port or place of the country to which she belongs, either in Europe or America, or from some free port in His Majesty's colonies, under circumstances in which such trade, from such free ports, is permitted, direct to some port or place in the colonies of His Majesty's enemies, or from those colonies direct to the country to which such vessel belongs, or to some free port in His Majesty's colonies, in such cases, and with such articles, as it may be lawful to import into such free port; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall have cleared out under such regulations as His Majesty may think fit to prescribe, and shall be proceeding direct from some port or place in this kingdom, or from Gibraltar, or Malta, or from any port belonging to His Majesty's allies, to the port specified in her clearance; nor to any vessel, or the cargo of any vessel, belonging to any country not at war with His Majesty, which shall be coming from any port or place in Europe which is declared by this order to be subject to the restrictions incident to a state of blockade, destined to some port or place in Europe belonging to His Majesty, and which shall be on her voyage direct thereto; but these exceptions are not to be understood as exempting from capture or confiscation any vessel or goods which shall be liable thereto in respect of having entered or departed from any port or place actually blockaded by His Majesty's squadrons or ships of war, or for being enemy's property, or for any other cause than the contravention of this present order.

And the commanders of His Majesty's ships of war and privateers, and other vessels acting under His Majesty's commission, shall be, and are hereby, instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France, or of her allies, or of any other country at war with His Majesty, or to any port or place from which the British flag, as aforesaid, is excluded, or to any colony belonging to His Majesty's enemies, and which shall not have cleared out as is hereinbefore allowed, to discontinue her voyage, and to proceed to some port or place in this kingdom, or to Gibraltar or Malta; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of this His Majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors.

And whereas countries not engaged in the war have acquiesced in these orders of France, prohibiting all trade in any articles the produce or manufacture of His Majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions by accepting from persons, styling themselves commercial agents of the enemy, resident at neutral ports, certain documents, termed "certificates of origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of His Majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and submitted to by such merchants, as part of the new system of warfare directed against the trade of this kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it:

His Majesty is therefore pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of this His Majesty's order, at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to or authenticating the same, such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons by whom, or on whose behalf, any such document was put on board.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 11th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas articles of the growth and manufacture of foreign countries cannot by law be imported into this country, except in British ships, or in ships belonging to the countries of which such articles are the growth and manufacture, without an order in council specially authorizing the same:

His Majesty, taking into consideration the order of this day's date, respecting the trade to be carried on to and from the ports of the enemy, and deeming it expedient that any vessel belonging to any country in alliance, or at amity with His Majesty, may be permitted to import into this country articles of the produce or manufacture of countries at war with His Majesty:

His Majesty, by and with the advice of his privy council, is therefore pleased to order, and it is hereby ordered, that all goods, wares, or merchandise, specified and included in the schedule of an act, passed in the forty-third year of his present Majesty's reign, entitled "An act to repeal the duties of customs payable in Great Britain, and to grant other duties in lieu thereof," may be imported from any port or place belonging to any State not at amity with His Majesty, in ships belonging to any State at amity with His Majesty, subject to the payment of such duties, and liable to such drawbacks, as are now established by law upon the importation of the said goods, wares, or merchandise, in ships navigated according to law; and with respect to such of the said goods, wares, and merchandise as are authorized to be warehoused under the provisions of an act passed in the forty-third year of his present Majesty's reign, entitled "An act for permitting certain goods imported into Great Britain to be secured in warehouses without payment of duty," subject to all the regulations of the said last mentioned act; and with respect to all articles which are prohibited by law from being imported into this country; it is ordered that the same shall be reported for exportation to any country in amity or alliance with His Majesty.

And His Majesty is further pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels which shall arrive at any port of the United Kingdom, or at the port of Gibraltar or Malta, in consequence of having been warned pursuant to the aforesaid order, or in consequence of receiving information, in any other manner, of the said order, subsequent to their having taken on board any part of their cargoes, whether previous or subsequent to their sailing, shall be permitted to report their cargoes for exportation, and shall be allowed to proceed upon their voyages to their original ports of destination, (if not unlawful before the issuing of the said order,) or to any port at amity with His Majesty, upon receiving a certificate from the collector or comptroller of the customs at the port at which they shall so enter, (which certificate the said collectors and comptrollers of the customs are hereby authorized and required to give,) setting forth that such vessels came into such port in consequence of being so warned, or of receiving such information as aforesaid, and that they were permitted to sail from such port under the regulations which His Majesty has been pleased to establish in respect to such vessels; but in case any vessel so arriving shall prefer to import her cargo, then such vessel shall be allowed to enter and import the same, upon such terms and conditions as the said cargo might have been imported upon, according to law, in case the said vessel had sailed after having received notice of the said order, and in conformity thereto.

And it is further ordered, that all vessels which shall arrive at any port of the United Kingdom, or at Gibraltar, or Malta, in conformity and obedience to the said order, shall be allowed, in respect to all articles which may be on board the same, except sugar, coffee, wine, brandy, snuff, and tobacco, to clear out to any port whatever, to be specified in such clearance; and, with respect to the last mentioned articles, to export the same to such ports, and under such conditions and regulations only, as His Majesty, by any license to be granted for that purpose, may direct.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Courts of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 11th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas the sale of ships by a belligerent to a neutral is considered by France to be illegal:

And whereas a great part of the shipping of France and her allies has been protected from capture during the present hostilities by transfers, or pretended transfers, to neutrals:

And whereas it is fully justifiable to adopt the same rule, in this respect, towards the enemy, which is applied by the enemy to this country:

His Majesty is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that, in future, the sale to a neutral of any vessel belonging to His Majesty's enemies shall not be deemed to be legal, nor in any manner to transfer the property, nor to alter the character of such vessel; and all vessels now belonging, or which shall hereafter belong, to any enemy of His Majesty, notwithstanding any sale, or pretended sale, to a neutral, after a reasonable time shall have elapsed for receiving information of this His Majesty's order at the place where such sale, or pretended sale, was effected, shall be captured and brought in, and shall be adjudged as lawful prize to the captors.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lord Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas it has been represented that it would be expedient to fix certain periods, at which it shall be deemed that a reasonable time shall have elapsed for receiving information, at different places, of His Majesty's order in council of the 11th of November instant, respecting the trade with His Majesty's enemies, and in their produce and manufactures: His Majesty, taking the same into consideration, and being desirous to obviate any difficulties that may arise in respect thereto, and also to allow ample time for the said order being known to all persons

who may be affected thereby, is pleased, by and with the advice of his privy council, to order and declare, and it is hereby ordered and declared, that information of the said order of the 11th of November instant shall be taken, and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them, namely:

Ports and places within the Baltic; December 21, 1807.

Other ports and places to the northward of Amsterdam; December 11, 1807.

From Amsterdam to Ushant; December 4, 1807.

From Ushant to Cape Finisterre; December 8, 1807.

From Cape Finisterre to Gibraltar, inclusive; December 13, 1807.

Madeira; December 13, 1807.

Ports and places within the straits of Gibraltar, to Sicily and Malta, and the west coast of Italy inclusive; January 1, 1808.

All other ports and places in the Mediterranean beyond Sicily and Malta; January 20, 1808.

Ports and places beyond the Dardanelles; February 1, 1808.

Any part of the north and western coast of Africa, or the islands adjacent, except Madeira; January 11, 1808.

The United States, and British possessions in North America and the West Indies; January 20, 1808.

Cape of Good Hope, and east coast of South America; March 1, 1808.

India; May 1, 1808.

China, and the coast of South America; June 1, 1808.

And every vessel sailing on or after those days, from those places, respectively, shall be deemed and taken to have received notice of the aforesaid order; and it is further ordered, that, if any vessel shall sail within twenty days after the periods above assigned, respectively, from any of the said places, in contravention of the said order of the 11th of November instant, and shall be detained as prize on account thereof, or shall arrive at any port in this kingdom, destined to some port or place within the restriction of the said order, and proof shall be made to the satisfaction of the Court of Admiralty, in which such vessel shall be proceeded against, in case the same shall be brought in as prize, that the loading of the said vessel had commenced before the said periods, and before information of the said order had actually been received at the port of shipment, the said vessel, together with the goods so laden, shall be restored to the owner or owners thereof, and shall be permitted to proceed on her voyage in such manner as if such vessel had sailed before the day so specified as aforesaid: and it is further ordered, that no proof shall be admitted, or be gone into, for the purpose of showing that information of the said order of the 11th of November instant had not been received at the said places respectively, at the several periods before assigned: and the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas His Majesty, by his order in council, dated 11th November instant, respecting the trade to be carried on with His Majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels which shall have cleared out from any port or place in this kingdom, under such regulations as His Majesty may think fit to prescribe, and shall be proceeding direct to the ports specified in the respective clearances; His Majesty, taking into consideration the expediency of making such regulations, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all vessels, belonging to countries not at war with His Majesty, shall be permitted to lade in any port of the United Kingdom any goods being the produce or manufacture of His Majesty's dominions, or East India goods, or prize goods, (all such goods having been lawfully imported) and to clear out with, and freely to convey the same, to any port or place in any colony in the West Indies or America, belonging to His Majesty's enemies, such port or place not being in a state of actual blockade, subject to the payment of such duties as may at the time when any such vessels may be cleared out be due by law on the exportation of any such goods, or in respect of the same being destined to the ports of the colonies belonging to His Majesty's enemies; and likewise to lade, clear out with, and convey, as aforesaid, any articles of foreign produce or manufacture, which shall have been lawfully imported into this kingdom, provided His Majesty's license shall have been previously obtained for so conveying such foreign produce or manufactures: and it is further ordered, that any vessel, belonging as aforesaid, shall be permitted to lade in any port of the United Kingdom any goods, not being naval or military stores, which shall be of the growth, produce, or manufacture of this kingdom, or which shall have been lawfully imported, (save and except foreign sugar, coffee, wine, brandy, snuff, and cotton,) and to clear out with, and freely to convey the same to any port, to be specified in the clearance, not being in a state of actual blockade, although the same shall be under the restrictions of the said order; and likewise to lade, clear out, and convey foreign sugar, coffee, wine, brandy, snuff, and cotton, which shall have been lawfully imported, provided His Majesty's license shall have been previously obtained for the exportation and conveyance thereof: and it is hereby further ordered, that no vessel shall be permitted to clear out from any port or place in this kingdom to any port or place of any country subjected to the restrictions of the said order, with any goods which shall have been laden (after notice of the said order) on board the vessel which shall have imported the same into this kingdom, without having first duly entered and landed the same in some port or place in this kingdom; and that no vessel shall be permitted to clear out from any port or place in this kingdom to any port or place whatever, with any goods the produce or manufacture of any country subject to the restrictions of the said order, which shall have been laden after notice, as aforesaid, on board the vessel importing the same, without having so duly entered and landed the same; or any goods whatever which shall have been laden after such notice in the vessel importing the same, in any port or place of any country subjected to the restrictions of the said order, without having so duly entered and landed the same in some port or place in this kingdom, except the cargo shall consist wholly of flour, meal, grain, or any article or articles the produce of the soil of some country which is not subjected to the restrictions of the said order, except cotton, and which shall have been imported in an unmanufactured state direct from such country into this kingdom, in a vessel belonging to the country from which such goods have been brought, and in which the same were grown and produced.

And it is further ordered, that any vessel belonging to any country not at war with His Majesty may clear out from Guernsey, Jersey, or Man, to any port or place under the restrictions of the said order, which shall be specified in the clearance, not being in a state of actual blockade, with such articles only not being naval or military stores, as shall have been legally imported into such islands respectively from any port or place in this kingdom

direct; and with respect to all such articles as may have been imported into the said islands, respectively, from any port or place under the restrictions of the said order, it shall not be permitted to any vessel to clear out with the same from any of the said islands, except to some port or place in this kingdom: and the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas His Majesty, by his order in council, dated the 11th of November instant, respecting the trade to be carried on with His Majesty's enemies, was pleased to exempt from the restrictions of the said order all vessels belonging to any country not at war with His Majesty, together with their cargo, which shall be coming from any port or place in Europe which is declared in the said order to be subject to the restrictions incident to a state of blockade, direct to some port or place in Europe belonging to His Majesty; and also all vessels which shall be cleared out from Gibraltar or Malta, under such regulations as His Majesty may think fit to prescribe, and which shall be proceeding direct to the ports specified in their respective clearances:

And whereas it is expedient to encourage the trade from Gibraltar and Malta to countries under the restrictions of the said order, subject to regulations to be made in respect thereto; His Majesty is therefore pleased to prescribe the following regulations in regard to such trade accordingly, and by and with the advice of his privy council, to order, and it is hereby ordered, that all sorts of flour and meal, and all sorts of grain, tobacco, and any other article in an unmanufactured state, being the growth and produce of any country not being subjected by the said order to the restrictions incident to a state of blockade, except cotton and naval and military stores, which shall have been imported into Gibraltar or Malta direct from the country where the same were grown and produced, shall, without any license, be permitted to be cleared out to any port or place not being in a state of actual blockade, without the same being compelled to be landed: but neither the said article of cotton, however imported, nor any article which is not the growth, produce, or manufacture of this kingdom, or which has not been imported in a British ship, or from this kingdom direct, (except fish,) and which shall have been laden at the port of original shipment after the period directed by an order of this date to be taken as the time at which notice of the said order of the 11th of November shall be considered as having been received at such port of shipment, shall be permitted to be exported from Gibraltar or Malta, except to some port or place in this kingdom; and all other articles of the growth, produce, and manufacture of this kingdom, or which shall have been imported into Gibraltar or Malta in a British ship, or from some port or place in this kingdom, together with the article of fish, however imported, may be exported to any ports or places in the Mediterranean or Portugal, under such license only as is hereinafter directed to be granted by the Governor of Gibraltar and Malta respectively.

And it is hereby further ordered, that licenses be granted by the Governors, Lieutenant Governors, or other persons having the chief civil command at Gibraltar or at Malta, respectively, but in His Majesty's name, to such person or persons as the said Governors, Lieutenant Governors, or persons having the chief civil command, shall think fit, allowing such person or persons to export from Gibraltar direct to any port in the Mediterranean, or to any port of Portugal, or to any port of Spain without the Mediterranean, not further north than Cape Finisterre, and from Malta direct to any port being within the Mediterranean, with any articles of the produce or manufacture of His Majesty's dominions, and any articles which shall have been imported into Gibraltar or Malta from this kingdom, to whomsoever such articles shall appear to belong, (not being naval or military stores,) in any vessel belonging to any country not at war with His Majesty, or in any vessel not exceeding one hundred tons burthen, and being unarmed, belonging to the country to which such vessel shall be cleared out and going; and also to import in any such vessel or vessels, as aforesaid, from any port within the Mediterranean, to Gibraltar or Malta, or from any port in Portugal or Spain, as aforesaid, to Gibraltar; such port and such destination respectively to be specified in such license, any articles of merchandise whatsoever, and to whomsoever the same may appear to belong; such articles to be specified in the bill of lading of such vessel, subject, however, to such further regulations and restrictions, with respect to all or any of the said articles so to be imported or exported, as may be inserted in the said licenses by the Governors, Lieutenant Governors, or other persons having the chief civil command at Gibraltar or Malta, for the time being, respectively, as to them shall from time to time seem fit and expedient.

And it is further ordered, that in every such license shall be inserted the names and residence of the person or persons to whom it shall be granted, the articles, and their quantities permitted to be exported, the name and description of the vessel, and of the master thereof, the port to which the vessel shall be allowed to go, which shall be some port not under actual blockade; and that no license so to be granted shall continue in force for longer than two months from its date, nor for more than one voyage; nor any such license be granted, or acknowledged to be valid if granted, to permit the clearance of any vessel to any port which shall be actually blockaded by any naval force of His Majesty or of his allies.

And it is further ordered, that the commanders of His Majesty's ships of war and privateers, and all other whom it may concern, shall suffer every such vessel sailing conformably to the permission given by this order, or having any license as aforesaid, to pass and repass direct between Gibraltar or Malta, and such port as shall be specified in the license, in such manner, and under such terms, regulations, and restrictions, as shall be expressed therein.

And it is further ordered, that, in case any vessel so sailing as aforesaid, for which any such license as aforesaid shall have been granted, and which shall be proceeding direct upon her said voyage, shall be detained and brought in for legal adjudication, such vessel, with her cargo, shall be forthwith released by the Court of Admiralty or Vice-Admiralty in which proceedings shall be commenced, upon proof being made that the parties had duly conformed to the terms, regulations, and restrictions of the said license; the proof of such conformity to lie upon the person or persons claiming the benefit of this order, or obtaining or using such licence, or claiming the benefit thereof.

And it is hereby further ordered, that no vessel belonging to any State on the coast of Barbary shall be prevented from sailing with any articles of the growth or produce of such State, from any port or place in such State, to any port or place in the Mediterranean or Portugal, such port or place not being actually blockaded by some naval force belonging to His Majesty or his allies, without being obliged to touch at Gibraltar or Malta.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in council.

Whereas His Majesty, by his order in council of the 11th of November instant, was pleased to order and declare that all trade in articles which are of the produce or manufacture of the countries and colonies mentioned in the said order, shall be deemed and considered to be unlawful, (except as is therein excepted;) His Majesty, by and with the advice of his privy council, is pleased to order and declare, and it is hereby ordered and declared, that nothing in the said order contained shall extend to subject to capture and confiscation any articles of the produce and manufacture of the said countries and colonies laden on board British ships, which would not have been subject to capture and confiscation if such order had not been made.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in council.

His Majesty, taking into consideration the circumstances under which Prussia and Lubeck have been compelled to shut their ports against British ships and goods, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all ships and goods belonging to Prussia which may have been seized subsequently to His Majesty's order of the nineteenth of November, one thousand eight hundred and six, and are now detained in the ports of this kingdom or elsewhere, and all ships and goods belonging to inhabitants of Lubeck which are so detained, shall be restored, upon being pronounced by the High Court of Admiralty, or any Court of Vice-Admiralty in which they have been or may be proceeded against, to belong to subjects and inhabitants of Prussia or Lubeck, and not otherwise liable to confiscation; and that such ships and goods shall be permitted to proceed to any neutral port, or to the port to which they respectively belong: and it is further ordered, that the ships and goods belonging to Prussia or Lubeck shall not, until further orders, be liable to detention, provided such ships and goods shall be trading to and from any port of this kingdom, or between neutral port and neutral port, or from any port of His Majesty's allies, and proceeding direct to the port specified in their respective clearances.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

At the court at the Queen's Palace, the 25th of November, 1807: Present, the King's Most Excellent Majesty in council.

His Majesty, taking into consideration the circumstances under which Portugal has been compelled to shut her ports against the ships and goods of His Majesty's subjects, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that all ships and goods belonging to Portugal, which have been and are now detained in the ports of this kingdom or elsewhere, shall be restored, upon being pronounced by the High Court of Admiralty, or by the Court of Vice-Admiralty in which proceedings may have been or shall be commenced, to belong to subjects and inhabitants of Portugal, and not otherwise liable to confiscation; and that the said ships and goods shall be permitted to proceed to any neutral port or to Portugal: and it is further ordered, that the ships and goods belonging to Portugal shall not, until further orders, be liable to detention; provided such ships and goods shall be trading to or from any port of this kingdom, or to and from Gibraltar or Malta, and proceeding direct to the port specified in their clearance, or between neutral port and neutral port, or between Portugal and the ports of her own colonies, or from any port of His Majesty's allies, and proceeding direct to the ports specified in their respective clearances; provided such ports shall not be at the time in a state of actual blockade: and it is further ordered, that the ships of Portugal shall not be considered as entitled, under any treaty between His Majesty and Portugal, to protect any goods laden therein which may be otherwise subject to confiscation.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

CIRCULAR.

FOREIGN OFFICE, *January 8, 1808.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to acquaint Mr. Pinkney that His Majesty has judged it expedient to establish the most rigorous blockade at the entrances of the ports of Carthagea, Cadiz, and St. Lucar, and of all the intermediate ports, situated and lying between the ports of Carthagea and St. Lucar. Mr. Pinkney is, therefore, requested to apprize the American consuls and merchants residing in England, that the entrances of all the ports above mentioned are, and must be, considered as being in a state of blockade; and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

GEORGE CANNING.

WM. PINKNEY, Esq., &c.

ANNO QUADRAGESIMO OCTAVO

GEORGH III. REGIS.

CAP. XXVI.

An act for granting to His Majesty, until the end of the next session of Parliament, duties of customs on the goods, wares, and merchandise therein enumerated, in furtherance of the provisions of certain orders in council. March 28, 1808.

MOST GRACIOUS SOVEREIGN:

Whereas measures which have been taken by Powers at war with your Majesty, prohibiting, in violation of the law of nations, all intercourse with this kingdom, and all trade in any articles of its growth or manufacture, have rendered it necessary for your Majesty to issue orders in council to counteract the disadvantages which were thereby imposed upon the trade of your Majesty's subjects, and to retaliate upon the enemy the evils which he intended to inflict upon this kingdom; and whereas it is expedient and necessary, in order effectually to accomplish the object of such orders, that duties of customs should be granted upon certain goods exported from Great Britain: we, your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom, in Parliament assembled, do most humbly beseech your Majesty: that it may be enacted:—

And be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, there shall be raised, levied, collected, and paid, unto His Majesty, his heirs, and successors, upon all goods, wares, and merchandise, enumerated or described in the tables A, B, and C, annexed to this act, exported from Great Britain, the several duties of customs, as the same are respectively described and set forth in figures in the said tables.

And be it further enacted, That the duties granted and imposed by this act, and made payable according to the weight, tale, gauge, measure, or value of any goods, wares, or merchandise charged with such duties, shall be charged and payable upon any greater or less weight, number, quantity, or value thereof than the weight, number, quantity or value particularly inserted, described, and set forth in the tables hereunto annexed, marked A, B, and C, in proportion to the actual weight, number, quantity, or value of such goods, wares, or merchandise.

And be it further enacted, That, where any goods, wares, and merchandise, which are allowed to be, or shall have been, warehoused or otherwise secured at the time of the importation thereof, without payment of the duties due thereon, shall be taken out, or entered inwards for home consumption, and the duties of customs and excise then due thereon shall have been paid, and the same shall afterwards be entered for exportation; then, and in every such case, the duties of customs by this act imposed shall be paid on the exportation of the said goods, wares, and merchandise, notwithstanding the payment of any drawbacks to which the exporter thereof may, in such case, under any law or laws then in force, be entitled.

And whereas, by an order in council, dated the twenty-fifth of November, one thousand eight hundred and seven, it was ordered and declared that information of a certain other order in council, of the eleventh of November, one thousand eight hundred and seven, should be taken and held to have been received in the places hereinafter mentioned, at the periods respectively assigned to them, namely: ports and places within the Baltic, on the twenty-first of December, one thousand eight hundred and seven; other ports and places to the northward of Amsterdam, on the eleventh of December, one thousand eight hundred and seven; from Amsterdam to Ushant, on the fourth of December, one thousand eight hundred and seven; from Ushant to Cape Finisterre, on the eighth of December, one thousand eight hundred and seven; from Cape Finisterre to Gibraltar, inclusive, on the thirteenth of December, one thousand eight hundred and seven; Madeira, the thirteenth of December, one thousand eight hundred and seven; ports and places within the Straits of Gibraltar to Sicily and Malta, and the west coasts of Italy, inclusive, on the 1st of January, one thousand eight hundred and eight; all other ports and places in the Mediterranean beyond Sicily and Malta, on the twentieth of January, one thousand eight hundred and eight; ports and places beyond the Dardanelles, on the first of February, one thousand eight hundred and eight; any part of the north and western coast of Africa, or the islands adjacent, except Madeira, on the eleventh of January, one thousand eight hundred and eight; the United States and British possessions in North America and the West Indies, on the twentieth of January, one thousand eight hundred and eight; Cape of Good Hope and the east coast of South America, on the first of March, one thousand eight hundred and eight; India, on the first of May, one thousand eight hundred and eight; China and the coast of South America, on the first of June, one thousand eight hundred and eight: *Be it therefore enacted,* That nothing in this act contained shall extend to prevent any vessel which shall have sailed from any such port or place before the period above specified as aforesaid, and which shall have been brought into or shall have come into any port in Great Britain under any warning given in pursuance of any of the said orders in council, from proceeding on her voyage to any port or place whatever, without entering or landing any part of her cargo in Great Britain, (except cotton wool, or yarn, or Jesuit's bark,) and without the payment of any duty granted by this act upon any part of the cargo (except cotton wool, or yarn, or Jesuit's bark;) *Provided, always,* That, if the port or place to which such vessel shall proceed shall belong to a country in amity with His Majesty, and from which the British flag is not excluded, such vessel shall, in that case, be permitted to proceed, without being compelled to land any part of her cargo, or to pay any duty imposed by this act, in respect of the same.

Provided always, and be it further enacted, That nothing in this act contained shall extend to charge with any of the duties granted by this act any goods, wares, or merchandise (except cotton wool, or yarn, and Jesuit's bark) imported into Great Britain in any vessel, under any license bearing date before the 11th day of November last, or in any vessel which shall have been cleared out from the port or place from which such goods, wares, or merchandise were imported before the period in this act specified, as to such port or place as the period at which the said orders in council shall be taken and held to have been received, in any cases in which the said goods, wares, or merchandise shall, upon their importation, have been or shall be warehoused for exportation only.

Provided always, and be it further enacted, That nothing in this act contained shall extend to charge with any of the duties granted by this act any goods, wares, or merchandise on the exportation from Great Britain, (except cotton wool, or yarn, or Jesuit's bark,) which shall have been or shall be imported into Great Britain prior to the first day of June, one thousand eight hundred and eight, from any free port in any of His Majesty's plantations in the West Indies, or any other port or place, under any license from the Governor of any of His Majesty's plantations duly authorized for that purpose, bearing date prior to the twenty-first day of January last, in case such goods, wares, or merchandise, shall, on their importation into Great Britain, have been or shall be warehoused for exportation only.

Provided also, and be it further enacted, That no goods, wares, or merchandise described in the said tables A and B, of the growth and produce of St. Domingo, which shall have been or shall be imported into Great Bri-

tain by license, in return for goods exported to the said island, bearing date prior to the fifth of February, one thousand eight hundred and eight, and which shall have been or shall be warehoused for exportation, shall be liable, on the exportation thereof, to any of the duties of customs granted by this act; and all such goods, wares, and merchandise, the growth and produce of St. Domingo, which shall have been or shall be imported into Great Britain under any license bearing date subsequently to the said fifth day of February, shall, upon the exportation thereof from Great Britain, be chargeable with and subject and liable to one half part only of the duties of customs granted by this act upon goods, wares, and merchandise of the like description, upon their exportation from Great Britain.

And be it further enacted, That all goods, wares, or merchandise, which have been or may be condemned as prize, shall, on the exportation thereof from Great Britain, be charged with and subject and liable to the duties by this act imposed on the exportation of the like goods, wares, or merchandise respectively, any law, custom, or usage to the contrary, notwithstanding: *Provided always,* That nothing in this act contained shall extend to charge with any of the duties granted by this act, any goods, wares, or merchandise (except cotton wool, or yarn, or Jesuit's bark,) which shall have been or shall be brought into any port in Great Britain for adjudication before the passing of this act, whether the same shall have been or shall be subsequently restored or condemned as prize.

And be it further enacted, That the duties of customs described and set forth in figures in the said tables hereunto annexed, marked A, B, and C, on the several goods, wares, and merchandise specified therein, shall be paid to the proper officer authorized to receive the duties of customs on goods, wares, and merchandise imported into Great Britain, and may and shall respectively be managed, ascertained, raised, levied, collected, answered, paid, and recovered, except where any alteration is expressly made by this act, in such and the like manner, and by the same means, ways, or methods, as former duties of customs upon goods, wares, or merchandise, in general, and also by any such special means, ways, or methods, respectively, as former duties of customs upon goods, wares, or merchandise of the same sorts or kinds were or might be managed, ascertained, raised, levied, collected, answered, paid, and recovered; and the goods, wares, or merchandise whereon duties of customs are by this act charged, as the same are respectively inserted, described, and set forth in the said tables, upon exportation thereof from Great Britain, shall be, and the same are hereby made subject and liable to all and every the conditions, regulations, securities, rules, restrictions, seizures and forfeitures, to which goods, wares, or merchandise, in general, and also all and every the special conditions, rules, regulations, restrictions, seizures, sales, and forfeitures, respectively, to which the like goods, wares, or merchandise were subject and liable by any act or acts of Parliament in force on and immediately before the passing of this act, respecting the revenue of customs, except where any alteration is expressly made by this act; and all pains, penalties, fines, and forfeitures, of whatever nature or kind the same may be, as well pains of death as others, for any offence whatever committed against or in breach of any act or acts of Parliament in force on or immediately before the passing of this act, made for securing the revenue of customs, or for the regulation or improvement thereof, and the several clauses, powers, provisoes, and directions contained in any such act or acts, shall (unless where expressly altered by this act) extend to, and be respectively applied, practised, and put in execution, in respect of the several duties of customs hereby charged, in as full and ample a manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisoes, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act, and made part thereof.

And be it further enacted, That in all cases where, by the said tables, the duties of custom by this act imposed upon the exportation of goods, wares, and merchandise from Great Britain, are charged, not according to the weight, tale, gauge, or measure, but according to the value thereof; such value shall be considered as the same shall be at the port of exportation, without any deduction or abatement whatever; and such value shall be ascertained by the declaration of the exporter or proprietor of such goods, wares, or merchandise, or his known agent, in the manner and form, and under all the rules, regulations, and restrictions, and subject to the same forfeitures and penalties, as are prescribed and directed for ascertaining and collecting the duties to be paid upon goods, wares, and merchandise, according to the value thereof, by an act passed in the twenty-seventh year of the reign of his present Majesty, entitled, "An act for repealing the several duties of customs and excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the public revenue, for permitting the importation of certain goods, wares, and merchandise, the produce or manufacture of the European dominions of the French King, into this kingdom, and for applying certain unclaimed moneys remaining in the exchequer for the payment of annuities on lives to the reduction of the national debt;" and in case any goods, wares, or merchandise, chargeable with any such duty by this act, according to value, shall not be valued according to the true price or value thereof, and according to the true intent and meaning of this act, then it shall be lawful for the proper officer or officers of the customs to cause the same to be detained; and the said goods, wares, and merchandise shall be dealt with, and the proper officers of the customs shall proceed, with relation to the said goods, wares, and merchandise so detained, in every respect in the manner prescribed in such case by the said recited act.

And be it further enacted, That in case any goods, wares, or merchandise, upon which duties of custom are hereby imposed, shall be detained by any officer of the customs, on account of the same not being valued according to the true and real value thereof, and according to the true intent and meaning of this act, it shall be lawful for the commissioners of His Majesty's customs in England and Scotland, respectively, for the time being, or any three or more of them, respectively, upon proof being made to their satisfaction that no fraud was intended, to direct the entry to be amended, upon such terms and conditions as, under the circumstances of the case, shall appear to the said commissioners of the customs in England and Scotland, respectively, to be reasonable, and as they shall think fit to direct: *Provided always,* that, if the importer, exporter, or proprietor of such goods, wares, or merchandise, shall accept the terms or conditions prescribed by the said commissioners of the customs, respectively, such importer, exporter, or proprietor shall not have or be entitled to any recompense or damage on account of the detention of such goods, wares, or merchandise, or have or maintain any action whatever for the same; any law, custom, or usage to the contrary, notwithstanding.

And be it further enacted, That such of the duties of customs, by this act imposed, as shall arise in that part of Great Britain called England, shall be under the management of the commissioners of the customs in England for the time being; and such thereof as shall arise in that part of Great Britain called Scotland, shall be under the management of the commissioners of the customs in Scotland for the time being.

And be it further enacted, That in case the whole or any part of the cargo of any vessel, which shall arrive in any port of Great Britain, shall consist of any goods, wares, or merchandise whatever, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, such vessel shall forthwith proceed to the port of London, where all such goods, wares, and merchandise shall be landed, lodged, and secured, under His Majesty's lock, in some of the warehouses belonging to the said united company, at the expense of the proprietors of such goods, wares, and mer-

chandise, and be there examined, and an account taken thereof by the proper officers of the customs and of the excise, in cases where that revenue is concerned, and such goods, wares, and merchandise shall remain so secured until the exportation thereof; and, before any such goods, wares, and merchandise shall be taken out of such warehouse for the purpose of exportation, the several duties of customs, as the same are described and set forth in figures in the table hereunto annexed, marked C, shall be first paid to the proper officer of the customs; and in those cases in the said table, marked C, where the duties to be paid on the exportation of any such goods, wares, and merchandise shall not be charged according to the weight, tale, gauge, or measure, but according to the value thereof, such value shall be ascertained by the declaration of the proprietor, or his known agent, in the manner and form, and under the rules, regulations, and restrictions, and subject to the same forfeitures and penalties as are prescribed and imposed for ascertaining and collecting duties to be paid according to the value thereof, by the said recited act passed in the twenty-seventh year of his present Majesty; and, in case any such goods, wares, or merchandise shall not be valued according to the true and real value thereof, then it shall be lawful for the proper officer or officers of the customs to cause the same to be detained, and the said goods, wares, and merchandise shall be dealt with, and the proper officers of the customs shall proceed, in the manner prescribed in such case by the said recited act: *Provided always*, That such goods, wares, or merchandise so detained (cotton wool excepted) shall be sold only for the purpose of being exported from Great Britain, any law, custom, or usage to the contrary notwithstanding: *Provided, also*, That, in case any part of the cargo of any such ship or vessel, so consisting in part of East Indian goods, wares, or merchandise, as aforesaid, shall consist of goods, wares, or merchandise, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, such last mentioned goods, wares, and merchandise shall be duly entered, either to be secured or lodged in warehouses, according to the rules, regulations, and restrictions of an act passed in the forty-third year of his present Majesty, entitled "An act for permitting certain goods imported into Great Britain to be secured in warehouse without payment of duty;" and of a certain other act, passed in the forty-fifth year of his present Majesty, entitled "An act to authorize the Lords Commissioners of the Treasury to permit certain articles to be warehoused in different ports in Great Britain, upon giving security for the payment of duties upon the articles therein mentioned;" and of a certain other act, passed in the forty-sixth year of his said Majesty, entitled "An act to extend the provisions of an act made in the forty-third year of his present Majesty, for permitting certain articles to be warehoused in Great Britain, to other articles not therein mentioned, and to alter the condition of the bond directed to be given by an act of the twenty-fourth year of his present Majesty, by the masters and owners of vessels and boats licensed by the Lords of the Admiralty, provided such goods, wares, and merchandise, by law, may be so lodged or secured; otherwise the full duties of customs and of excise, (in cases where any such duties are payable on such goods, wares, and merchandise) due thereon, shall be paid to the proper officers of the customs and excise; and all such goods, wares, and merchandise, so brought into the port of London, shall, on the exportation thereof, be charged with the duties due and payable by this act on any such goods, wares, and merchandise, respectively, as the same are described and set forth in the tables hereunto annexed, marked A and B, as the case may be."

Provided always, and be it further enacted, That if it shall appear to the satisfaction of the collector and comptroller of the customs of any port in Great Britain, by the report of any vessel which shall arrive at such port with any cargo, part whereof shall consist of goods, wares, or merchandise of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, that such goods, wares, and merchandise do not exceed in value one-fourth part of the whole value of the cargo of such vessel, then, and in such case, it shall be lawful for the owner, consignee, or captain of such vessel, after giving such security as shall be directed by the commissioners of the customs in England and Scotland respectively, or any three of them, for the due conveyance of such goods, wares, and merchandise as aforesaid to the port of London, there to be warehoused as aforesaid, and not before to land the cargo of such vessel at the port of her arrival, except such goods, wares, and merchandise as aforesaid, and either to cause such goods, wares, and merchandise to be conveyed in the same ship to the port of London, or to cause the same to be transhipped, in order to be conveyed to the said port, upon the said security, and under such regulations and restrictions for securing the conveying the same to the said port, as shall be directed by the commissioners of the customs in England and Scotland respectively.

Provided always, and be it further enacted, That the proprietor or proprietors of any goods, wares, or merchandise, brought into Great Britain, may, if he or they shall be so disposed, instead of paying the full duties of customs and excise due and payable thereon, secure or lodge in warehouses, approved by the commissioners of the customs of England or Scotland, respectively, without payment of duty in the first instance, any goods, wares, and merchandise, which, by virtue of any law in force at the time of passing this act, are allowed to be so secured and warehoused, under the conditions and regulations of the said recited acts passed in the forty-third, forty-fifth, and forty-sixth years of his present Majesty, respectively; and all such goods, wares, and merchandise, so warehoused, on which the full duties of customs and excise shall have been paid, shall, on the exportation thereof, be subject and liable to, and be charged with the duties of customs imposed by this act, as inserted and set forth in the tables hereunto annexed, as the case may be.

Provided always, and be it further enacted, That it shall be lawful for the commissioners of customs, or any three or more of them, upon the request of the owner, proprietor, or consignee of any goods, wares, or merchandise warehoused, to destroy the same, in such manner as they shall respectively direct, without payment of duty, and upon payment only of any charges and expenses due thereon.

And be it further enacted, That the importers, proprietors, or consignees of any goods, wares, or merchandises, which shall have been lodged in warehouses, or otherwise secured, according to the directions of the said recited act passed in the forty-third year of his present Majesty, or any other act or acts of Parliament, by virtue and under the authority of which any such goods, wares, or merchandise shall have been so lodged or secured, shall, within fifteen calendar months, to be computed from the day on which such importers, proprietors, or consignees of such goods, wares, or merchandise, shall have made their first entry thereof, clear and take from and out of such warehouses or places, respectively, all such goods, wares, and merchandise, either for the purpose of being exported according to the directions of this act, on payment of the duties hereby imposed, or to be used or consumed in Great Britain: *Provided always*, That such goods, wares, and merchandise may legally be taken out for that purpose, on payment of the full duties of customs and excise that are or may be due or payable thereon at the time the same are so taken out; and in case any such importers, proprietors, or consignees, shall fail or neglect so to do, it shall be lawful for the commissioners of the customs in England or Scotland, respectively, to cause all such goods, wares, or merchandise to be publicly sold or exposed to sale; and, after such sale, the produce thereof shall first be applied to or towards the payment of the freight, primage, and charges of warehouse room, and other charges that shall arise thereon, next to the duties of customs and excise, and the overplus (if any) shall be paid the proprietor, or other persons authorized to receive the same: *Provided always*, That in case any

goods, wares, or merchandise, so remaining and directed to be sold, shall be of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, or any goods, wares, and merchandise which shall be prohibited to be used or consumed in Great Britain, then, and in such case, all such goods, wares, or merchandise shall be sold only for the purpose of being exported, and not on any pretence whatever to be used or consumed in Great Britain: *Provided*, That no such goods, wares, or merchandise shall be so sold, unless a price can be obtained for the same equal, at least, to the full amount of all duties of customs and excise, charged and chargeable thereon, together with the expenses; but if such price cannot be obtained, then, and in such case, all such goods, wares, or merchandise shall be effectually destroyed by and in the presence of the proper officers of the customs, and also the officers of the excise, in case any duties of excise are payable thereon, who are hereby respectively authorized and required to destroy the same accordingly; and the proprietor or owner of such goods, wares, and merchandise, shall have no claim, either in law or equity, to the value of such goods, wares, or merchandise, or any part thereof, so destroyed as aforesaid, any law, custom, or usage to the contrary, notwithstanding: *Provided always*, That all such goods, wares, and merchandise may be re-exported to the country from which they were brought, or to the country from which the vessel in which such goods, wares, or merchandise were imported shall belong, or shall have belonged, without payment of the duties imposed by this act, and upon payment only of such warehouse or port duties as shall have become due thereon: *Provided*, That the British flag shall not, at the time of such re-exportation, be excluded from such country respectively.

Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duties imposed by this act on any goods, wares, or merchandise whatever that shall be exported from Great Britain to that part of the United Kingdom called Ireland, or on any goods, wares, or merchandise, the growth, produce, or manufacture of Ireland, having been imported from thence directly to Great Britain, on the exportation thereof to any country whatever.

Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duties by this act imposed on the exportation of any flour, or meal, or articles not being either in the whole or in any part manufactured, being of the growth or produce of any State in Europe or America in amity with His Majesty, and imported in any ship belonging to such State, or in any British ship navigated according to law directly from any such State (except coffee, sugar, pimento, cocoa-nuts, hides, tallow, oil, and cotton wool, or yarn, or Jesuit's bark.)

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties imposed by this act any goods, wares, or merchandise, of the growth, produce, or manufacture of any British colony, plantation, or settlement in Africa or America, which shall have been imported directly from such colony, plantation, or settlement, respectively, and exported to any port or place whatever.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties imposed by this act any goods, wares, or merchandise that shall have been imported by the United Company of Merchants of England trading to the East Indies, or by any subjects of His Majesty trading within the limits of the charter of the said company, with their license, upon the exportation of such goods, wares, or merchandise from Great Britain to any port or places whatever.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge the duty by this act imposed on any wine, spirits, or tobacco, which shall be shipped for the use of His Majesty's army or navy; but such wine, spirits, or tobacco, shall be subject and liable to all and every the rules, regulations, and conditions, limitations, securities, penalties, and forfeitures, to which such articles so shipped would have been subject and liable if this act had not been made.

Provided also, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend, to charge with the duties by this act imposed any goods, wares, or merchandise, exported from Great Britain to the Isle of Man, by virtue and under the authority of any license which the Commissioners of His Majesty's Customs in England or Scotland, or any three or more of them, respectively, are, or may be, by law, authorized and empowered to grant.

Provided always, and be it further enacted, That the duties by this act imposed on goods, wares, and merchandise, exported from Great Britain, shall not be charged, or payable on any goods, wares, or merchandise, not manufactured, either in the whole or in part, nor upon any wine, or any article of provision, (spirits excepted) exported to any British colony, plantation, or settlement, in Africa or America, or to any British settlement within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, any thing in this act to the contrary notwithstanding.

And be it further enacted, That no ship or vessel of the United States of America which shall enter any port in Great Britain or Ireland, in consequence of her having been warned not to proceed to a blockaded port under His Majesty's order in council of the eleventh of November, one thousand eight hundred and seven, shall be liable to be charged with the duty of two shillings a ton of the burthen of any ship or vessel belonging to the inhabitants of the said United States, imposed by an act of the thirty-seventh year of His Majesty's reign, which has been continued and revived by several subsequent acts.

Provided always, and be it further enacted, That nothing herein contained, shall extend to affect or take away any of the rights or privileges of the West India Dock Company, of the London Dock Company, or of the East India Dock Company.

And be it further enacted, That the duties granted and imposed by this act shall continue in force until the end of the next session of Parliament, unless His Majesty, by his order in council, shall think fit to suspend or reduce the same, or any part thereof.

Provided always, and be it further enacted, That it shall be lawful for His Majesty, at any time, by order in council, to suspend the operation of this act as to any duties, or proportion or part of any duties, granted by this act, in respect of any country for the time being in amity with His Majesty, and to allow the exportation to any such country so in amity with His Majesty as aforesaid, of any goods, wares, and merchandise, made subject by this act to any duties on exportation, without the payment of such duties, upon such terms and conditions, and subject to such restrictions, as to His Majesty may seem fit.

Provided always, and be it further enacted, That nothing in this act contained shall extend, or be construed to extend to prevent His Majesty from prohibiting the exportation of any articles, matters, or things, to any country or place from which the British flag is excluded, in any case in which it would have been lawful for His Majesty to prohibit such exportation if this act had not passed.

Provided always, and be it further enacted, That the duties imposed by an act, passed in the forty-third year of his present Majesty's reign, entitled An act for granting to His Majesty, during the present war, and until the ratification of a definitive treaty of peace, additional duties on the importation and exportation of certain goods, wares, and merchandise, and on the tonnage of ships and vessels in Great Britain; on certain goods, wares, and merchan-

dise therein enumerated and described, and which, by another act passed in the forty-third year of his present Majesty's reign entitled An act for permitting certain goods imported into Great Britain to be secured in warehouse without payment of duty, were directed to be paid on all such goods, wares, and merchandise, sugar excepted, which should be exported from the warehouses or places in which such goods, wares, and merchandise had been lodged or secured, under the directions of the said last recited act, shall not be due or payable on any such goods, wares, and merchandise so exported, on which other duties are charged, according to the table marked A, hereunto annexed; but that the duties on any such goods, wares, and merchandise, as set forth in the said table, shall, during the continuance of such duties, be instead and in lieu of the duties charged and imposed thereon by the said two last recited acts passed in the forty-third year of his present Majesty's reign.

And be it further enacted, That all the moneys arising from the duties of custom by this act imposed (the necessary charge of raising and accounting for the same excepted,) shall, from time to time, be paid into the receipt of His Majesty's exchequer at Westminster, distinctly and apart from all other branches of the public revenue; and that there shall be provided and kept in the office of the auditor of the said receipt of exchequer a book, or books, in which all the moneys arising from the said duties, and paid into the said receipt, as aforesaid, shall be entered separate and apart from all other moneys paid and payable to His Majesty, his heirs and successors, upon any account whatever; and the said moneys paid in as aforesaid, into the receipt of His Majesty's exchequer, shall from time to time, as the same shall be paid into the said receipt, be issued and applied to such services as shall then have been voted by the Commons of the United Kingdom of Great Britain and Ireland in this present session of Parliament, for the service of the year one thousand eight hundred and eight, or shall be voted by the said Commons for the service of any subsequent year.

And be it further enacted, That if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this act, or of any order in council referred to in this act, such action or suit shall be commenced within three calendar months next after the fact committed, and not afterwards, and shall be laid in the county or place where the cause of complaint did arise, and not elsewhere; and the defendant or defendants in every such action or suit may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant or defendants in any such action or suit, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their action or suit after the defendant or defendants shall have appeared, or if, upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same, as any defendant has in other cases to recover costs by law.

And be it further enacted, That this act may be varied, altered, or repealed, by any act or acts to be made in this present session of Parliament.

TABLES TO WHICH THIS ACT REFERS.

A.

A table of duties of customs, payable on the exportation of certain foreign goods, wares, and merchandise, therein enumerated or described, not being imported by the United Company of Merchants of England trading to the East Indies, (which, on importation, are allowed to be secured under the regulations of 43 Geo. III. cap. 132; 45 Geo. III. cap. 87; and 46 Geo. III. cap. 137, without payment of the duties due thereon,) and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Articles.	Duty.	Articles.	Duty.
	£. s. d.		£. s. d.
Arabic gum.—See Gum.		Molasses, the cwt.	0 5 0
Barilla, the cwt.	0 10 0	Oak timber.—See Timber, in Wood.	
Bark, viz: Jesuit's bark, or Cortex Peruvianus, the pound,	0 6 0	Oars.—See Wood.	
Bowsprits.—See Masts, in Wood.		Oil, viz: ordinary oil of olives, the ton, containing 252 gallons,	10 10 0
Brandy.—See Spirits.		Salad oil, the gallon,	0 1 0
Buffalo hides.—See Hides.		Ox hides.—See Hides.	
Bull hides.—See Hides.		Pimento, the pound,	0 0 2
Cochineal, the pound,	0 7 0	Pitch, the last, containing 12 barrels, each barrel not exceeding 31½ gallons,	0 4 4
Cocoa nuts, the cwt.	1 0 0	Prize goods, viz: Goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, and not being particularly enumerated or charged with duty in this table, for every £100 of the value thereof,	20 0 0
Coffee, the cwt.	1 8 0	Prohibited goods, viz: Goods, wares, or merchandise, not being of the growth, produce, or manufacture, of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, for every £100 of the value thereof,	20 0 0
Cortex Peruvianus.—See Bark.		Quicksilver, the pound,	0 1 0
Cotton wool.—See Wool.		Raisins, viz: Belvidere raisins, the cwt.	0 4 6
Cotton yarn.—See Yarn.		Denia raisins, the cwt.	0 4 0
Cow hides.—See Hides.		Faro raisins, the cwt.	0 4 6
Currants, the cwt.	0 9 0	Lexia raisins, the cwt.	0 4 6
Denia raisins.—See Raisins.		Lipari raisins, the cwt.	0 4 6
Faro raisins.—See Raisins.		Smyrna raisins, the cwt.	0 5 0
Figs, the cwt.	0 7 0	of the sun, the cwt.	0 9 4
Fir timber.—See Timber, in Wood.		not otherwise enumerated or described, the cwt.	0 4 0
Geneva.—See Spirits.			
Ginger, the cwt.	0 7 0		
Gum, viz: Arabic, the cwt.	0 10 0		
Senega, the cwt.	0 10 0		
Hemp, rough, or undressed, the cwt.	0 15 0		
Hides, viz: Buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide,	0 3 0		
Jalap, the pound,	0 0 6		
Jesuit's bark.—See Bark.			
Indigo, the pound,	0 2 0		
Iron, in bars, the ton, containing 20 cwt.	3 0 0		
Kelp, the ton, containing 20 cwt.	4 0 0		
Lexia raisins.—See Raisins.			
Lipari raisins.—See Raisins.			
Mahogany.—See Wood.			
Manna, the pound,	0 0 6		
Masts.—See Wood.			

Table A.—Continued.

Articles.	Duty.	Articles.	Duty.
	£. s. d.		£. s. d.
Raw silk.—See Silk.		Turpentine, common, the cwt. - -	0 3 6
Rhubarb, the pound, - - -	0 2 0	Waste silk.—See Silk.	
Rice, the cwt. - - -	0 2 0	Wine, of all sorts, the ton, containing 252 gallons, - - -	6 0 0
Rosin, the cwt. - - -	0 0 9	Wood, viz: mahogany, the ton, containing 20 cwt. - - -	1 0 0
Rum.—See Spirits.		masts, yards, & bowsprits, viz: 6 inches in diameter, and under 8 inches the piece, - - -	0 5 0
Saffron, the pound, - - -	0 3 0	8 inches in diameter, and under 12 inch. the piece, - - -	0 10 0
Salad oil.—See Oil.		12 inches in diameter, or upwards, the load, containing 50 cubic feet, - - -	1 7 0
Senna, the pound, - - -	0 0 6	oars, the 120, - - -	2 0 0
Silk, viz: Raw silk, the pound, - - -	0 2 6	timber of all sorts, the load, containing 50 cubic feet, - - -	1 7 0
thrown silk, the pound, - - -	0 4 0	Wool, viz: cotton wool of all sorts, the lb. - - -	0 0 9
waste silk, the pound, - - -	0 0 6	Yards.—See Masts, in Wood.	
Smalts, the pound, - - -	0 0 6	Yarn, viz: cotton yarn, the pound, - - -	0 2 0
Smyrna raisins.—See Raisins.		All other goods, wares, and merchandise, having been, or which are allowed to be, secured under the regulations of the 43 Geo. III. cap. 132, 45 Geo. III. cap. 87, and 46 Geo. III. cap. 137, for every £100 of the produce or amount of the duties of customs, chargeable on the importation thereof, by 43 Geo. III. cap. 68, - - -	40 0 0
Spirits, viz: Brandy, single, the gallon, - - -	0 0 8		
above proof, the gallon, - - -	0 1 4		
Geneva, single, the gallon, - - -	0 0 8		
above proof, the gallon, - - -	0 1 4		
Rum, single, the gallon, - - -	0 0 8		
above proof, the gallon, - - -	0 1 4		
Of any other kind, single, the gallon, - - -	0 0 8		
—above proof, the gallon, - - -	0 1 4		
Sugar, viz: Brown or Muscovado, the cwt. - - -	0 10 0		
white or clayed, the cwt. - - -	0 14 0		
Tallow, the cwt. - - -	0 7 0		
Tar, the last, containing 12 barrels; each barrel not exceeding 3½ gallons, - - -	0 4 4		
Timber.—See Wood.			
Tobacco, the pound, - - -	0 0 1½		

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

B.

A table of duties of customs payable on the exportation of certain foreign goods, wares, and merchandise, therein enumerated or described, (not being allowed to be secured under the regulations of the 43 Geo. III. cap. 132; 45 Geo. III. cap. 87; and 46 Geo. III. cap. 137, without payment of the duties due thereon,) not having been imported by the United Company of Merchants of England trading to the East Indies, and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Articles.	Duty.	Articles.	Duty.
	£. s. d.		£. s. d.
Anchors, for every £100 of the value, - - -	40 0 0	Indian corn, or maize.—See Corn.	
Annatto, the cwt. - - -	2 8 4	Iron, viz: pig iron, the ton, containing 20 cwt. - - -	1 10 0
Argol, the cwt. - - -	0 5 0	Isinglass, the cwt. - - -	5 0 0
Ashes, viz: pot and pearl ashes, the cwt. - - -	0 10 0	Lemons, the 1000, - - -	1 0 0
Bark, viz: oak bark, the cwt. - - -	0 2 6	Linseed.—See Seed.	
Barley.—See Corn.		Madder, viz: mull, the cwt. - - -	0 1 3
Beans.—See Corn.		root, the cwt. - - -	0 12 0
Beef, salted, the cwt. - - -	0 15 0	of any other sort, the cwt. - - -	0 10 0
Beer or bigg.—See Corn.		Oak bark.—See Bark.	
Bread or biscuit, the cwt. - - -	0 4 0	Oakum, the cwt. - - -	0 4 0
Butter, the cwt. - - -	1 0 0	Oatmeal.—See Corn.	
Cables, the cwt. - - -	0 18 0	Oats.—See Corn.	
Cassia lignea, the pound, - - -	0 6 0	Oils, viz: seed oil of all sorts, the ton, containing 252 gallons, - - -	10 10 0
Cheese, the cwt. - - -	0 15 0	Oranges, the 1000, - - -	1 0 0
Cochineal dust, the pound, - - -	0 3 6	Peas.—See Corn.	
Copper, viz: copper in bricks, rose copper, cast copper, and copper in plates, the cwt. - - -	2 0 0	Pig iron.—See Iron.	
Cordage, the cwt. - - -	0 18 0	Pork, the cwt. - - -	0 17 6
Corn, viz: wheat, the quarter, - - -	0 10 0	Prize goods, viz: goods, wares, and merchandise, taken and condemned as prize, not being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East-Indies, and not being particularly enumerated or charged with duty in this table—for every £100 of the value thereof, - - -	20 0 0
rye, the quarter, - - -	0 5 0	Rye.—See Corn.	
pease, the quarter, - - -	0 5 0	Safflower, the cwt. - - -	1 0 0
beans, the quarter, - - -	0 5 0	Salt, the bushel, containing 56 pounds, - - -	0 2 0
barley, the quarter, - - -	0 5 0	Saltpetre, the cwt. - - -	1 8 0
beer or bigg, the quarter, - - -	0 5 0	Seed, viz: linseed or flax seed, the bushel, - - -	0 1 6
oats, the quarter, - - -	0 5 0	Seed oil.—See Oil.	
wheatmeal and flour, the cwt. - - -	0 5 0	Spanish wool.—See Wool.	
Indian corn, or maize, the quarter, - - -	0 5 0	Tow, the cwt. - - -	0 5 0
oatmeal, the boll, containing 140 pounds avoirdupoise, or 128 pounds Scotch troy, - - -	0 5 0		
Fish, viz: stock fish, the 120, - - -	0 2 6		
not otherwise enumerated or described, the cwt. - - -	0 4 0		
Flax, rough or undressed, the cwt. - - -	0 15 0		
Flax seed or linseed.—See Seed.			
Galls, the cwt. - - -	1 0 0		
Granilla, the pound, - - -	0 5 0		

Table B.—Continued.

Articles.	Duty.	Articles.	Duty.
	£ s. d.		£ s. d.
Valonia, the cwt.	0 5 0	Wheatmeal and flour.—See Corn.	
Verdigris, viz: common, the pound,	0 0 6	Wool, viz: Spanish wool, the cwt.	5 0 0
crystallized, the pound,	0 1 0	Yarn, viz: raw linen yarn made of flax, the cwt.	0 10 0
Wheat.—See Corn.			

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

C.

A table of duties of customs payable on the exportation of goods, wares, and merchandise, being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, not having been imported by the said company, and which shall be exported from Great Britain, except as is provided in the act to which this table is annexed.

Articles.	Duty.	Articles.	Duty.
	£ s. d.		£ s. d.
Annatto, the cwt.	4 0 0	Oil, viz: of mace, the ounce,	0 5 0
Arabic gum.—See Gum.		of nutmegs, the ounce,	0 4 0
Arrack.—See Spirits.		Ox hides.—See Hides.	
Bandanna handkerchiefs.—See Handkerchiefs.		Pepper, the pound,	0 0 3
Barilla, the cwt.	0 8 0	Prize goods, viz: goods, wares, and merchandise, taken and condemned as prize, being of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, and not particularly enumerated or charged with duty in this table, for every £100 of the value thereof,	20 0 0
Bark, viz: Jesuits' bark, or Cortex Peruvianus, the pound,	0 6 0	Quicksilver, the pound,	0 1 0
Brandy.—See Spirits.		Raw silk.—See Silk.	
Buffalo hides.—See Hides.		Rhubarb, the pound,	0 2 0
Bull hides.—See Hides.		Rice, the cwt.	0 2 0
Calicoes, viz: white, whether plain, flowered, or stitched, for every £100 of the value,	25 0 0	Rum.—See Spirits.	
printed, painted, stained, or dyed, for every £100 of the value,	25 0 0	Safflower, the cwt.	1 7 0
Cassia lignea, the pound,	0 6 0	Saffron, the pound,	0 3 0
China ware, or earthen ware, for every £100 of the value,	25 0 0	Saltpetre, the cwt.	1 8 0
Cinnamon, the pound,	0 6 0	Senna, the pound,	0 0 6
Cloves, the pound,	0 3 0	Senega gum.—See Gum.	
Cochineal, the pound,	0 7 0	Silk, viz: handkerchiefs.—See Handk'chiefs.	
Cochineal dust, the pound,	0 3 6	raw silk, the pound,	0 2 6
Cocoa nuts, the cwt.	1 0 0	waste silk, the pound,	0 0 6
Coffee, the cwt.	1 8 0	Spirits, viz: arrack, single, the gallon,	0 1 0
Copper, viz: copper in bricks, rose copper, cast copper, and copper in plates, the cwt.	2 0 0	arrack, double, the gallon,	0 2 0
Cortex Peruvianus.—See Jesuits' Bark in Bark.		brandy, single, the gallon,	0 0 8
Cotton manufactures, not otherwise enumerated or described, for every £100 of the value,	25 0 0	brandy, double, the gallon,	0 1 4
Cotton wool.—See Wool.		rum, single, the gallon,	0 0 8
Cotton Yarn.—See Yarn.		rum, double, the gallon,	0 1 4
Cow hides.—See Hides.		of any other kind, single, the gallon,	0 0 8
Dimity, viz: plain white dimity, for every £100 of the value,	25 0 0	of any other kind, double, the gallon,	0 1 4
Earthenware.—See China ware.		Sugar, viz: brown or Muscovado, the cwt.	0 10 0
Flax, rough or undressed, the cwt.	0 10 0	white or clayed, the cwt.	0 14 0
Galls, the cwt.	1 5 0	Tea, viz: black, the pound,	0 1 0
Ginger, the cwt.	0 7 0	green, the pound,	0 2 0
Granilla, the pound,	0 5 0	Tobacco, the pound,	0 0 1½
Gum, viz: Arabic, the cwt.	0 10 0	Waste silk.—See Silk.	
Senega, the cwt.	0 10 0	Wool, viz: cotton wool, the pound,	0 0 9
Handkerchiefs of silk, printed, painted, stained, or dyed, each,	0 1 6	Yarn, viz: cotton yarn, the pound,	0 2 0
Hemp, rough or undressed, or any other vegetable substance of the nature and quality of undressed hemp, and applicable to the same purposes, the cwt.	0 15 0	Goods, wares, or merchandise, not particularly enumerated or described in this table, being prohibited to be worn, used, or consumed in Great Britain, for every £100 of the value,	25 0 0
Hides, viz: buffalo, bull, cow, or ox hides, not tanned, tawed, or in any way dressed, the hide,	0 3 0	All goods, wares, and merchandise, of the growth, produce, or manufacture of any country or place within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, not particularly enumerated or described in this table, and not having been imported by the said company, for every £100 of the produce and amount of those duties of customs imposed by the 43d Geo. III. cap. 68, on such goods, wares, or merchandise, respectively, when imported by the said company, which are due and payable when the same are taken out of the warehouse for the purpose of being used or consumed in Great Britain,	40 0 0
Jesuits' bark.—See Bark.			
Indigo, the pound,	0 2 0		
Mace, the pound,	0 8 0		
Madder root, the cwt.	0 15 0		
Manna, the pound,	0 0 6		
Molasses, the cwt.	0 5 0		
Muslins, plain, for every £100 of the value,	25 0 0		
Nankeen cloths, for every £100 of the value,	25 0 0		
Nutmegs, the pound,	0 5 0		
Oil, viz: of cinnamon, the ounce,	0 2 0		
of cloves, the ounce,	0 2 0		

For the several exemptions from the duties charged in this table, whether relating to goods exported, or to countries or places to which goods shall be exported, see the act to which this table is annexed.

GEORGE R.

Instructions to the commanders of our ships of war and privateers. Given at our court at Windsor, the 11th day of April, 1808, in the forty-eighth year of our reign.

Our will and pleasure is, that you do not interrupt any neutral vessel laden with lumber and provisions, and going to any of our colonies, islands, or settlements, in the West Indies or South America, to whomsoever the property may appear to belong, and notwithstanding such vessel may not have regular clearances and documents on board; and in case any vessel shall be met with, and being on her due course to the alleged port of destination, an endorsement shall be made on one or more of the principal papers of such vessels, specifying the destination alleged, and the place where the vessel was so visited. And in case any vessel so laden shall arrive and deliver her cargo at any of our colonies, islands, or settlements aforesaid, such vessel shall be permitted to receive her freight, and to depart, either in ballast, or with any goods that may be legally exported in such vessel, and to proceed to any unblockaded port, notwithstanding the present hostilities, or any future hostilities which may take place; and a passport for such vessel shall be granted to the vessel by the governor, or other person having the chief civil command of such colony, island, or settlement.

G. R.

ANNO QUADRAGESIMO OCTAVO

GEORGH III. REGIS.

CAP. XXXIV.

An act to prohibit, until the end of the next session of Parliament, the exportation of cotton wool from Great Britain.—14th April, 1808.

Whereas it is expedient to prohibit, for a limited time, the exportation of cotton wool from Great Britain, except in the manner hereinafter mentioned; *Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,* That from and after the passing of this act, no person or persons whatever shall, directly or indirectly, export, carry, or convey, or cause or procure to be exported, carried, or conveyed out of or from any port or place in Great Britain, or shall load or lay on board, or cause or procure to be laden or laid on board, in any ship, or other vessel or boat, any cotton wool, in order to be carried, exported, or conveyed out of any such port or place, except to Ireland, and also except as hereinafter is provided.

2. *Provided always, and be it further enacted,* That it shall be lawful for His Majesty, by any license under his royal sign-manual, to authorize any person to export from Great Britain, for his or their own account, or for account of any subject or subjects of any State in amity with His Majesty, any cotton wool, under such regulations, restrictions, and securities, as may be specified in the said license.

3. *And be it further enacted,* That all cotton wool, which shall be so exported, carried, or conveyed in or laid on board any ship, or other vessel or boat, in order to be exported, carried, or conveyed out of Great Britain, contrary to this act, shall be forfeited; and that every offender therein shall forfeit also the sum of forty shillings for every pound weight of such cotton wool which shall be so exported, carried, or conveyed, or so laden in, or laid on board any ship, or other vessel or boat, in order to be exported, carried, or conveyed out of Great Britain; and also the ship, vessel, or boat, wherein the same shall be exported, or in or upon which the same shall be laden or laid, in order to be exported, together with her guns, furniture, ammunition tackle, and apparel, shall be forfeited; and the same respectively may be seized by any officer or officers of the customs.

4. *Provided always, and be it further enacted,* That nothing in this act contained shall extend to prevent any cotton wool being carried coastwise, upon any certificate which shall be directed to be given by the commissioners of the customs in that behalf.

5. *And be it further enacted,* That all penalties and forfeitures created and incurred by this act shall and may be sued for, prosecuted, recovered, and disposed of, in such manner, and by such ways, means, and methods, as any penalties incurred on any goods, ships, or vessels, forfeited for any offence against the laws of customs, may now be legally sued for, prosecuted, recovered, and disposed of; and the officer or officers concerned in seizures or prosecutions under this act, shall be entitled to and receive such share of the produce arising from the seizures as they are now by law entitled to, upon prosecution of seizures for unlawful importation, and to such share of the produce arising from any pecuniary fine or penalty, or composition paid for any offence against this act, as they are now by any law or regulation entitled to upon prosecution for pecuniary penalties.

6. *And be it further enacted,* That all personal actions and suits, indictments, informations, and all prosecutions and proceedings whatsoever, which have been, or shall hereafter be prosecuted or commenced against any person or persons, for having refused to receive any entry or entries for the exportation of any cotton wool, or to clear out any ship or vessel laden with cotton wool intended to be exported before the passing of this act, are and shall be discharged and made void by virtue of this act; and that if any action or suit shall be prosecuted or commenced against any person or persons, for or by reason of any such act, matter, or thing, he, she, or they may plead the general issue, and give this act and the special matter in evidence; and if the plaintiff or plaintiffs, in any action or suit so to be prosecuted or commenced, shall become nonsuit, or forbear further prosecution, or suffer discontinuance, or if a verdict pass against such plaintiff or plaintiffs, the defendant or defendants shall recover his, her, or their double costs, for which he, she, or they shall have the like remedy as in cases where the costs by law are given to the defendant.

7. *And be it further enacted,* That this act may be altered, amended, or repealed by any act or acts to be made in this present session of Parliament.

8. *And be it further enacted,* That this act shall continue and be in force until the end of the next session of Parliament.

ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

CAP. XXXVII.

An act for making valid certain orders in council, and warrants of the commissioners of the treasury, for the entry and warehousing of certain goods imported in neutral vessels, and for indemnifying all persons concerned therein; for the remitting of forfeitures in certain cases; and for enabling His Majesty to allow, during the continuance of hostilities, and until two months after the commencement of the next session of Parliament, the importation of goods from countries from which the British flag is excluded, in any vessels whatever. [April 14, 1808.]

Whereas several neutral vessels, bound to ports on the continent of Europe from which the British flag has been excluded, have arrived in the ports of the United Kingdom, having been warned or brought into such ports in consequence of His Majesty's orders in council for that purpose, and parts of the cargoes of such vessels have been admitted to entry for home consumption, or warehoused for exportation; and other parts of such cargoes, consisting of goods the growth, produce, or manufacture of countries within the limits of the charter granted to the United Company of Merchants of England trading to the East Indies, not imported by the said company, have been warehoused for exportation only: And whereas, in consequence of the late events in Portugal, wine and other commodities have been brought from the dominions of the Crown of Portugal in vessels not owned and navigated according to law, and have been admitted to entry or warehoused in the same manner, and subject to the same duties only, as if the same had been imported in British built vessels, owned and navigated according to law: And whereas such goods have been so entered and warehoused, in obedience to orders of council and warrants of the commissioners of His Majesty's treasury, which it has been deemed expedient under the circumstances to issue for such purposes; which orders and warrants, and the proceedings thereupon, were not authorized by law; but it is expedient, under the circumstances, that the same should be authorized by act of Parliament; and it is also expedient that the importation of goods from countries from which the British flag is excluded shall be allowed for a limited time in any vessels:

1. *Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That all such importations, admissions to entry, warehousing for home consumption or for exportation, and securing in warehouses goods of the produce or manufacture of places within the limits of the charter granted to the East India Company for exportation only; and also all importations and admissions to entry, and warehousing of goods and commodities from the dominions of the Crown of Portugal, which have been made as aforesaid, before the passing of this act, whether under orders in council or by warrants of the commissioners of the treasury, shall be deemed and taken to be good in law; and all persons concerned in advising, issuing, or carrying the same into execution shall be, and are, hereby indemnified accordingly; any thing in any act of Parliament to the contrary notwithstanding; and no vessels, goods, or commodities which have been admitted to entry, or imported, or warehoused, or secured under any such order or warrant, shall be subject to any forfeiture, or the owner thereof be subject to any penalty by reason thereof.*

2. *And be it further enacted, That it shall be lawful for the importers, proprietors, or consignees of any goods or commodities that may have been, or which shall be, brought into any port of the United Kingdom, in any ship or vessel which shall have come in, in consequence of any warning under the said orders in council, or in any ship or vessel which shall have sailed from any port or place within the respective limits enumerated in His Majesty's order in council of the twenty-fifth day of November one thousand eight hundred and seven, before the respective days specified in the said order, on or after which days the vessels sailing from such ports or places are to be deemed to have received notice of the aforesaid order of the eleventh day of November, one thousand eight hundred and seven, duly to enter and land any such goods or commodities, either for the purpose of securing the same in warehouses for exportation, or on payment of the full duties of customs and excise due thereon, as the case may warrant; and that no ship or vessel so arriving as aforesaid shall be liable to forfeiture, or the owners or proprietors thereof, to any penalty by reason of such ship or vessel not being built, owned, or navigated according to law, or not being in any other respect legally authorized to import into this kingdom the goods or commodities of which the cargo shall consist; nor shall any goods or commodities, being part of the cargo of any such ship or vessel so brought in as aforesaid, be liable to forfeiture, or the owners thereof to any penalty, by reason of any such goods or commodities being in packages not allowed by law, or for being in any other manner prohibited to be imported into this kingdom; any law, custom, or usage to the contrary notwithstanding.*

3. *And be it further enacted, That it shall be lawful for His Majesty, by order in council, or license, and in Ireland for the Lord Lieutenant, or other chief governor or governors, and the privy council of Ireland, by order in council, or license, when and as often as the same shall be judged expedient, to permit, during the continuance of hostilities, and until two months after the commencement of the next session of Parliament, any such goods, wares, or merchandise as shall be specified in such order in council or license, to be imported into any part of Great Britain or Ireland respectively, from any port or place from which the British flag is excluded, in any ship or vessel belonging to any country, whether in amity with His Majesty or not; any law in force, in the United Kingdom, or in Great Britain or Ireland respectively, to the contrary in anywise notwithstanding.*

4. *Provided always, That nothing herein contained shall extend, or be construed to extend, to exempt from seizure any goods or commodities which shall be unshipped, or attempted to be unshipped, for the purpose of being illegally conveyed on shore, or before due entry shall have been made thereof.*

5. *And be it further enacted, That this act may be altered, amended, or repealed, by any act or acts to be passed in this session of Parliament.*

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, May 4, 1808.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's command to acquaint Mr. Pinkney that His Majesty has judged it expedient to establish the most rigorous blockade of the port of Copenhagen, and of all the other ports in the island of Zealand. Mr. Pinkney is therefore requested to apprise the American consuls and merchants residing in England, that the entrances of all the ports above mentioned are, and must be considered as being, in a state of blockade; and that, from this time, all the measures authorized by the law of nations, and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to all vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

GEORGE CANNING.

ANNO QUADRAGESIMO OCTAVO

GEORGII III. REGIS.

CAP. LXXXV.

An act to regulate the trade between Great Britain and the United States of America until the end of the next session of Parliament. [June 23, 1808.]

Whereas it is expedient to permit goods, wares, and merchandise, being of the growth, produce, and manufacture of the United States of America, to be imported directly from thence into Great Britain, in British or American ships or vessels, subject to such duties only as are payable on the like commodities when imported from other foreign countries; may it therefore please your Majesty, that it may be enacted: *And be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same,* That from and after the end of the present session of Parliament it shall and may be lawful for any person or persons to import into Great Britain directly from any of the territories of the United States of America, in British built ships or vessels, owned, navigated and registered according to law, or in ships or vessels built in countries belonging to the United States of America or any of them, or in ships or vessels taken by any of the ships or vessels of war belonging to the Government or any of the inhabitants of the said United States, having commissions or letters of marque and reprisal from the Government of the said United States, and condemned as lawful prize in any Court of Admiralty of the said United States, of which condemnation proof shall be given to the commissioners of His Majesty's customs, or any four or more of them, in England or Scotland, respectively, and owned by the subjects of the said United States, or any of them, and whereof the master and three-fourths of the mariners at least are subjects of the said United States, any goods, wares, or merchandise, the growth, production, and manufacture of the said United States, which are not prohibited by law to be imported from foreign countries, and to enter and land such goods, wares, and merchandise, upon payment of the duties, and subject to the conditions and regulations hereinafter mentioned; any law, custom, or usage to the contrary in anywise notwithstanding.

2. *And be it further enacted,* That all such goods, wares, and merchandise, imported into Great Britain, either in such ships or vessels, or in British built ships or vessels, owned, navigated, and registered, according to law, shall and may be entered and landed, upon payment of such duties of customs and excise, and no higher, except as hereinafter is provided, as are payable on goods, wares, and merchandise of the like denomination or description, upon their importation into Great Britain from any other foreign country; and in cases where different duties are imposed upon goods, wares, and merchandise of the like denomination or description, imported from different foreign countries, then upon payment of the lowest duties which by law are now required to be paid on the importation of any such goods, wares, or merchandise from any other foreign country: *Provided always,* That where any goods, wares, or merchandise are imported from the said United States, in any ship or vessel not being British built, owned, navigated, and registered according to law, such goods, wares, and merchandise shall be subject and liable to the duties due and payable on similar articles when so imported from any other foreign country.

3. *And be it further enacted,* That any tobacco, being the growth or production of any of the territories of the United States of America, may be imported into Great Britain in British or American ships or vessels, owned and navigated as hereinbefore required, upon payment of the same duties of customs and excise as are now paid on tobacco imported by British subjects from any British colony or plantation in America; and that any snuff, being the production and manufacture of any of the said territories, may be imported into Great Britain in manner before mentioned, upon payment of such duties of customs and excise, as snuff, being the production or manufacture of Europe, imported from Europe, is subject to, and may be warehoused and again exported, such tobacco and snuff to be subject respectively, nevertheless, to all and singular the regulations, restrictions, penalties, and forfeitures relating to the importation and exportation thereof, or in any other respect relating thereto, of an act made and passed in the twenty-ninth year of the reign of his present Majesty, entitled "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" and of another act, passed in the thirtieth year of his present Majesty's reign, entitled "An act to explain and amend an act made in the last session of Parliament, entitled An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof, or of any other act since made relating thereto:" *Provided always,* That such tobacco shall be accompanied by a manifest as by law required.

4. *And be it further enacted,* That all goods, wares, and merchandise so imported from the United States of America, shall, upon the exportation thereof from Great Britain, be entitled to the same drawbacks as are by law allowed upon the exportation of goods, wares, and merchandise of the like denomination and description when exported from Great Britain; and that there shall be allowed and paid the same drawbacks and bounties on goods, wares, and merchandise exported from Great Britain to the territories of the said United States, or any of them, as are allowed by law upon the exportation of goods, wares, or merchandise of the like denomination or description, to any of the islands, plantations, or colonies belonging to the crown of Great Britain, in America: *Provided always,* That nothing in this act contained shall extend, or be construed to extend, to repeal, or in anywise to alter, the duties of package, scavage, balliage, or portage, or any other duties payable to the mayor, commonalty and citizens of the city of London, or to the Lord Mayor of the said city for the time being, or to any other city or town corporate within the kingdom of Great Britain, or to repeal or in anywise to alter any special privilege or exemption to which any person or persons, bodies politic or corporate, is or are now entitled by law; but the same shall be continued as heretofore.

5. *And be it further enacted,* That the duties of customs and excise upon, for, and in respect of any goods, wares, and merchandise imported into Great Britain from the said United States, by virtue and under the authority of this act, shall and may be respectively managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated, and applied, in such and the like manner, and in or by any or either of the means, ways, or methods, by which the duties of customs and excise, and drawbacks of duties of customs and excise upon goods, wares, or merchandise of the same sorts or kinds respectively imported from or exported to any other foreign country were or might be managed, ascertained, raised, levied, collected, answered, paid, recovered, allowed, appropriated, and applied, and the goods, wares, or merchandise, so by this act respectively made liable to the payment of or chargeable with duties of customs and excise, or so entitled to drawback of duties of customs and excise, upon the importation thereof into, or exportation thereof from Great Britain, or on any other account whatever, shall be and the same are hereby made subject and liable to all and every the conditions, regulations, rules, restrictions, and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, restrictions, regulations, and forfeitures, respectively, to which the like goods, wares, or merchandise respectively were subject and liable by any act or acts of Parliament in force on and immediately before the passing of this act, respecting the revenues of customs and excise; and all and every pain, penalty, fine, or forfeiture of any nature or kind whatever, for any offence whatever committed against or in breach of any act or acts of Parliament

in force on and immediately before the passing of this act, made for securing the revenue of customs and excise, or for the regulation or improvement thereof, and the several clauses, powers, and directions therein contained, shall and are hereby directed and declared to extend to, and shall be respectively applied, practised, and put in execution for and in respect of the several duties of customs and excise and drawbacks of duties of customs and excise, hereby charged and allowed, in as full and ample manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisions, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act.

6. *Provided always, and be it enacted,* That it shall and may be lawful for His Majesty, by and with the advice of his privy council, by any order in council, or by any proclamation made for that purpose, to cause the provisions of this act to be suspended for such time as His Majesty, his heirs, and successors may deem expedient and necessary; any thing in this act to the contrary notwithstanding.

7. *And be it further enacted,* That this act shall continue in force to the end of the next session of Parliament.

By the honorable Sir Alexander Cochrane, K. B. Rear Admiral of the Red, and Commander-in-chief of His Majesty's ships and vessels employed and to be employed at Barbadoes, the Leeward Islands, &c.

Whereas an intimation has been received from the right honorable Lord Viscount Castlereagh, one of His Majesty's principal Secretaries of State, that the strictest naval blockade is to be established over the leeward French Carribean islands: the several captains, commanders, and commanding officers under my orders, are hereby authorized and directed to stop all neutral vessels destined for any of the ports of the said islands; and if they shall appear to be ignorant of the existence of the blockade, and have no enemy's property or board, the masters of such neutral vessels shall be apprized thereof, and warned not to proceed to such ports, and a notice written to that effect upon one or more of the principal ship's papers.

But if a neutral vessel shall appear to be so warned, or to be otherwise informed of the existence of the blockade, or to have sailed from her last clearing port after it may be reasonably supposed that this notification might have been made public there, and yet be found attempting or intending to enter either of the ports of the said islands, such vessel shall be seized and sent into port for legal adjudication. And with respect to neutral vessels coming out of said ports, having any colonial produce, goods, or merchandise on board, appearing to have been laden after knowledge of the blockade, such vessels shall, in like manner, be seized and sent in for legal adjudication.

Given on board the *Belleisle*, Carlisle bay, Barbadoes, October 14, 1808.

ALEXANDER COCHRANE.

By command of the Rear-Admiral:

JOHN S. TRACEY.

II. THE DECREES OF FRANCE.

- 1793, May 9. Authorizes French vessels to arrest and bring into the ports of the republic vessels laden with provisions destined for an enemy port.
- 1793, May 23. Exempts American vessels from the operation of the decree of the 9th.
- 1793, May 28. Suspends the decree of the 23d of May.
- 1793, July 1. The decree of the 23d again enforced.
- 1793, July 27. The decree of the 23d of May repealed, and that of the 9th of May enforced.
- 1794, November 18, (25th Brumaire 3d year.) General regulations; the most important is, that merchandise belonging to the enemy is made liable to seizure in neutral vessels, until the enemy shall exempt from seizure French merchandise similarly situated.
- 1795, January 3, (14th Nivose 3d year.) Repeals the fifth article of the above, and exempts enemy goods from capture in neutral vessels.
- 1796, July 2, (14th Messidor, 4th year.) The French will treat neutral nations as they suffer themselves to be treated by the English.
- 1797, March 2, (17th Ventose, 5th year.) Enemy's property in neutral vessels liable to confiscation; makes necessary rôles d'équipages.
- 1798, January 18, (29th Nivose, 6th year.) The character of vessels to be determined by that of their cargoes.
- 1799, March 18, (28th Ventose, 7th year.) Explains the fourth article of the decree of the 2d of March, 1797.
- 1799, October 29, (8th Brumaire, 7th year.) Neutrals found on board enemy vessels liable to be treated as pirates.
- 1799, November 14, (24th Brumaire, 7th year.) Suspends the operation of the above decree of the 29th of October.
- 1800, December 13, (23d Frimaire, 8th year.) Repeals the first article of the law of the (29th Nivose, 6th year,) 18th January, 1798.
- 1800, December 19, (29th Frimaire, 8th year.) Enforces the regulations of the 26th of July, 1778.
- 1806, November 21. Berlin decree.
- 1807, December 17. Milan decree.
- 1808, April 17. Bayonne decree.

[TRANSLATION.]

Copy of the decree of the National Convention of the 9th of May, 1793, 2d year of the republic of France.

The National Convention, after having heard the report of their Marine Committee; considering that the flag of the neutral Powers is not respected by the enemies of France; that two cargoes of flour arrived at Falmouth in Anglo-American vessels, and purchased before the war for the service of the marine of France, have been detained in England by the Government, who would not pay for them, except at a price below that at which flour had been sold:

That a vessel from Papenburg, called the *Therisia*, commanded by Captain Hendrick Kob, laden with divers effects belonging to Frenchmen, has been conducted to Dover, the 2d of March last, by an English cutter:

That a privateer of the same nation has carried into the same port of Dover, the 18th of the same month, the Danish ship *Mercury*, Christianlund, Captain Freuchen, expedited from Dunkirk on the 17th with a cargo of wheat for Bordeaux:

That the ship John, Captain Shkleley, laden with near six thousand quintals of American wheat, bound from Falmouth to St. Malo, has been taken by an English frigate, and conducted to Guernsey, where the agents of the Government have simply promised to pay the value of the cargo because it was not on account of the French:

That one hundred and one French passengers of different professions, embarked at Cadiz, by order of the Spanish minister, in a Genoese ship called the Providence, Captain Ambrose Briasco, bound to Bayonne, have been shamefully pillaged by the crew of an English privateer:

That the divers reports which are successively made by the maritime cities of the republic announce that these same acts of inhumanity and injustice are daily multiplied and repeated with impunity throughout the seas:

That, under such circumstances, all the rights of nations being violated, the French people are no longer permitted to fulfil, towards the neutral Powers in general, the vows which they have so often manifested, and which they will constantly make for the full and entire liberty of commerce and navigation, decrees as follows:

ART. 1. The French ships of war and privateers may arrest and bring into the ports of the republic, the neutral vessels which shall be laden wholly, or in part, either with articles of provision belonging to neutral nations, and destined for an enemy's port, or with merchandises belonging to an enemy.

ART. 2. The merchandise belonging to an enemy shall be declared good prize, and confiscated to the profit of the captors; the articles of provisions belonging to neutral nations, and laden for an enemy's port, shall be paid for according to their value in the place to which they were destined.

ART. 3. In all cases the neutral vessels shall be released as soon as the unloading of the articles of provision arrested, or of the merchandises seized, shall have been effected. The freight thereof shall be paid at the rate which shall have been stipulated by the persons who shipped them. A just indemnification shall be allowed, in proportion to their detention, by the tribunals who are to have cognizance of the validity of the prizes.

ART. 4. These tribunals shall be bound to transmit, three days after their decision, a copy of the inventory of the said articles of provision or merchandise, to the Minister of Marine, and another to the Minister for Foreign Affairs.

ART. 5. The present law, applicable to all the prizes which have been made since the declaration of war, shall cease to have effect as soon as the enemy Powers shall have declared free and not seizable, although destined for the ports of the republic, the articles of provision belonging to neutral nations, and the merchandises laden in neutral vessels, and belonging to the Government or citizens of France.

[TRANSLATION.]

Decree of the National Convention of the 23d May, which declares that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May.

The National Convention, after having heard the report of their Committee of Public Safety, wishing to maintain the union established between the French republic and the United States of America, decree that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May, conformably to the sixteenth article of the treaty concluded on the 16th February, 1778.

True copy:

LE BRUN.

[NOTE. It appears that, on the 28th of May, the Convention passed a decree, which so far repealed that of the 23d May, as to place in a state of provisional sequestration the property seized under the decree of the 9th May. No copy of this decree of the 28th May is to be found in the Department of State.]

[TRANSLATION.]

Copy of the decree of the National Convention of the 1st July, 1793, second year of the French republic, which exempts from the dispositions of the decree of the 9th May, 1793, the vessels of the United States.

The Convention, after having heard the report of the Committee of Public Safety, wishing to maintain the union established between the French republic and the United States of America, decrees that the vessels of the United States are not comprised in the dispositions of the decree of the 9th of May, conformably to the sixteenth article of the treaty concluded the 6th of February, 1778.

Certified conformable to the original:

DEFORGUE.

[NOTE. It appears that, on the 27th of July, the Convention again put in force the decree of the 9th May; but no copy of the act by which this was done is to be found in the Department of State.]

Extract of the Register of Arrêts of the Committee of Public Safety, Finance, and Supplies.

25TH BRUMAIRE, 3d year of the Republic, (November 18, 1794.)

The Committee of Public Safety, Commerce, and Supplies, order as follows:

ART. 1. The vessels of the United States of America, and those of other neutral Powers, shall be permitted to enter the ports of the republic and retire from them when they please; nor shall it be permitted to any constituted authority to retard their departure, or to oblige the captains to sell their cargoes against their will.

ART. 2. When the captains or owners of neutral vessels are disposed to sell their cargoes to the public, they shall be paid for them according to the bargain which they make.

ART. 3. It is enjoined to all the commandants of naval armaments, fleets, divisions, and squadrons of the republic, to respect and cause to be respected, upon their responsibility, in favor of the neutral and allied Powers, the rights of nations and the stipulations of treaties, conforming themselves strictly to the terms of the decree of the Convention of the 27th July, 1793.

ART. 4. In consequence, they are expressly prohibited from turning these vessels from their course; taking from on board of them their captains, sailors, or passengers, other than soldiers or sailors actually in the service of an enemy Power, or of seizing the effects or merchandise which shall be found in them.

ART. 5. Are excepted from the prohibition contained in the preceding article—

1. Merchandises belonging to the enemies of the republic, until such enemy Powers shall have declared that the merchandises of the French shall be free on board neutral vessels.

2. Such merchandises of the neutral Powers, also, as are deemed contraband of war, and under which are comprised all arms, instruments, and munitions of war, and every kind of merchandise and other effects destined for an enemy's port actually seized or blockaded.

[Articles 6, 7, 8, and 9, regulate the manner of proceeding where neutral vessels are brought in, upon a presumption of having enemy's goods on board.]

ART. 10. The Commission of Marine shall present, without delay, a statement of the individuals, born subjects of the Powers with whom the republic is at war, who were taken before the present day upon neutral vessels, that particular arrêts may be taken in each case.

ART. 11. The indemnities which are due to the captains of neutral Powers who were detained by an embargo at Bordeaux, shall be liquidated without delay by the Commission of Marine and Colonies, conformable to an arrêt of the Committee of Public Safety of the 17th Germinal; and this commission shall render an account, in the course of ten days, of the actual state of these demands.

ART. 12. The Commission of Marine is specially charged to receive and adjust the accounts which shall be presented to it by an agent of the United States, for such supplies as the Americans have furnished to the administration of St. Domingo; and it shall take the necessary measures to procure to the parties interested the most prompt justice, and shall also present to the Committees of Public Safety, of Finance, Commerce, and Supplies, the result of its operations in these respects.

ART. 13. The Commission of Foreign Relations is instructed to deliver a copy of this arrêt to the minister plenipotentiary of the United States of America, in answer to his memorial of the 9th Fructidor (September 3) last.

THURIOT,
MERLIN,
CAMBACERES, &c.

Extract from the Register of Arrêts of the Committee of Public Safety of the 14th Nivose, 3d year of the republic (3d January, 1795.)

The Committee of Public Safety, considering that, by the twenty-third article of the treaty of commerce between France and the United States of America, bearing date on the 6th of February, 1778, it is agreed:

1. That the people of France and America may navigate reciprocally, in complete safety, with their vessels, and without exception as to the owners of the merchandise charged upon such vessels, or as to the ports from whence they come, and although the Power for which they may be destined be actually at war, or become afterwards the enemy of the one or the other contracting party; that they may equally navigate in full safety with their vessels and merchandise, and frequent the places, ports, and harbors of the enemies of both nations, or of either, and carry on trade, not only from the port of an enemy to that of a neutral Power, but also from different ports of the same enemy.

2. That free vessels shall make free goods, and that any thing shall be considered as free which shall be found on board the vessels of either contracting nation, although it belong, in whole or in part, to the enemies of either the one or the other; contraband always excepted.

3. That the same liberty shall be extended to those who are found on board free vessels, although they be the enemies of either the one or the other contracting nation; and, in consequence, that such persons shall not be taken from such vessels, unless they be soldiers in the actual service of the enemy.

Considering that the crimes of England, having given to the war of despotism against liberty a character of injustice and atrocity without example in the annals of mankind, the National Convention found itself obliged, in using the right of reprisal, to decree, on the 9th of May, 1793, that the vessels of war and cruisers of the republic might take and conduct into the ports of France such vessels of the neutral Powers as they should find charged, in whole or in part, with provisions belonging either to such Powers or the enemies of France. Soon afterwards, however, and on the 1st July, 1793, the Convention restored in full vigor the dispositions of the treaty above mentioned of the 6th of February, 1778, but which were again revoked by a decree of the 27th of the same month, in respect to provisions and merchandises belonging to an enemy; upon which latter ground it has stood since, leaving the provisions and merchandises of neutral Powers, in such vessels, free. In regard to which the French Government has not to reproach itself with having waited, to show itself just and loyal, that the cabinet of London might revoke, as it did a long time afterwards, the order given by it the preceding year to seize all neutral vessels carrying provisions or merchandises into France.

Considering that since, and notwithstanding the notoriety with which this cabinet continues to insult and violate the rights of neutral nations by causing their vessels, charged with merchandise, destined for the ports of France, to be seized, yet the National Convention has enjoined it, by the seventh article of the law of the 13th of this month, upon all officers, civil and military, strictly to observe, in all their dispositions, the treaties which unite France with the neutral Powers of the ancient continent, as likewise with the United States of America, declaring all articles of a contrary import in any other law to be absolutely null and void.

Fully, therefore, to carry into effect the said law, according to its true intent and meaning, it is hereby ordered:

ART. 1. The Commission of Marine and of the Colonies shall notify, without delay, to all the commanders of armed vessels, divisions, and squadrons, the article above mentioned of the law of the 13th of this month; and, in consequence, that they are to consider the fifth article of the arrêt of the 25th Brumaire last, which authorized the seizure of merchandises belonging to an enemy on board neutral vessels, until such enemy shall have declared French property on board such vessels free, as now null and void.

ART. 2. The merchandises called contraband, though belonging to a neutral Power, shall continue subject to seizure.

ART. 3. All arms, instruments, and munitions of war of every kind, horses, and their equipage, and all kinds of merchandises, and other effects, destined for an enemy's port actually blockaded or besieged, shall be deemed contraband of war.

CAMBACERES,
CARNOT,
PRIEUR,
A. DUMONT,
CHAZAL,
MARET,
PELET.

Decree of the Executive Directory on the conduct of the flag of the French republic towards neutral vessels, 14th Messidor, 4th year, (2d July, 1796.)

The Executive Directory, considering that, if it belongs to French loyalty to respect the treaties or conventions which assure to neutral or friendly Powers the commercial advantages, of which the result ought to be common to the contracting Powers, these same advantages, if they are turned to the benefit of our enemies, either through the feebleness of our allies or of neutrals, through fear, from views of interest, or from any other motive, would provoke, indeed, the inexecution of the articles by which they should be stipulated, decree what follows:

It shall be notified, without delay, to all the neutral or allied Powers that the flag of the French republic shall be used against neutral vessels, be it for the purpose of confiscation, search, or detention, (*visite ou prehension*) in the same manner that they suffer the English to use theirs in regard thereto.

The Minister of Foreign Relations is charged with the execution of the present decree, which shall not be printed.

Decree of the Executive Directory concerning the navigation of neutral vessels, loaded with merchandise belonging to the enemies of the republic, and the judgments on the trials relative to the validity of maritime prizes. 12th Ventose, 5th year, (2d March, 1797.)

The Executive Directory, having examined the law of the 9th May, 1793, which, forasmuch as the flag of neutral Powers not being respected by the enemies of the French republic, and all the laws of nations being violated to her prejudice, it is no longer permitted to the French people to fulfil towards these Powers, in general, the wish which it has so often manifested, and which it will constantly form, for the full and entire liberty of commerce and of navigation, orders, among other things:

1. That the French vessels of war and privateers may stop and carry into the ports of the republic neutral vessels which may be found, loaded entirely or in part with merchandise belonging to the enemy.

2. That the merchandise belonging to the enemy shall be declared good prize, and confiscated for the benefit of the captors.

3. That, in all cases, the neutral vessels shall be released the moment the unloading of the merchandise seized shall have been effected; that the freight shall be paid at the rates which shall have been stipulated by the freighters, and a just indemnity shall be allowed for their detention by the tribunals whose duty it may be to take cognizance of the validity of the prizes.

4. That these tribunals shall moreover be bound to transmit, three days after their judgment, a copy of the inventory of the merchandise to the Minister of the Marine, and another copy to the Minister of Foreign Affairs.

5. That the present law, applicable to all prizes which have been made since the declaration of war, shall cease to have its effect when the enemy Powers shall have declared free and not seizable, though destined for the ports of the republic, the merchandise loaded on board neutral vessels, which shall belong to the French Government or its citizens.

Having likewise examined the law of the 27th July, 1793, which, in maintaining that of the 9th May preceding, here above recited, orders that it should have its full and entire execution, and that, in consequence, all other regulations which may be contrary to it are and remain repealed; a repeal which evidently comprehends the law of the 1st of the same month of July, by which the vessels of the United States of America had been excepted from the law of the 9th May, in conformity to the fifteenth article of the treaty of the 6th February, 1778.

Having also examined the seventh article of the law of the 13th Nivose, 3d year, (3d January, 1795,) which enjoins on all the agents of the republic, on all the commandants of the armed force, on the officers, civil and military, to cause to be respected and observed, in all their arrangements, the treaties which unite France to the neutral Powers of the ancient continent and to the United States of America; and adds that no blow shall be aimed at those treaties, and that all regulations which may be contrary to them are annulled; considering that this last law does not derogate from that of the 9th May, 1793, save only in favor of those neutral Powers whose treaties actually subsisting with the French republic are contrary to its regulations; that, consequently, it is important for the information, as well of the commandants of the armed force of the republic, and of the vessels commissioned by it, as of the tribunals charged with deciding on the validity of the prizes, to take measures for preventing either that it should be supposed that treaties existed which never were made, or that treaties concluded for a limited time which is expired, should be considered as still being in force, or that those which have been modified since their formation should be considered as yet requiring a literal execution; that to this last description belongs particularly the treaty of amity and commerce concluded the 6th February, 1778, between France and the United States of America; that, in effect, by the second article of this treaty, France and the United States of America mutually engage not to grant any particular favor to other nations, in relation to commerce and navigation, which does not become forthwith common to the other party; and that it is added by the same article, that this other party shall enjoy the favor gratuitously, if the grant is gratuitous, or on making the same compensation if the grant is conditional; that thus the provisions stipulated in favor of England by the treaty of amity, commerce, and navigation, concluded at London, the 19th November, 1794, between that Power and the United States of America, are considered to have been in behalf of the French republic itself, and, in consequence, modifying, in the points where they differed, the treaty concluded 6th February, 1778; that it is agreeably to these provisions that the French Government has declared, by its decrees of the 14th and 28th Messidor, 4th year, (2d and 16th July, 1796,) as it is likewise forced to do at present, that it will use the just measures of reciprocity which it had a right to exercise in that respect, in every thing which has a relation to the circumstances of the war, as also to the political, commercial, and maritime interests of the French republic; that, consequently, it is necessary to settle, by reconciling the treaties of the 6th February, 1778, and 19th November, 1794, every doubt as to the case where this right of reciprocity ought to be exercised:

Considering that there have been quite lately raised, as to the manner of stating the proofs of property in the ships and merchandise pretended to belong to neutrals, doubts and controversies which never would have taken place if the provisions of the ancient regulations relative to this business had been better known; that it consequently is of importance to recite these provisions, and to cause to be executed the fifth article of the law of the 14th February, 1793, which has maintained them:

After having heard the Ministers of Justice, of the Marine, and of the Colonies, decrees what follows:

ART. 1. The Commissioners of the Executive Directory, near the civil tribunals of the Departments, shall take care that, on the trials as to the validity of maritime prizes, no judgment shall be founded on the seventh article of the law of the 13th Nivose, 3d year, (2d January, 1795,) unless the Minister of Justice be previously consulted, in conformity to the third article of the law of the 8th Floréal, 4th year, (27th April, 1796,) relative to the treaties in virtue of which some neutrals might pretend to withdraw themselves, by means of the first of these laws, from the execution of that of the 9th May, 1793.

ART. 2. The Minister of Justice will consequently examine if the treaties appealed to still remain in force, or whether they have been modified since their adoption. He shall be furnished, for this purpose, by the Minister of Exterior Relations, with all the information (*renseignements*) of which he shall be in want, and he shall refer the same to the Executive Directory, as is prescribed by the law of the 8th Floreal, 4th year, (27th April, 1796.)

ART. 3. The Executive Directory reminds all French citizens that the treaty entered into on the 6th February, 1778, between France and the United States of America, has been, from the terms of its second article, in strict right (*de plein droit*) modified by that which was entered into in London, on the 19th November, 1794, between the United States of America and England. In consequence, agreeably to the seventeenth article of the treaty of London of the 19th November, 1794, all merchandise belonging to an enemy, or not sufficiently proven to be neutral, loaded under the American flag, shall be confiscated; but the vessel on board of which it shall have been found shall be released and returned to the proprietor. It is enjoined on the Commissioners of the Executive Directory to cause to be accelerated, by all the means in their power, the judgment on the trials which shall take place, either in relation to the validity of the capture of the cargo, or in relation to freights and demurrage, (*surestaries*.)

ART. 2. Agreeably to the eighteenth article of the treaty of London of the 19th November, 1794, there shall be added the following articles to those declared contraband by the twenty-fourth article of the treaty of the 6th February, 1778, viz: wood for ship building, pitch, tar, and rosin, copper in sheets, canvass, hemp, and cordage, and every thing that serves, directly or indirectly, for the armament and equipment of vessels, except unwrought iron and fir-plank. These several articles shall be confiscated whenever they shall be destined, or when it is attempted to carry them, to the enemy.

ART. 3. Agreeably to the twenty-first article of the treaty of London of the 19th November, 1794, every individual known to be American, who holds a commission given by the enemies of France, as also every mariner of that nation making a part of the crew of private or public ships (*navires ou vaisseaux*) of the enemy, shall be, from that act alone, declared a pirate, and treated as such, without allowing him, in any case, to show that he had been forced by violence, menaces, or otherwise.

ART. 4. In conformity to the law of the 14th February, 1793, the regulations of the 21st October, 1744, and of the 26th July, 1778, as to the manner of proving the right of property in neutral ships and merchandise, shall be executed, according to their form and tenor.

In consequence, every American vessel shall be a good prize which has not on board a list of the crew, (*rôle d'équipage*), in proper form, such as is prescribed by the model annexed to the treaty of the 6th February, 1778; a compliance with which is ordered by the twenty-fifth and twenty-seventh articles of the same treaty.

ART. 5. It is enjoined on the Commissioners of the Executive Directory to call the severity of the tribunals to the fraudulent manoeuvres of every ship-owner calling himself a neutral American, or other, on board a vessel in which shall be found, as has frequently been done during the present war, either maritime papers (*papiers de mer*) in blank, though signed and sealed, or papers, in form of letters, containing the signatures of individuals, in blank; or of double passports or sea-letters, which indicate different destinations to the vessel; or double invoices, bills of lading, or any other ship papers, which assign to the whole or to a part of the same merchandise different proprietors or different destinations.

ART. 6. From the regulations of the present decree, that of the 9th Frimaire last, (29th November, 1795,) concerning the freights and demurrage, is referred to what relates to the demurrage only.

The present decree shall be inserted in the bulletin of the laws. The Ministers of the Marine and of the Colonies, of Justice, and of Foreign Relations, are charged with its execution, each one in what concerns him.

Law which determines the character of vessels from their cargo, especially those loaded with English merchandise.

29TH NIVOSE, 6th year, (18th January, 1798.)

After having heard the report of a special commission on the message of the Executive Directory of the 15th Nivose, relative to English merchandise; considering that the interest of the republic requires the most prompt measures against all vessels which shall be loaded with it:

ART. 1. The character of vessels in what concerns their quality as neutral or enemy, shall be decided by their cargo; in consequence, every vessel found at sea laden in whole or in part with merchandise coming (*provenant*) from England or her possessions, shall be declared good prize, whoever may be the proprietors of these productions or merchandise.

ART. 2. Every foreign vessel which shall, during her voyage, have entered a port of England, shall not be admitted into a port of the French republic, save only when there is a necessity for her entering, (*de relâche*), in which case she shall be bound to leave the said port so soon as the cause of her entering it (*de sa relâche*) shall have ceased.

Decree of the Executive Directory in explanation of that of the 12th Ventose, 5th year, (2d March, 1797,) concerning the navigation of neutral vessels, of the 28th Ventose, 7th year, (18th March, 1799.)

The Executive Directory having examined its decree of the 12th Ventose, 5th year, (2d March, 1797,) concerning the navigation of neutral vessels, loaded with merchandise belonging to the enemies of the republic, and the judgment on the trials as to the validity of maritime prizes; considering that the fourth article of that decree, in what relates to the rôles d'équipages with which neutral vessels ought to be furnished, has had improper interpretations, so far as concerns the rôles d'équipages of American vessels, and that it is time to do away the obstacles resulting therefrom to the navigation of the vessels of that nation.

After having heard the Minister of Exterior Relations and the Minister of Justice declare that, by the fourth article of the said decree, it was not understood that the navigation of American vessels, relatively to the form of their rôles d'équipages, was subjected to other conditions than those imposed on all neutrals by the twelfth article of the ordinance of 1744, and by the ninth article of that of the 26th July, 1778:

The Ministers of the Marine and of Justice, each in what concerns him, are charged with the execution of the present decree, which shall be inserted in the bulletin of laws.

Decree of the Executive Directory as to those who compose the crews of the vessels of the enemies of France, 8th Brumaire, 7th year, (October 29, 1799.)

The Executive Directory, on the report of the Minister of Exterior Relations, considering that the squadrons, privateers, and vessels of England and Russia are in part manned by foreigners; considering that this violation is a manifest abuse of the law of nations, and that the Powers of Europe have not taken any measures to stop it, decree:

ART. 1. Every person, native (*ou originaire*) of friendly countries allied to the French republic, or neutral, holding a commission given by the enemies of France, or making part of the crews of the vessels of war or other enemy vessels, shall, for that act alone, be declared a pirate, and treated as such, without being allowed in any case to allege that he was forced by violence, menaces, or otherwise.

ART. 2. The Executive Directory of the Batavian, Ligurian, Cisalpine, and Roman republics shall be informed of this measure.

ART. 3. The provisions contained in the first article shall be notified to the Powers neutral or allied to the French republic.

Decree of the French republic on the mode of executing its decrees of the 8th Brumaire, 7th year, (29th October, 1799,) concerning those who compose the crews of enemy vessels, 24th Brumaire, 7th year, (14th November, 1799.)

ART. 1. In execution of the third article of the decree of the Executive Directory of the 8th of this month, the allied or neutral Powers shall be invited to take the necessary measures for recalling, within a time which shall be fixed, those mariners of their respective nations, actually embarked on board the vessels of war or other vessels belonging to England.

ART. 2. The ambassadors, ministers, and envoys of the republic near the respective Powers shall receive particular instructions on this subject.

ART. 3. The period of the execution of the decree of the 8th Brumaire shall be determined by a subsequent decree.

ART. 4. The Minister of Exterior Relations is charged to make arrangements with the Minister of Marine and the Colonies for the execution of the present decree.

Law which repeals the first article of that of 29th Nivose, 6th year, (18th January, 1798,) relative to maritime cruising.

ARTICLE 1. The first article of the law of the 29th Nivose, 6th year, (18th January, 1798,) relative to maritime cruising, is repealed.

The consuls of the republic order that the above law shall be published and executed, and that the seal of the republic shall be affixed to it.

Done at the national palace of the consuls of the republic, the 23d Frimaire, 8th year (13th December, 1800) of the republic.

ROGER DUCOS,
SIEYES,
BONAPARTE.

Decree of the consuls of the republic which puts in force the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, 29th Frimaire, 8th year, (19th December, 1800.)

The consuls having examined the law of the 23d Frimaire, 8th year, (13th December, 1800,) which repeals the first article of the law of the 25th Nivose, 6th year, (14th January, 1798,) relative to maritime cruising; considering that the repeal of that law necessarily renews that state of the law antecedently existing:

That this, as fixed by the ordinance of the 26th July, 1778, is considered the most proper to conciliate the interests of the republic with the rights of neutral Powers; wishing to prevent, on the part of French or neutral owners, (*armateurs*.) errors or interpretations which shall counteract the views under which the law of the 29th Nivose, 6th year, (18th January, 1798,) has been repealed, decree what follows:

ART. 1. The regulations prescribed by the ordinance of the 26th July, 1778, concerning the navigation of neutral vessels, shall be strictly observed by all those to whom they shall be applicable; but, in case of a controversion on their part, they are to suffer the confiscations and condemnations in damages fixed on by the said ordinance and the laws.

ART. 2. The Ministers of Justice, of the Marine, of Exterior Relations, and of the Finances, are charged, each one in what concerns him, with the execution of the present decree, which shall be inserted in the bulletin of the laws.

The consuls of the republic:

BONAPARTE,
SIEYES,
ROGER DUCOS.

IMPERIAL CAMP, BERLIN, November 21, 1806.

Napoleon, Emperor of the French and King of Italy, considering:

1. That England does not admit the right of nations as universally acknowledged by all civilized people;
2. That she declares as an enemy every individual belonging to an enemy State, and, in consequence, makes prisoners of war, not only the crews of *armed* vessels, but also of *merchant* vessels, and even the supercargoes of the same;
3. That she extends or applies to merchant vessels, to articles of commerce, and to the property of individuals, the right of conquest, which can only be applied or extended to what belongs to an enemy State;
4. That she extends to ports not fortified, to harbors and mouths of rivers, the right of *blockade*, which, according to reason and the usage of civilized nations, is applicable only to strong or fortified ports;
5. That she declares blockaded, places before which she has not a single vessel of war, although a place ought not to be considered blockaded but when it is so invested as that no approach to it can be made without imminent hazard; that she declares even places blockaded which her united forces would be incapable of doing, such as entire coasts, and a whole empire;

6. That this unequalled abuse of the right of blockade has no other object than to interrupt the communications of different nations, and to extend the commerce and industry of England upon the ruin of those of the continent;

7. That this being the evident design of England, whoever deals on the continent in English merchandise favors that design and becomes an accomplice;

8. That this conduct in England (worthy only of the first ages of barbarism,) has benefited her, to the detriment of other nations;

9. That it being right to oppose to an enemy the same arms she makes use of, to combat as she does, when all ideas of justice and every liberal sentiment (the result of civilization among men) are disregarded;

We have resolved to enforce against England the usages which she has consecrated in her maritime code.

The present decree shall be considered as the fundamental law of the empire, until England has acknowledged that the *rights of war* are the same on land as at sea; that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places, actually invested by competent forces.

[TRANSLATION.]

Imperial decree of the 21st November, 1806.

ART. 1. The British islands are declared in a state of blockade.

ART. 2. All commerce and correspondence with the British islands are prohibited. In consequence, letters or packets addressed either to England, to an Englishman, or in the English language, shall not pass through the post office, and shall be seized.

ART. 3. Every subject of England, of what rank and condition soever, who shall be found in the countries occupied by our troops, or by those of our allies, shall be made a prisoner of war.

ART. 4. All magazines, merchandise, or property whatsoever belonging to a subject of England, shall be declared lawful prize.

ART. 5. The trade in English merchandise is forbidden. All merchandise belonging to England, or coming from its manufactories and colonies, is declared lawful prize.

ART. 6. One-half of the proceeds of the confiscation of the merchandise and property declared good prize by the preceding articles, shall be applied to indemnify the merchants for the losses which they have suffered by the capture of merchant vessels by English cruisers.

ART. 7. No vessel coming directly from England, or from the English colonies, or having been there since the publication of the present decree, shall be received in any port.

ART. 8. Every vessel contravening the above clause, by means of a false declaration, shall be seized, and the vessel and cargo confiscated as if they were English property.

ART. 9. Our tribunal of prizes at Paris is charged with the definitive adjudication of all controversies which may arise within our empire, or in the countries occupied by the French army, relative to the execution of the present decree. Our tribunal of prizes at Milan shall be charged with the definitive adjudication of the said controversies, which may arise within the extent of our kingdom of Italy.

ART. 10. The present decree shall be communicated by our Minister of Exterior Relations to the Kings of Spain, of Naples, of Holland, of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and the barbarism of the English maritime laws.

Our Ministers of Exterior Relations, of War, of Marine, of Finances, of Police, and our Postmasters General, are charged each in what concerns him with the execution of the present decree.

PARIS, December 26.

IMPERIAL DECREE.

Rejoinder to His Britannic Majesty's order in council of the 11th November, 1807.

AT OUR ROYAL PALACE AT MILAN, December 17, 1807.

NAPOLEON, Emperor of the French, King of Italy, and Protector of the Rhenish Confederation:

Observing the measures adopted by the British Government, on the 11th November last, by which vessels belonging to neutral, friendly, or even Powers the allies of England, are made liable, not only to be searched by English cruisers, but to be compulsorily detained in England, and to have a tax laid on them of so much per cent. on the cargo, to be regulated by the British Legislature:

Observing that, by these acts, the British Government denationalizes ships of every nation in Europe; that it is not competent for any Government to detract from its own independence and rights, all the sovereigns of Europe having in trust the sovereignties and independence of the flag; that if, by an unpardonable weakness, and which in the eyes of posterity would be an indelible stain, if such a tyranny was allowed to be established into principles, and consecrated by usage, the English would avail themselves of it to assert it as a right, as they have availed themselves of the tolerance of Government to establish the infamous principle that the flag of a nation does not cover goods, and to have to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every State; we have decreed and do decree as follows:

ART. 1. Every ship, to whatever nation it may belong, that shall have submitted to be searched by an English ship, or to a voyage to England, or shall have paid any tax whatsoever to the English Government, is thereby and for that alone declared to be denationalized, to have forfeited the protection of its King, and to have become English property.

ART. 2. Whether the ships thus denationalized by the arbitrary measures of the English Government enter into our ports, or those of our allies, or whether they fall into the hands of our ships of war, or of our privateers, they are declared to be good and lawful prize.

ART. 3. The British islands are declared to be in a state of blockade, both by land and sea. Every ship, of whatever nation, or whatsoever the nature of its cargo so may be, that sails from the ports of England, or those of the English colonies, and of the countries occupied by English troops, and proceeding to England, or to the English colonies, or to countries occupied by English troops, is good and lawful prize, as contrary to the present decree, and may be captured by our ships of war, or our privateers, and adjudged to the captor.

ART. 4. These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English Government to respect their flag. They shall continue

to be rigorously in force as long as that Government does not return to the principle of the law of nations, which regulates the relations of civilized States in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations, which are also the principles of justice and of honor.

All our ministers are charged with the execution of the present decree, which shall be inserted in the bulletin of the laws.

NAPOLEON.

By order of the Emperor:

H. B. MARET, *Secretary of State.*

Extract of a letter from General Armstrong to the Secretary of State, dated

PARIS, April 23, 1808.

Orders were given on the 17th instant, and received yesterday at the imperial custom-house here, "to seize all American vessels now in the ports of France, or which may come into them hereafter."

April 25, 1808.

Postscript.—I have this moment received the following explanation of the above-mentioned order, viz: That it directs the seizure of vessels coming into ports of France after its own date, "because no vessel of the United States can now navigate the seas, without infracting a law of the said States, and thus furnishing a presumption that they do so on British account, or in British connexion."

[The above extracts contain the only authentic information received at the Department of State, relative to the Bayonne decree.]

DECREES OF THE FRENCH AGENTS IN THE WEST INDIES.

1797. August 1.—Making horses contraband.

1797. February 1.—Authorizes the capture of neutral vessels bound to certain West India islands.

1797. November 27.—Authorizes the capture of American vessels going to, or coming from, English ports.

1805. February 5.—Declares that all persons found on board vessels bound to, or coming from, any ports in Hispaniola, occupied by the rebels, shall suffer death.

[TRANSLATION.]

Extract from the registers of the special agency of the Executive Directory to the Windward islands.

EQUALITY.

LIBERTY.

The special agents of the Executive Directory to the Windward islands:

Considering that the laws, as well ancient as modern, forbid neutrals to carry the enemy contraband or prohibited merchandises;

Considering, that notwithstanding the complaints of the minister plenipotentiary of the French republic near the United States of North America, of which he has informed us by his letter of the 2d July, 1796; those States, and especially Virginia, have fitted out vessels, loaded with horses, for the English;

Decree, that from this day forward, all vessels loaded with merchandises, designated by the name of contraband, as arms, instruments, munitions of war, of what kind soever, horses and their furniture, shall be stopped by the ships of war and privateers, to be seized and confiscated for the benefit of the captors.

At BASSETERRE, GUADALOUPE, August 1, 1796.

Signed on the register,

VICTOR HUGUES.
LEBAS.

Compared with the register:

VAUCHELET, *Secretary of the Agency.*

[TRANSLATION.]

EQUALITY.

LIBERTY.

DECREE.

The special agents of the Executive Directory to the Windward islands:

Considering that the ports of the Windward and Leeward islands, as well as those of Demarara, Essequibo, and Berbice, delivered up to the English, occupied and defended by emigrants, are in a state of regular siege, and not entitled to the same advantages as the ports of the different English colonies, possessed by that Power before the war, or to other rights;

Considering that it is against every principle to treat a horde of insurgents, destitute of country, without Government, and without a flag, with the same respect as civilized nations preserve towards each other during a war;

Considering that, by the authentic acts which are in our possession, it is proved that the divers places of the colonies delivered up to the English by the rebel Frenchmen and Batavians, no more belong to the British Government than La Vendée, in which the English ministry had, in like manner, mercenary troops under pay; some regiments clad in the same uniform as those of England; considering that in virtue of the second article of the treaty of alliance, concluded at Paris on the 6th of February, 1778, between the United States and France, the former Power engaged to defend the American possessions in case of war; and that the Government and the commerce of the United States have strangely abused the forbearance of the republic of France, in turning to its injury the favors granted to them of trading in all the ports of the French colonies;

That, by permitting neutral vessels any longer to carry provisions of war and of subsistence to men evidently in a state of rebellion, would be to prolong civil war, and the calamities and crimes following therefrom, decree as follows:

ART. 1. The ships of the republic and French privateers are authorized to capture and conduct into the ports of the republic, neutral vessels destined for the Windward and Leeward islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are, Martinico, St. Lucia, Tobago, Demarara, Berbice, Essequibo; and at the Leeward, Port-au-Prince, St. Marcks l'Archaye, and Jeremie.

ART. 2. Every armed vessel, having a commission from either of the said ports, shall be reputed a pirate, and the crews adjudged and punished as such.

ART. 3. The vessels and cargoes described in the first and second articles are declared good prize, and shall be sold for the benefit of the captors.

ART. 4. Every captured vessel, which shall have cleared out, under the vague denomination of *West Indies*, is comprehended in the first and second articles.

ART. 5. The decree of the 4th of last Nivose, in pursuance of the resolution of the Executive Directory of the 14th Messidor, 4th year, shall be executed till further orders, as far as shall not be contravened by the present decree.

This decree shall be printed, transcribed in the register of the criminal and commercial tribunals, sent to all the French colonial ports, read, published, and posted up, wherever it may be necessary. It shall be notified officially to the neutral Governments of St. Croix, St. Thomas, and St. Bartholomew's.

Enjoining the criminal and commercial tribunals of Guadaloupe, their delegates in the different French colonies and elsewhere, the Rear-Admiral Commandant on the West India station, and the head of the administration, to aid in executing the present decree, each in his respective department.

Done at Basseterre, island of Guadaloupe, the 13th of Pluviose, 5th year (February 1, 1797) of the French republic, one and indivisible.

VICTOR HUGUES.
LEBAS.

[TRANSLATION.]

Extract from the Register of the Resolves of the Commission delegated by the French Government to the Leeward islands.

The commission resolves; that the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony American vessels bound to English ports, or coming from the said ports.

The vessels which are already taken, or shall be hereafter, shall remain in the ports of the colony until it shall be otherwise ordered.

At the Cape, the 7th Frimaire, (27th November, 1797,) in the fifth year of the French republic, one and indivisible.

Signed in the record of the process verbal.

LEBLANC, *President.*
SANTHONAX, } *Commissioners.*
RAIMOND, }
PASCAL, *Secretary General.*

A true copy:

The Secretary General of the Commission, PASCAL.

L. FERRAND, *General of Brigade, Commander-in-chief of St. Domingo, acting as Captain General, and a member of the Legion of Honor.*

Experience has, for too much time, taught the General that all kind of regard and modification towards those scoundrels who maintain the rebellion in Hispaniola by furnishing every thing necessary to the rebels, against the will and approbation of their respective Governments, and who, by those acts of cupidity, dishonor the flags they sail under; and finding the necessity of putting a stop to rapacity, and to treat them as pirates, has proclaimed and proclaims:

ART. 1. All individuals whomsoever found on board of any vessel or vessels, allies or neutrals, bound to any ports in Hispaniola occupied by the rebels, shall suffer death.

Those found on board of any vessel, allies or neutrals, coming out of any ports in Hispaniola occupied by the rebels, shall suffer death.

Those found at two leagues distance from any port of the coast of Hispaniola occupied by the rebels, on board of allies or neutrals, shall suffer death.

ART. 2. The General informs, that all prisoners made in those different cases shall be brought into one of the ports of Hispaniola occupied by the French, to be tried by military commission, which is to pronounce sentence.

ART. 3. This proclamation shall be put into execution on the 1st Floréal, (21st April;) and, until that time, all the preceding proclamations, in order to prevent all kinds of communication with the coast of Hispaniola occupied by the rebels, shall be strictly executed.

ART. 4. Of this present proclamation, registered at the colonial inspection, one hundred copies are printed, published, and posted up in all the chief places around the east part of Hispaniola, and all necessary steps shall be taken to its publicity in all the islands and continent of America.

Done at the head-quarters of the General of St. Domingo, the 16th Pluviose, year the 13th, (5th February, 1805.)

The General Commander-in-chief, acting as Captain General, and member of the Legion of Honor,
L. FERRAND.

III. DECREES OF SPAIN.

1800, February 15. Blockade of Gibraltar.

1807, February 19. In imitation of the Berlin decree.

1808, January 3. In imitation of the Milan decree.

Copy of a letter from the Secretary of State of His Catholic Majesty to the Minister Plenipotentiary of the United States at Madrid.

SIR:

ARANJUEZ, February 15, 1800.

The King, wishing to lessen as much as possible the evils resulting to the nation from the scandalous traffic which many of his subjects carry on with Gibraltar by means of neutral vessels, and making use of just reprisals against the enemies of his crown, who have declared the ports of Cadiz and St. Lucar de Barrameda blockaded, His Majesty has thought proper to declare that, from this day, he should consider Gibraltar as blockaded; and that, under this view, all captures of neutral vessels going to the said place should be held as legitimate; for which purpose, and that ignorance may not be pleaded, His Majesty has commanded me to communicate this declaration for the information and government of your court.

I place myself at your disposition, and pray God to preserve your life many years.

MARINO LUIS DE URQUEJO.

[TRANSLATION.]

ARANJUEZ, February 19, 1807.

By the greatest outrage against humanity and against policy, Spain was forced by Great Britain to take part in the present war. This Power has exercised over the sea and over the commerce of the world an exclusive dominion. Her numerous factories, disseminated through all countries, are like sponges which imbibe the riches of those countries, without leaving them more than the appearances of mercantile liberty. From this maritime and commercial despotism England derives immense resources for carrying on a war whose object is to destroy the commerce which belongs to each State from its industry and situation. Experience has proven that the morality of the British cabinet has no hesitation as to the means, so long as they lead to the accomplishment of its designs; and whilst this Power can continue to enjoy the fruits of its immense traffic, humanity will groan under the weight of a desolating war. To put an end to this, and to attain a solid peace, the Emperor of the French and King of Italy issued a decree on the 21st of November last, in which, adopting the principle of reprisals, the blockade of the British isles is determined on; and his ambassador, his excellency Francis de Beauharnois, Grand Dignitary of the Order of the Iron Crown, of the Legion of Honor, &c. &c. having communicated this decree to the King our master, and His Majesty being desirous to co-operate by means sanctioned by the rights of reciprocity, has been pleased to authorize His Most Serene Highness the Prince Generalissimo of the Marine to issue a circular of the following tenor:

As soon as England committed the horrible outrage of intercepting the vessels of the royal marine, insidiously violating the good faith with which peace assures individual property and the rights of nations, His Majesty considered himself in a state of war with that Power, although his royal soul suspended the promulgation of the manifesto, until he saw the atrocity committed by its seamen sanctioned by the Government of London. From that time, and without the necessity of warning the inhabitants of these kingdoms of the circumspection with which they ought to conduct themselves towards those of a country which disregards the sacred laws of property and the rights of nations, His Majesty made known to his subjects the state of war in which he found himself with that nation. All trade, all commerce, is prohibited in such a situation, and no sentiments ought to be entertained towards such an enemy which are not dictated by honor, avoiding all intercourse which might be considered as the vile effect of avarice, operating on the subjects of a nation, which degrades itself in them. His Majesty is well persuaded that such sentiments of honor are rooted in the hearts of his beloved subjects; but he does not choose, on that account, to allow the smallest indulgence to the violators of the law, nor permit that, through their ignorance, they should be taken by surprise, authorizing me by these presents to declare that all English property will be confiscated whenever it is found on board a vessel, although a neutral, if the consignment belongs to Spanish individuals. So, likewise, will be confiscated all merchandise which may be met with, although it may be in neutral vessels, whenever it is destined for the ports of England or her isles. And, finally, His Majesty, conforming himself to the ideas of his ally the Emperor of the French, declares in his States the same law which, from principles of reciprocity and suitable respect, His Imperial Majesty promulgated under date of the 21st of November, 1806.

The execution of this determination of His Majesty belongs to the chiefs of provinces, of departments, and of vessels (*baxeles*;) and, communicating it to them in the name of His Majesty, I hope they will leave no room for his royal displeasure.

God preserve you many years.

THE PRINCE GENERALISSIMO OF THE MARINE.

His Majesty has been pleased to issue the following royal decree.

JANUARY 3, 1808.

The abominable outrage committed by the English vessels of war in the year 1804, by the express order of their Government, on four frigates of my royal navy, which, navigating under the full security of peace, were iniquitously surprised, attacked, and captured, determined me to break off all connexion with the British cabinet, and to consider myself in a state of war with a Power which had so unjustly violated the laws of nations and of humanity.

An aggression so atrocious gave me a sufficient motive to break all those ties which unite one nation to another, even if I had not considered what I owed to myself and to the honor and glory of my crown, and of my beloved subjects. Two years of war had passed without producing, on the part of Great Britain, a diminution of her pride, or a renunciation of the unjust domination which she exercised over the sea; on the contrary, confounding her friends with her enemies and with neutrals, she has manifested her decided will to treat all with the same tyranny. Under these considerations, I determined, in February of the last year, conforming myself to the wise measures adopted by my intimate ally the Emperor of the French and King of Italy, to declare, as I did declare, the British isles in a state of blockade, to see if, by this step, I could convince the British cabinet that it ought to renounce its unjust domination over the sea, and resolve on making a solid and durable peace. Far from this; not only has it rejected the propositions which have been made to it on the part of my intimate ally the Emperor of the French and King of Italy, as well those made by himself as those made through the medium of several Powers, friends of England; but, having committed the greatest atrocity and piracy, in the scandalous attack on the city and port of Copenhagen, it has thrown off the mask in such a way that no one can doubt that its insatiable ambition aspires to the exclusive commerce and navigation of every sea. Nothing proves it more than the measures which it has just adopted, under date of the 14th November last, not only declaring all the coasts of France, of Spain, of their allies, and those occupied by the arms of the one or the other Power, in a state of blockade, but subjecting the vessels of neutral

Powers, friends, and even allies of England, not only to be searched by English cruisers, but likewise to touch, contrary to their will, at an English port, and also subjecting them to the arbitrary payment of a certain per centage on their cargoes, as may be determined by the English Legislature. Authorized, then, by the just right of reciprocity, to take those measures which may seem to me proper to prevent the abuse which the British cabinet is making of its forces with respect to the neutral flag, and to see if, in this way, a renunciation of so unjust a tyranny can be obtained, I have come to the determination to adopt, and *I will* that there be adopted in all my dominions, the same measures which my intimate ally, the Emperor of the French and King of Italy, has adopted; and they are as follows:

Considering that, by the act above mentioned of the 14th November last, the British cabinet has *denationalized* the vessels of all the nations of Europe, and that it is not at the discretion of any Government to accommodate (*transiger*) as to its independence and its rights, all the sovereigns of Europe being guarantees of the sovereignty and of the independence of their flags; and that, if, through an unpardonable weakness, which would be an indelible stain in the eyes of posterity, such tyranny should be suffered to be laid down as a principle, and consecrated by use, the English would take it as granted to establish it as a right in the same way that they have availed themselves of the tolerance of Governments to establish the infamous principle that the flag does not cover the merchandise, and to give to its right of blockade an arbitrary extension aimed at the sovereignty of all States, I have decreed, and do decree as follows:

ART. 1. Every vessel, of whatever nation she may be, which may have been visited (*visitado*) by an English ship, or may have submitted to touch at a port of England, or may have paid any duty to the English Government, is, from that act, declared to be denationalized, loses the protection of its flag, and makes itself English property.

ART. 2. The vessels so denationalized by the arbitrary measures of the British Government, whether they enter into our ports, or enter those of our allies, or whether they fall into the possession of our ships of war or our privateers, are good and valid prize.

ART. 3. The British isles are declared in a state of blockade, as well by sea as by land. Every vessel, of whatever nation she may be, whatever may be her cargo, despatched (*expedido*) from the ports of England, or of the English colonies, or from the countries occupied by the English troops, will be a good prize, as contravening this decree, will be liable to capture by our ships of war or by our privateers, and will be adjudged to the captor.

These measures, which are nothing more than a just reciprocation of the barbarous system adopted by the English Government, which assimilates its legislation to that of Algiers, will cease to have effect on all those nations who know how to oblige the English Government to respect their flag, and will continue in full force until the English Government return to the adoption of those principles of the law of nations which establish the relations of civilized States in time of war.

The dispositions of the present decree will be revoked and have no effect so soon as the English Government shall have returned to the adoption of those principles of the law of nations, which are equally those of justice and of honor.

You will keep this in mind, and communicate it to those to whom belongs its execution.

Signed with the royal hand of His Majesty at Aranjuez, on the 3d of January, 1808.

PEDRO CEVALLOS.

10th CONGRESS.]

No. 220.

[2d Session.

GREAT BRITAIN AND FRANCE.

COMMUNICATED TO CONGRESS, ON THE 30TH OF DECEMBER, 1808.

DECEMBER 30, 1808.

To the Senate and House of Representatives of the United States:

At the request of the Governor, the Senate, and House of Representatives of the commonwealth of Pennsylvania, I communicate certain resolutions entered into by the said Senate and House of Representatives, and approved by the Governor, on the 23d instant. It cannot but be encouraging to those whom the nation has placed in the direction of their affairs, to see that their fellow-citizens will press forward in support of their country, in proportion as it is threatened by the disorganizing conflicts of the other hemisphere.

TH: JEFFERSON.

SIR:

LANCASTER, December 23, 1808.

In compliance with a resolution of the Senate and House of Representatives of the commonwealth of Pennsylvania, passed this day, I have the honor of transmitting to you certain resolutions, with a request that you will be pleased to lay them before the Congress of the United States.

Accept assurances of high consideration and esteem.

SIMON SNYDER.

THOMAS JEFFERSON, Esq.

Whereas, the situation of the United States in relation to foreign Powers is eminently critical, and calls for all their energies, unanimity, and patriotism, to preserve those rights and that independence for which our fathers fought and conquered; and whereas, in such times, it is the duty of the constituted authorities to aid the common cause of our country, by declaring anew their devotion to the principles of the Declaration of Independence: therefore,

Resolved, by the Senate and House of Representatives of the commonwealth of Pennsylvania, That we have the fullest confidence in the wisdom, the patriotism, and the integrity of the administration of the General Government, and that we pledge ourselves to co-operate with them, to the utmost extent of our power, in all measures which may be deemed expedient to maintain our national honor and our national rights.

Resolved, That we consider the embargo as a wise, pacific, and patriotic measure, called for by the best interests of the nation, and well calculated to induce an observance of our national rights without a resort to the horrors and desolations of war, so repugnant to the feelings of humanity and the principles of free Government.

Resolved, That as the ocean is the common highway of nations, and as this commonwealth is deeply interested in the preservation of its freedom, should those pacific measures not produce the desired effect, we are firmly determined to unite our efforts with those of the General Government in the maintenance of its rights.

Resolved, That the Governor of this commonwealth be requested to forward copies of the foregoing resolutions to the President of the United States, with a request that they may be communicated by him to the Congress of the United States.

JAMES ENGLE, *Speaker of the House of Reps.*
P. C. LANE, *Speaker of the Senate.*

Approved, the twenty-third day of December, one thousand eight hundred and eight.

SIMON SNYDER.

A true copy. Attest:

FOR JAMES THACKARA, *Clerk H. R.*

JOHN PASSMORE, *Assistant Clerk.*

11th CONGRESS.]

No. 221.

[1st SESSION.]

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, MAY 23, AND JUNE 16, 1809.

[The following documents were communicated by the message of May 23, 1809; See Foreign Relations, vol. 1, page 74.]

Mr. Erskine to Mr. Smith.

WASHINGTON, April 17, 1809.

SIR:

I have the honor to inform you, that I have received His Majesty's commands to represent to the Government of the United States, that His Majesty is animated by the most sincere desire for an adjustment of the differences which have unhappily so long prevailed between the two countries, the recapitulation of which might have a tendency to impede, if not prevent an amicable understanding.

It having been represented to His Majesty's Government, that the Congress of the United States, in their proceedings at the opening of the last session, had evinced an intention of passing certain laws which would place the relations of Great Britain with the United States upon an equal footing, in all respects, with the other belligerent Powers, I have accordingly received His Majesty's commands, in the event of such laws taking place, to offer, on the part of His Majesty, an honorable reparation for the aggression, committed by a British naval officer, in the attack on the United States' frigate Chesapeake.

Considering the act passed by the Congress of the United States, on the 1st of March, (usually termed the non-intercourse act,) as having produced a state of equality in the relations of the two belligerent Powers, with respect to the United States, I have to submit, conformably to instructions, for the consideration of the American Government, such terms of satisfaction and reparation, as His Majesty is induced to believe will be accepted in the same spirit of conciliation with which they are proposed.

In addition to the prompt disavowal made by His Majesty, on being apprised of the unauthorized act, committed by his naval officer, whose recall, as a mark of the King's displeasure, from a highly important and honorable command, immediately ensued, His Majesty is willing to restore the men forcibly taken out of the Chesapeake, and, if acceptable to the American Government, to make a suitable provision for the unfortunate sufferers on that occasion.

I have the honor to be, with sentiments of the highest respect and consideration, &c.

D. M. ERSKINE.

HON. ROBERT SMITH, &c.

Mr. Smith to Mr. Erskine.

SIR:

DEPARTMENT OF STATE, April 17, 1809.

I have laid before the President your note, in which you have, in the name and by the order of His Britannic Majesty, declared that His Britannic Majesty is desirous of making an honorable reparation for the aggression committed by a British naval officer in the attack on the United States' frigate the Chesapeake; that, in addition to his prompt disavowal of the act, His Majesty, as a mark of his displeasure, did immediately recall the offending officer from a highly important and honorable command; and that he is willing to restore the men forcibly taken out of the Chesapeake, and, if acceptable to the American Government, to make a suitable provision for the unfortunate sufferers on that occasion.

The Government of the United States having, at all times, entertained a sincere desire for an adjustment of the differences which have so long and so unhappily subsisted between the two countries, the President cannot but receive with pleasure assurances that His Britannic Majesty is animated by the same disposition, and that he is ready, in conformity to this disposition, to make atonement for the insult and aggression committed by one of his naval officers in the attack on the United States' frigate the Chesapeake.

As it appears, at the same time, that, in making this offer, His Britannic Majesty derives a motive from the equality, now existing, in the relations of the United States with the two belligerent Powers, the President owes it to the occasion, and to himself, to let it be understood that this equality is a result incident to a state of things, growing out of distinct considerations.

With this explanation, as requisite as it is frank, I am authorized to inform you that the President accepts the note delivered by you, in the name and by the order of His Britannic Majesty, and will consider the same, with the engagement contained therein, when fulfilled, as a satisfaction for the insult and injury of which he has complained. But I have it in express charge from the President to state, that, while he forbears to insist on a further punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from His Britannic Majesty to his own honor.

I have the honor to be, &c.

R. SMITH.

The Hon. DAVID M. ERSKINE,
Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty.

Mr. Erskine to Mr. Smith.

SIR:

WASHINGTON, April 18, 1809.

I have the honor of informing you that His Majesty, having been persuaded that the honorable reparation which he had caused to be tendered for the unauthorized attack upon the American frigate Chesapeake, would be accepted by the Government of the United States in the same spirit of conciliation with which it was proposed, has instructed me to express his satisfaction, should such a happy termination of that affair take place, not only as having removed a painful cause of difference, but as affording a fair prospect of a complete and cordial understanding being re-established between the two countries.

The favorable change in the relations of His Majesty with the United States, which has been produced by the act (usually termed the non-intercourse act) passed in the last session of Congress, was also anticipated by His Majesty, and has encouraged a further hope that a reconsideration of the existing differences might lead to their satisfactory adjustment.

On these grounds and expectations, I am instructed to communicate to the American Government His Majesty's determination of sending to the United States an envoy extraordinary, invested with full powers to conclude a treaty on all the points of the relations between the two countries.

In the mean time, with a view to contribute to the attainment of so desirable an object, His Majesty would be willing to withdraw his orders in council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, will be removed in the proposed negotiation.

I have the honor to be, with sentiments of the highest consideration and esteem, sir,

Your most obedient servant,

The Hon. ROBERT SMITH, &c.

D. M. ERSKINE.

Mr. Smith to Mr. Erskine.

SIR:

DEPARTMENT OF STATE, April 18, 1809.

The note, which I had the honor of receiving from you this day, I lost no time in laying before the President, who, being sincerely desirous of a satisfactory adjustment of the differences unhappily existing between Great Britain and the United States, has authorized me to assure you that he will meet, with a disposition correspondent with that of His Britannic Majesty, the determination of His Majesty to send to the United States a special envoy, invested with full powers to conclude a treaty on all the points of the relations between the two countries.

I am further authorized to assure you, that in case His Britannic Majesty should, in the mean time, withdraw his orders in council of January and November, 1807, so far as respects the United States, the President will not fail to issue a proclamation, by virtue of the authority, and for the purposes specified in the eleventh section of the statute commonly called the non-intercourse act.

I have the honor to be, with the highest respect and consideration, sir, your most obedient servant,

R. SMITH.

The Hon. DAVID M. ERSKINE,
Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty.

Mr. Erskine to Mr. Smith.

SIR:

WASHINGTON, April 19, 1809.

In consequence of the acceptance by the President, as stated in your letter dated the 18th instant, of the proposals made by me on the part of His Majesty, in my letter of the same day, for the renewal of the intercourse between the respective countries, I am authorized to declare, that His Majesty's orders in council of January and November, 1807, will have been withdrawn as respects the United States on the 10th day of June next.

I have the honor to be, with great respect and consideration, sir, your most obedient servant,

D. M. ERSKINE.

The Hon. ROBERT SMITH, &c. &c.

Mr. Smith to Mr. Erskine.

SIR:

DEPARTMENT OF STATE, April 19, 1809.

Having laid before the President your note of this day, containing an assurance that His Britannic Majesty will, on the 10th day of June next, have withdrawn his orders in council of January and November, 1807, so far as respects the United States, I have the honor of informing you, that the President will, accordingly, and in pursuance of the eleventh section of the statute, commonly called the non-intercourse act, issue a proclamation, so that the trade of the United States with Great Britain may, on the same day, be renewed in the manner provided in the said section.

I have the honor to be, with the highest respect and consideration, sir, your obedient servant,

R. SMITH.

Hon. DAVID M. ERSKINE, &c. &c.

By the President of the United States of America.

A PROCLAMATION.

Whereas it is provided by the eleventh section of the act of Congress, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" that, "in case either France or Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States," the President is authorized to declare the same by proclamation; after which the trade suspended by the said act, and by an act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed with the nation so doing; and whereas the honorable David Montague Erskine, His Britannic Majesty's envoy extraordinary and minister plenipotentiary, has, by the order and in the name of his Sovereign, declared to this Government that the British orders in council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next: Now, therefore, I, James Madison, President of the United States, do hereby proclaim that the orders in council aforesaid will have been withdrawn on the said 10th day of June next; after which day the trade of the United States with Great Britain, as suspended by the act of Congress above mentioned, and an act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed.

Given under my hand, and the seal of the United States, at Washington, the nineteenth day of April, in the
[L. s.] year of our Lord one thousand eight hundred and nine, and of the independence of the United States the thirty-third.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

*Mr. Erskine to Mr. Smith.**

SIR:

WASHINGTON, June 15, 1809.

I have the honor to enclose a copy of an order of His Majesty in council, issued on the 26th of April last.

In consequence of official communications sent to me from His Majesty's Government, since the adoption of that measure, I am enabled to assure you, that it has no connexion whatever with the overtures which I have been authorized to make to the Government of the United States, and that I am persuaded that the terms of the agreement, so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty.

The internal evidence of the order itself would fully justify the foregoing construction; and, moreover, it will not have escaped your notice, that the repeal has not thereby been made of the orders of the 7th January, 1807, which, according to the engagement I have entered into on the part of His Majesty, is to be abrogated with the other orders, in consequence of the adjustment of differences between the two countries, and the confidence entertained of a further conciliatory understanding.

I have the honor to be, &c.

D. M. ERSKINE.

The Hon. ROBERT SMITH, &c. &c.

Mr. Smith to Mr. Erskine.

SIR:

DEPARTMENT OF STATE, June 15, 1809.

I have the honor to acknowledge the receipt of your note of this day, communicating the order in council, issued by His Britannic Majesty, on the 26th of April last.

However well persuaded the President may at all times have been, that the arrangement, so happily effected by the late negotiation, would be strictly fulfilled on the part of His Britannic Majesty, he has, nevertheless, received with satisfaction your renewed assurance to that effect, with the further assurance, founded on official communications to you from your Government, since the adoption of the order in council of the 26th of April, that that order was not intended to have any connexion whatever with the overtures which you had been authorized to make to the Government of the United States.

I have the honor, &c.

R. SMITH.

The Hon. DAVID M. ERSKINE, *Envoy Ex. and Minister Plen'y of His Br. Majesty.*

11th CONGRESS.]

No. 222.

[1st SESSION.]

INTERDICTION OF FOREIGN ARMED VESSELS.

REPORTED TO THE SENATE, JUNE 23, 1809.

Mr. SECT, from the committee to whom was referred the resolution of the Senate, "to inquire into the expediency of providing, by law, for the exclusion of foreign armed vessels from the ports and harbors of the United States," submitted the following report:

That, in the opinion of the committee, such an interdiction is within the just and neutral rights of the United States, and, under other circumstances, would be highly expedient and proper. So long as a neutral nation shall confine itself to strict measures of impartiality, allowing no benefit to one belligerent, not stipulated by treaty, which

* This and the following note were transmitted by the message of June 15, 1809.

it shall refuse to another, no cause whatever is afforded for exception or complaint. The right to admit an armed force into a neutral territory belongs exclusively to the neutral; and when not guaranteed by treaty, as is oftentimes the case, such admission compromises the neutrality of the nation, which permits to one belligerent alone such an indulgence.

As a measure of safety as well as of peace, it is incumbent upon the United States to carry into effect such a provision. So long as we are without a competent force to protect our jurisdiction from violation, and our citizens from outrage, and our flag from insults, so long ought no asylum to be given but in distress to the armed vessels of any nation. The committee will not bring into view the many injuries and insults which the United States have sustained from the hospitable grant of their ports and harbors to belligerents, nor the facility which has thereby been afforded to them to lay our commerce under contribution. It is sufficient to remark, that great injuries have been sustained, and that imperious duty requires arrangements at our hands to guard our country in future from similar aggressions.

The United States are at this moment under no obligation to withhold the restraints within their power upon the admission of foreign armed vessels into their ports; but the committee are strongly impressed with the propriety of avoiding any legislative interference at this time, which, by any possibility, might be construed into a desire to throw difficulties in the way of promised and pending negotiations. They are desirous that a fair experiment be made to adjust our differences with the two belligerent nations, and that no provisions be interwoven in our laws, which shall furnish a pretext for delay, or a refusal to yield to our just and honorable demands.

Calculating that the overtures which have been made by Great Britain will be executed in good faith, the committee are willing to believe that the stipulated arrangements will be of such a character as to guard our flag from insult, our jurisdiction from aggression, our citizens from violation, and our mercantile property from spoliation. Under these impressions, which the committee have stated as briefly as possible, they beg leave to submit to the consideration of the Senate the following resolution, viz:

Resolved, That the further consideration of the subject be postponed until the next session of Congress.

11th CONGRESS.]

No. 223.

[1st SESSION.]

R U S S I A.

COMMUNICATED TO THE SENATE, JUNE 26, 1809.

To the Senate of the United States:

JUNE 26, 1809.

The considerations which led to the nomination of a minister plenipotentiary to Russia, being strengthened by evidence since received of the earnest desire of the Emperor to establish a diplomatic intercourse between the two countries, and of a disposition in his councils favorable to the extension of a commerce mutually advantageous, as will be seen by the extracts from letters from General Armstrong and Consul Harris, herewith *confidentially* communicated:

I nominate John Quincy Adams, of Massachusetts, to be minister plenipotentiary of the United States to the court of St. Petersburg.

JAMES MADISON.

Mr. Harris to Mr. Madison.

SIR:

ST. PETERSBURG, July 7 [19,] 1808.

No opportunity has offered for the conveyance of the enclosed since the date thereof; this delay has enabled me to transmit you a copy of a note which has been written me by the Minister of Foreign Affairs, announcing the appointment of Mr. de Daschoff, in quality of *chargé d'affaires* and consul general to the United States.

The minister, in a particular conference I had with him, assured me of the great desire of the Emperor that this gentleman should proceed to his destination without delay, and personally carry His Majesty's sentiments upon the subject of the relations he was so anxious should be firmly established between the two States.

As a direct opportunity to America is likely to offer in about two weeks, I shall defer writing you more particularly till then, and have the honor to remain, with the greatest respect, sir, your most obedient servant,

LEVETT HARRIS.

The Hon. JAMES MADISON, *Secretary of State of the U. S. Washington.*

[TRANSLATION.]

Count de Romanzoff to Mr. Harris.

ST. PETERSBURG, June 13, 1808.

The undersigned, Minister of Foreign Affairs, has the honor to inform Mr. Levett Harris, that His Imperial Majesty, wishing more and more to strengthen the ties of friendship between Russia and the United States of America, has judged it proper to name Mr. Daschoff, *assesseur* of the college, his consul general to Philadelphia, conferring on him, at the same time, the title of his *chargé d'affaires* near the Congress of the United States.

The undersigned prays the consul general to communicate this to his Government, and he seizes this occasion to reiterate to him the assurances of his distinguished consideration.

THE COUNT NICOLAS DE ROMANZOFF.

Extract of a letter from General Armstrong, minister plenipotentiary of the United States at Paris, to the Secretary of State, dated

PARIS, November 24, 1808.

Mr. Short, who arrived on the 15th instant, and who delivered to me your letter of the 9th of September, not wishing to have his appointment known here, it has accordingly been concealed. But though this course has been adopted, and is still observed in conformity to Mr. Short's personal wishes, I did not think myself at liberty to keep from the Russian Minister of Foreign Relations (who is now here) the fact, that the President had determined to send a minister to St. Petersburg, and that his arrival there might be soon expected. The manner in which the Count received this intelligence showed the propriety of giving it. Besides expressions of the highest satisfaction on his own part, as well as on that of his master, he immediately despatched a courier to St. Petersburg, for the purpose of arresting or modifying the arrangements already taken, or about to be taken, with regard to Mr. Daschoff's departure for America. He wished, in particular, to be informed of the grade of public character which the gentleman appointed would bring with him, and added, that "an imperial minister of equal rank would be immediately appointed." Nor did he stop here: "Ever since I came into office," he said, "I have been desirous of producing this effect; for, in dissolving our commercial connexions with Great Britain, it became necessary to seek some other Power in whom we might find a substitute; and, on looking around, I could see none but the United States who were at all competent to this object."

11th CONGRESS.]

No. 224.

[1st Session.]

GREAT BRITAIN.

COMMUNICATED, NOVEMBER 29, 1809,* DECEMBER 12, AND DECEMBER 16, 1809, AND MAY 1, 1810.

WASHINGTON, December 12, 1809.

To the House of Representatives of the United States:

According to the request of the House of Representatives, expressed in their resolution of the 11th instant, I now lay before them a circular letter from Mr. Jackson to the British consul of the United States, as received in a gazette, at the Department of State; and also a printed paper, received in a letter from our minister in London, purporting to be a copy of a despatch from Mr. Canning to Mr. Erskine, of the 23d of January last.

JAMES MADISON.

To the House of Representatives of the United States:

WASHINGTON, December 16, 1809.

Agreeably to the request expressed in the resolution of the 13th instant, I lay before the House extracts from the correspondence of the minister plenipotentiary of the United States at London.

JAMES MADISON.

Brief account of an unofficial conversation between Mr. Canning and Mr. Pinkney, on the 18th of January, 1809, continued on the 22d of the same month. [Transmitted by Mr. Pinkney to the Secretary of State.]

I dined at Mr. Canning's, with the *corps diplomatique*, on the 18th January. Before dinner he came up to me, and, entering into conversation, adverted to a report which he said had reached him that the American ministers (here and in France) were about to be recalled. I replied, that I was not aware that such a step had been resolved upon. He then took me aside, and observed, that, according to his views of the late proceedings of Congress, the resolutions of the House of Representatives, in Committee of the Whole, appeared to be calculated, if passed into a law, to remove the impediments to arrangement with the United States, on the subject of the orders in council and the Chesapeake, by taking away the discrimination between Great Britain and France in the exclusion of vessels of war from American ports. He added that it was another favorable circumstance that the non-importation system, which seemed to be in contemplation, was to be applied equally to both parties, instead of affecting, as heretofore, Great Britain alone.

I proposed to Mr. Canning that I should call on him in the course of a day or two for the purpose of a free communication upon what he had suggested. To this he readily assented; and it was settled that I should see him on the Sunday following (the 22d,) at 12 o'clock, at his own house.

In the interview of the 22d, Mr. Canning's impressions appeared to be in all respects the same with those which he had mentioned on the 18th; and I said every thing which I thought consistent with candor and discretion to confirm him in his disposition to seek the re-establishment of good understanding with us, and especially to see, in the expected act of Congress, (if it should pass,) an opening for reconciliation.

It was of some importance to turn their attention here, without loss of time, to the manner of any proceeding that might be in their contemplation. It seemed that the resolutions of the House of Representatives, if enacted into a law, might render it proper, if not indispensable, that the affair of the Chesapeake should be settled at the same time with the business of the orders and embargo, and this I understood to be Mr. Canning's opinion and wish. It followed that the whole matter ought to be settled at Washington, and, as this was moreover desirable on various other grounds, I suggested that it would be well (in case a special mission did not meet their approbation) that the necessary powers should be sent to Mr. Erskine.

* See this message, Foreign Relations, vol. 1, page 75.

In the course of the conversation, Mr. Canning proposed several questions relative to our late proposal; the principal were the two following:

1st. In case they should wish, either through me or through Mr. Erskine, to meet us upon the basis of our late overture, in what way was the effectual operation of our embargo as to France, &c. after it should be taken off as to Great Britain, to be secured? It was evident, he said, that if we should do no more than refuse clearances for the ports of France, &c. or prohibit, under penalties, voyages to such ports, the effect which my letter of the 23d of August, and my published instructions, proposed to have in view, would not be produced; for that vessels, although cleared for British ports, might, when once out, go to France instead of coming here; and that this would in fact be so, (whatever the penalties which the American laws might denounce against offenders) could not, he imagined, be doubted; and he, therefore, presumed that the Government of the United States would not, after it had itself declared a commerce with France, &c. illegal, and its citizens who should engage in it delinquents, and after having given to Great Britain, by compact, an interest in the strict observation of the prohibition, complain if the naval force of this country should assist in preventing such a commerce.

2d. He asked whether there would be any objection to making the repeal of the British orders and the American embargo contemporaneous? He seemed to consider this as indispensable. Nothing could be less admissible, he said, than that Great Britain, after rescinding her orders, should for any time, however short, be left subject to the embargo in common with France, whose decrees were subsisting, with a view to an experiment upon France, or with any other view. The United States could not, upon their own principles, apply the embargo to this country one moment after its orders were removed, or decline, after that event, to apply it exclusively to France, and the Powers connected with her in system.

I took occasion, towards the close of our conversation, to mention the recent appointment of Admiral Berkeley to the Lisbon station. Mr. Canning said, that whatever might be their inclination to consult the feelings of the American Government on that subject, it was impossible for the Admiralty to resist the claim of that officer to be employed (no other objection existing against him) after such a lapse of time since his return from Halifax, without bringing him to a court martial. The usage of the navy was, in this respect, different from that of the army. But I understood Mr. Canning to say that he might still be brought to a court-martial, although I did not understand him to say that this would be the case. He said that Admiral Berkeley, in what he had done, had acted wholly without authority. I did not propose to enter into any discussion upon the subject, and, therefore, contented myself with speaking of the appointment as unfortunate.

In both of these conversations, Mr. Canning's language and manner were in the highest degree conciliatory.

Copy of a despatch from Mr. Secretary Canning to the Hon. D. M. Erskine.

SIR:

FOREIGN OFFICE, January 23, 1809.

If there really exist in those individuals who are to have a leading share in the new administration of the United States that disposition to come to a complete and cordial understanding with Great Britain, of which you have received from them such positive assurances in meeting that disposition, it would be useless and unprofitable to recur to a recapitulation of the causes from which the differences between the two Governments have arisen, or of the arguments already so often repeated in support of that system of retaliation to which His Majesty has unwillingly had recourse.

That system His Majesty must unquestionably continue to maintain, unless the object of it can be otherwise accomplished.

But after the profession, on the part of so many of the leading members of the Government of the United States, of a sincere desire to contribute to that object in a manner which should render the continuance of the system adopted by the British Government unnecessary, it is thought right that a fair opportunity should be afforded to the American Government to explain its meaning, and to give proof of its sincerity.

The extension of the interdiction of the American harbors to the ships of war of France as well as of Great Britain, is, as stated in my former despatch, an acceptable symptom of a system of impartiality towards both belligerents; the first that has been publicly manifested by the American Government.

The like extension of the non-importation act to other belligerents is equally proper in this view. These measures remove those preliminary objections, which must otherwise have precluded any useful or amicable discussion.

In this state of things, it is possible for Great Britain to entertain propositions which, while such manifest partiality was shown to her enemies, were not consistent either with her dignity or her interest.

From the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

1. That the American Government is prepared, in the event of His Majesty's consenting to withdraw the orders in council of January and November, 1807, to withdraw contemporaneously on its part the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain; leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

2. (What is of the utmost importance, as precluding a new source of misunderstanding which might arise after the adjustment of the other questions,) that America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemy's colonies, from which she was excluded during peace.

3. Great Britain, for the purpose of securing the operation of the embargo, and of the *bona fide* intention of America to prevent her citizens from trading with France and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising of it nominally with respect to Great Britain alone, would, in fact, raise it with respect to all the world.

On these conditions His Majesty would consent to withdraw the orders in council of January and November, 1807, so far as respects America.

As the first and second of these conditions are the suggestions of the persons in authority in America to you, and as Mr. Pinkney has recently (but for the first time) expressed to me his opinion that there will be no indisposition on the part of his Government to the enforcement, by the naval power of Great Britain, of the regulations of America with respect to France and the countries to which these regulations continue to apply, but that his Government was itself aware that without such enforcement those regulations must be altogether nugatory, I flatter myself that there will be no difficulty in obtaining a distinct and official recognition of these conditions from the American Government.

For this purpose, you are at liberty to communicate this despatch *in extenso* to the American Government.

Upon receiving through you, on the part of the American Government, a distinct and official recognition of the three above-mentioned conditions, His Majesty will lose no time in sending to America a minister fully empowered to consign them to a formal and regular treaty.

As, however, it is possible that the delay which must intervene before the actual conclusion of a treaty may appear to the American Government to deprive this arrangement of part of its benefits, I am to authorize you, if the American Government should be desirous of acting upon the agreement before it is reduced into a regular form, (either by the immediate repeal of the embargo and the other acts in question, or by engaging to repeal them on a particular day,) to assure the American Government of His Majesty's readiness to meet such a disposition in the manner best calculated to give it immediate effect.

Upon the receipt here of an official note containing an engagement for the adoption by the American Government of the three conditions above specified, His Majesty will be prepared, on the faith of such engagement, either immediately (if the repeal shall have been immediate in America) or on any day specified by the American Government for that repeal, reciprocally to recall the orders in council, without waiting for the conclusion of the treaty; and you are authorized, in the circumstances herein described, to make such reciprocal engagement on His Majesty's behalf.

I am, &c.

GEORGE CANNING.

Extract of a letter from the Secretary of State to William Pinkney, Esq. minister plenipotentiary of the United States in London.

DEPARTMENT OF STATE, March 15, 1809.

The proceedings of Congress, at their late session, combined with the executive communications, affording as they do additional proofs of the pacific disposition of this Government, and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The first, second, third, fourth, eleventh, and seventeenth sections of the act interdicting our commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the eleventh section, authorizing the Executive to renew our commerce with the nation withdrawing the operation of its illegal edicts. And you will be careful to let it be understood that the authority thus vested will of course be exercised in the event stated in the law.

Extracts from a letter of Mr. Pinkney, minister plenipotentiary of the United States at London, to Mr. Smith, Secretary of State.

LONDON, May 1, 1809.

Upon the receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday, the 17th of April.

With a view to do justice to the character and tendency of the law of the 1st of March, I called the attention of Mr. Canning in a particular manner to the eleventh section, which provides for the renewal of commercial intercourse with the Power revoking, or so modifying, its edicts as that they should cease to violate the neutral commerce of the United States; and, in obedience to my instructions, I assured him that the authority vested in the President to proclaim such revocation or modification would not fail to be exercised as the case occurred.

I entered into a minute explanation of the law of the 1st of March, and, in the course of it, availed myself of every inducement of interest which it could be supposed to furnish to this Government to retract its orders in council, and of the proofs with which it abounds of the sincere desire of the American Government to cultivate peace and friendship with Great Britain, even while it was repelling what it deemed encroachments and injuries the most pernicious and alarming.

Mr. Canning to Mr. Pinkney.

Sir:

FOREIGN OFFICE, May 27, 1809.

According to the intimation which I gave to you in our last conference, I have now the honor to enclose to you a copy of the order in council which His Majesty has directed to be issued for the purpose of preventing, as far as possible, any inconvenience or detriment to the merchants of the United States who may have entered into commercial speculations on the faith of the unauthorized engagements of Mr. Erskine, previously to the notification in America of His Majesty's disavowal of those engagements.

Having had the honor to read to you *in extenso* the instructions with which Mr. Erskine was furnished, it is not necessary for me to enter into any explanation of those points in which Mr. Erskine has acted not only not in conformity, but in direct contradiction to them.

I forbear equally from troubling you, sir, with any comment on the manner in which Mr. Erskine's communications have been received by the American Government, or upon the terms and spirit of Mr. Smith's share of the correspondence.

Such observations will be communicated more properly through the minister whom His Majesty has directed to proceed to America, not on any special mission, (which Mr. Erskine was not authorized to promise, except upon conditions, not one of which he has obtained,) but as the successor of Mr. Erskine, whom His Majesty has not lost a moment in recalling.

I have the honor to be, &c.

GEORGE CANNING.

TO WILLIAM PINKNEY, Esq. &c. &c. &c.

No. 1.

Mr. Erskine to Mr. Smith.

Sir:

WASHINGTON, July 31, 1809.

I have the honor to enclose to you a copy of an order which was passed by His Majesty in council on the 24th of May last.

In communicating this order, it is with the deepest regret that I have to inform you that His Majesty has not thought proper to confirm the late provisional agreement which I had entered into with you on the part of our respective Governments.

Neither the present time nor the occasion will afford me a favorable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to His Majesty's wishes, and to the spirit at least of my instructions upon that subject; nor, indeed, would any vindication of my conduct (whatever I may have to

offer) be of any importance further than as it might tend to show that no intention existed on my part to practise any deception towards the Government of the United States.

I have the satisfaction, however, to call your attention to that part of the enclosed order which protects the commerce and shipping of the United States from the injury and inconveniences which might have arisen to American citizens from a reliance on the provisional agreement before mentioned; and I cannot but cherish a hope that no further bad consequences may result from an arrangement which I had fully believed would have met His Majesty's approbation, and would have led to a complete and cordial understanding between the two countries.

With sentiments of the highest respect, &c.

D. M. ERSKINE.

The Hon. ROBERT SMITH, &c. &c. &c.

[From the London Gazette, May 27.]

At the court at the Queen's palace, the 24th of May, 1809: Present, the King's Most Excellent Majesty in council.

Whereas, His Majesty was pleased, by his order in council of the 26th of April last, to declare certain ports and places of the countries which have been lately styled the kingdom of Holland, to be subject to the restrictions incident to a strict and rigorous blockade, as continued from His Majesty's former order of the eleventh of November, one thousand eight hundred and seven: and whereas, advices have been received of a certain *provisional* agreement entered into by His Majesty's envoy extraordinary and minister plenipotentiary in America, with the Government of the United States, whereby it is understood, that His Majesty's orders in council of the seventh January, and of the eleventh of November, one thousand eight hundred and seven, shall be withdrawn, so far as respects the United States, on the tenth of June next:

And whereas, although the said *provisional* agreement is *not* such as was authorized by His Majesty's instructions, or such as His Majesty can approve, it may already have happened, or may happen, that persons being citizens of the United States may be led, by a reliance on the said provisional arrangement, to engage in trade with and to the said ports and places of Holland, contrary to and in violation of the restrictions imposed by the said orders of the seventh of January, and of the eleventh of November, one thousand eight hundred and seven as altered by the order of the twenty-sixth of April last; His Majesty, in order to prevent any inconveniences that may ensue from the circumstances above recited, is pleased, by and with the advice of his privy council, to order, and it is hereby ordered, that the said several orders shall be suspended, so far as is necessary for the protection of vessels of the said United States, so sailing under the faith of the said provisional agreement, viz: That after the ninth day of June next, no vessel of the United States, which shall have cleared out, between the nineteenth of April last, and the twentieth July ensuing, for any of the ports of Holland aforesaid, from any port of the United States, shall be molested or interrupted in her voyage by the commanders of His Majesty's ships or privateers.

And it is further ordered, That no vessels of the United States, which shall have cleared out from any port of America, previous to the twentieth of July next, for any other permitted port, and shall, during her voyage, have changed her destination, in consequence of information of the said provisional agreement, and shall be proceeding to any of the ports of Holland aforesaid, shall be molested or interrupted by the commanders of any of His Majesty's ships or privateers, unless such vessel shall have been informed of this order on her voyage, or shall have been warned not to proceed to any of the ports of Holland aforesaid, and shall, notwithstanding such warning, be found attempting to proceed to any such port.

And it is further ordered, That after the said ninth day of June next, no vessel of the said United States, which shall have cleared out for or be destined to any of the ports of Holland, from any port or place not subject to the restrictions of the said order of the 26th of April last, after notice of such provisional agreement, as aforesaid, shall be molested or interrupted in her voyage by the commanders of His Majesty's ships or privateers, provided such vessel shall have so cleared out previous to actual notice of this order at such place of clearance, or, in default of proof of actual notice previous to the like periods of time, after the date of this order, as are fixed for constructive notice of His Majesty's order of the eleventh of November, one thousand eight hundred and seven, by the orders of the twenty-fifth of November, one thousand eight hundred and seven, and of the eighteenth of May, one thousand eight hundred and eight, at certain places and latitudes therein mentioned, unless such vessel shall have been informed of this order on her voyage, and warned by any of His Majesty's ships or privateers not to proceed to any port of Holland, and shall, notwithstanding such warning, attempt to proceed to any such port.

And His Majesty is pleased further to order, and it is hereby ordered, That the said several orders of the seventh of January, and eleventh of November, one thousand eight hundred and seven, as altered by the said order of the twenty-sixth of April last, shall also be suspended, so far as is necessary for the protection of vessels of the said United States which shall clear out to any ports not declared to be under the restriction of blockade from any port of Holland, between the ninth day of June, and the first day of July next; *Provided always*, That nothing that is contained in the present order shall extend or be construed to extend, to protect any vessels or their cargoes that may be liable to condemnation or detention for any other cause than the violation of the aforesaid orders of the seventh of January and the eleventh of November, one thousand eight hundred and seven, as altered by the said order of the twenty-sixth of April last.

Provided also, That, nothing in this order contained shall extend, or be construed to extend, to protect any vessel which shall attempt to enter any port actually blockaded by any of His Majesty's ships of war.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's Principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of High Court of Admiralty, and the Judges of the Courts of Vice-Admiralty are to take the necessary measures herein as to them may respectively appertain.

STEPHEN COTTRELL.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE, May 29, 1809.

SIR:

I have received the communication which you did me the honor to address to me on the 27th instant, and will hasten to transmit it to the Secretary of State of the United States.

No instructions or information from my Government concerning the transactions in America to which your communication alludes having yet reached me, I can only express my concern that the conciliatory arrangements concerted and concluded, as you have done me the honor to inform me, between the American Secretary of State and His Majesty's accredited minister at Washington, acting in consequence, and professing to act in pursuance, of regular instructions from his court, are not likely to have all that effect which was naturally to have been expected from them.

I have the honor to be, &c.

WILLIAM PINKNEY.

The Right Honorable GEORGE CANNING, &c. &c. &c.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, June 6, 1809.

Mr. Canning tells me that the conversations detailed in Mr. Erskine's letters did not, as I had supposed, suggest that the Government of the United States would allow it to be understood that British cruisers might stop American vessels attempting to violate the embargo and non-intercourse, continuing as to France, &c. after they should be withdrawn as to Great Britain. They suggested that the United States would *side with* the Power revoking its edicts against the Power persevering. This Mr. Canning says he considered (although he did not so insist upon it in the recapitulation contained in his instructions to Mr. Erskine) as comprehending what I thought he had represented the actual suggestion to be, and what he supposed I had said to him in an informal conversation, at his house in Bruton street, on the 22d of January, in an answer to one of his inquiries.

It will, I am sure, occur to you, as the fact is, that the little which I may have thrown out upon that occasion did not look to the admission of Mr. Canning's object into any stipulation between the two countries, and that I viewed it only as a consequence that might, and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last.

Having no longer any authority (as Mr. Canning knew) to speak officially upon that, or any other point connected with the orders in council, and being desirous that this Government should propose negotiation at Washington, as well concerning the orders as the affair of the Chesapeake, I avoided, as much as possible, explanations upon details which would be best managed at home by the Department of State; and endeavored to speak upon what Mr. Canning proposed to me, in such a manner as, that, without justifying unsuitable expectations on his part, or forgetting what was due to the honor of my own Government, I might contribute to produce an effort here towards friendly adjustment.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, June 9, 1809.

Mr. Erskine's instructions concerning the orders in council having been laid before the House of Commons, are now printed. You will find them in the newspaper enclosed.

It is not improbable that when Mr. Canning read these instructions to me, I inferred from the manner in which the *three* points stated in the fifth, sixth, and seventh paragraphs are introduced and connected, that they were *all* considered as suggested by Mr. Erskine's "report of his conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith:" whether I was led by any other cause into the mistake of supposing that the *third* (as well as the first and second) was so suggested, I am not sure, and it is not very material.

Mr. Canning's misconception of some informal observations from me in January last, has been in part mentioned in my letter of the 6th instant; but the published instructions show, what I had not collected from hearing them read, that he understood me to have stated "that the American Government was itself aware that without an enforcement, by the naval power of Great Britain, of the regulations of America with respect to France, those regulations must be altogether nugatory." It cannot be necessary to inform you that, in this, as in the other particulars alluded to in my last letter, I have been misapprehended.

I ought to mention that the strong and direct charge against the American Government, of "manifest partiality" to France, introduced, without any qualification or management of expression, into a paper which Mr. Erskine was authorized to communicate *in extenso* to you, did not strike me when that paper was read to me by Mr. Canning.

Extract of a letter from Mr. Pinkney to the Secretary of State.

JUNE 23, 1809.

I had an interview yesterday with Mr. Canning. In conversing upon the first of the conditions, upon the obtaining of which Mr. Erskine was to promise the repeal of the British orders in council, and a special mission, I collected, from what was said by Mr. Canning, that the exemption of *Holland* from the effect of our embargo and non-intercourse, would not have been much objected to by the British Government if the Government of the United States had been willing to concede the first condition subject to that exemption. Mr. Canning observed that the expedient of an actual blockade of Holland had occurred to them as being capable of meeting that exemption, but that Mr. Erskine had obtained no pledge, express or implied, or in any form, that we would enforce our non-intercourse system against *France* and her dependencies; that our actual system would, if not re-enacted or continued as to France, terminate with the present session of Congress; that, for aught that appeared to the contrary in your correspondence with Mr. Erskine, or in the President's proclamation, the embargo and non-intercourse laws might be suffered without any breach of faith to expire, or might even be repealed immediately, notwithstanding the perseverance of France in her Berlin and other edicts; and that Mr. Erskine had in truth secured nothing more, as the consideration of the recall of the orders in council, than the renewal of American intercourse with Great Britain.

Upon the second of the conditions mentioned in Mr. Erskine's instructions I made several remarks. I stated that it had no necessary connexion with the principal subject; that it had lost its importance to Great Britain by the reduction of almost all the colonies of her enemies; that Batavia was understood not to be affected by it; that it could not apply to Guadaloupe, (the only other unconquered colony,) since it was admitted that we were not excluded from a trade with Guadaloupe in time of peace; that I did not know what the Government of the United States would, upon sufficient inducements, consent to do upon this point, but that it could scarcely be expected to give the implied sanction, which this condition called upon it to give, to the rule of the war of 1756, without any equivalent or reciprocal stipulation whatsoever. Mr. Canning admitted that the second condition had no necessary connexion with the orders in council, and he intimated that they would have been content to leave the subject of it to future discussion and arrangement. He added that this condition was inserted in Mr. Erskine's instructions, because it had appeared, from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it.

Upon the third condition I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended. Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its way into a stipulation; that he had, nevertheless, believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been, that they should have intercepted the commerce to which it referred, if any such commerce should be attempted.

CIRCULAR.

SIR:

TREASURY DEPARTMENT, *August 9, 1809.*

You will herewith receive a copy of the proclamation of the President of the United States, announcing that certain British orders in council were not withdrawn on the 10th day of June last; and, consequently, that the trade renewable on the event of the said orders being withdrawn is to be considered as under the operation of the several acts by which such trade was suspended.

The act "to amend and continue in force certain parts of the act entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' " passed on the 28th day of June, is, therefore, in every respect applicable to Great Britain and her dependencies as well as to France and her dependencies, any thing in my circular of the 29th June last to the contrary notwithstanding.

It results that, from the receipt of this, you must, in every instance, except as hereinafter expressed, refuse clearances for British ports, requiring, as usual, bonds from all vessels bound to permitted ports, in the manner provided by the third section of the act above mentioned. But, as many British vessels have or may come into the ports of the United States in consequence of the President's proclamation of the 19th of April last, he directs that you will permit such British vessels to depart without giving bond, either in ballast or with the cargo on board, when notified of the enclosed proclamation; it being, however, understood that this indulgence shall not be extended to any other vessels than such as are now in the ports of the United States, or such as may hereafter arrive, having sailed from a foreign port before information of the enclosed proclamation shall have been received at such port.

The President also directs that, until a decision from Congress on that unexpected point shall have been obtained, or until otherwise instructed, seizures or prosecutions for supposed contraventions of either of the above mentioned act or of the non-intercourse act of 1st March last, arising from acts which would, in conformity with his proclamation of the 19th April last, have been considered as lawful, shall be suspended in the following cases, viz:

1. All vessels which have entered a British port since the 10th of June last, or which may hereafter enter such port, having sailed for the same before information of the enclosed proclamation had been received at the port of departure, so far as relates to any forfeiture or penalty which may accrue, or have accrued, by reason of their having thus entered a British port.

2. All vessels which may have arrived, either from British ports or with British merchandise, in the United States subsequent to the 10th of June last, and, also, all vessels which may hereafter thus arrive, having sailed for the United States before information of the enclosed proclamation shall have been received at the port of departure, so far as relates to any forfeiture or penalty accruing from having arrived or arriving in the United States from British ports or with British merchandise.

3. All vessels now owned by citizens of the United States, and sailing under the American flag, which, being in a foreign port at the time when the enclosed proclamation will be made known at such port, shall with all due diligence depart therefrom, and return without delay to the United States, so far as relates to any forfeiture or penalty accruing from their arriving in the United States from British ports or with British merchandise.

In the above-mentioned cases of vessels arriving in the United States, and which are for the present exempted from seizure, the vessels and cargoes may be admitted to entry.

The time when the enclosed proclamation shall have been known at the ports of departure, respectively, must be ascertained by the best means in your power; and you may refer doubtful cases to this Department.

Application may of course still be made in all cases for an absolute remission of the forfeitures and penalties in the manner provided for by law; the instruction herein given, to abstain from prosecutions and seizures in the above-mentioned cases being only intended to prevent the expenses and inconvenience to which the parties concerned would otherwise be exposed.

I am, respectfully, sir, your obedient servant,

ALBERT GALLATIN.

The COLLECTOR of _____.

By the President of the United States of America.

A PROCLAMATION.

Whereas, in consequence of a communication from His Britannic Majesty's envoy extraordinary and minister plenipotentiary, declaring that the British orders in council of January and November, 1807, would have been withdrawn on the 10th day of June last; and by virtue of authority given, in such event, by the eleventh section of the act of Congress entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," I, JAMES MADISON, President of the United States, did issue my proclamation bearing date on the 19th of April last, declaring that the orders in council aforesaid would have been so withdrawn on the said 10th day of June, after which the trade suspended by certain acts of Congress might be renewed; and whereas it is now officially made known to me that the said orders in council have not been withdrawn agreeably to the communication and declaration aforesaid: I do hereby proclaim the same, and, consequently, that the trade renewable on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

Given under my hand and the seal of the United States, at the city of Washington, the ninth day of August, in the year of our Lord one thousand eight hundred and nine, and of the independence of the said United States the thirty-fourth.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

No. 2.

The Secretary of State to Mr. Erskine.

SIR:

DEPARTMENT OF STATE, *August 9, 1809.*

I have just received from Mr. Pinkney a letter, enclosing a printed paper, purporting to be a copy of a despatch to you from Mr. Canning, which states, among other things, that, from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

"1st. That the American Government is prepared, in the event of His Majesty's consenting to withdraw the orders in council of January and November, 1807, to withdraw, contemporaneously, on its part, the interdiction of

its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

“2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy’s colonies, from which she was excluded during peace.

“3d. Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America, to prevent her citizens from trading with France, and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone would, in fact, raise it with respect to all the world.”

I have the honor to request you to favor me with such explanations as your candor will at once suggest, in relation to these imputed conversations.

I forbear to express to you, sir, the surprise that is felt at the extraordinary pretensions set forth in this letter of instruction, and especially at the expectation that this Government would, as a preliminary, recognise conditions, two of which are so manifestly irreconcilable to the dignity and interest of the United States. I, however, would remark, that, had you deemed it proper to have communicated *in extenso* this letter, it would have been impossible for the President to have perceived in its conditions, or in its spirit, that conciliatory disposition which had been professed, and which it was hoped had really existed.

I have the honor to be, &c.

R. SMITH.

The Hon. DAVID M. ERSKINE, &c. &c. &c.

No. 3.

Mr. Erskine to Mr. Smith.

Sir:

WASHINGTON, August 14, 1809.

I have the honor to acknowledge the receipt of your letter of the 9th instant, informing me that you had just received a letter from Mr. Pinkney, enclosing a printed paper, purporting to be a copy of a despatch to me from Mr. Canning, which states, among other things, “from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

“1st. That the American Government is prepared, in the event of His Majesty’s consenting to withdraw the orders in council of January and November, 1807, to withdraw, contemporaneously, on its part, the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

“2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy’s colonies, from which she was excluded during peace.

“3d. Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America to prevent her citizens from trading with France, and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone would, in fact, raise it with respect to all the world.”

The explanations which you request from me upon that subject shall be given with candor; and I will proceed, accordingly, to lay before you an abstract of the communications which I made to His Majesty’s Government relative to the unofficial conversations which I had held with Mr. Madison, (then Secretary of State), Mr. Gallatin, and yourself, at the time and upon the occasion alluded to by His Majesty’s Secretary of State, (Mr. Canning), in that part of his instructions to me, of which you inform me you have received a printed copy from Mr. Pinkney.

Upon referring to my despatches, addressed to His Majesty’s Government, of the 3d and 4th of December last, in which these communications are detailed, I conclude that the conversations alluded to must have been held some days previous to that period, and were to the following effect:

Mr. Madison (then Secretary of State) is represented by me to have urged various arguments, tending to prove that the United States had exerted all their efforts to persuade the French Government to withdraw their unjust restrictions upon neutral commerce, and that recourse might have been had to measures of more activity and decision against France than mere remonstrances, but that, in the mean time, Great Britain had issued her orders in council, before it was known whether the United States would acquiesce in the aggressions of France, and thereby rendered it impossible to distinguish between the conduct of the two belligerents, who had equally committed aggressions against the United States.

After some other observations, Mr. Madison is stated by me, at that time, to have added, that, as the world must be convinced that America had in vain taken all the means in her power to obtain from Great Britain and France a just attention to her rights, as a neutral Power, by representations and remonstrances, she would be fully justified in having recourse to hostilities with either belligerent, and that she only hesitated to do so from the difficulty of contending with both; but that she must be driven even to endeavor to maintain her rights against the two greatest Powers in the world, unless either of them should relax their restrictions upon neutral commerce; in which case, the United States would at once side with that Power against the other which might continue its aggressions.

That every opinion which he entertained respecting the best interests of his country led him to wish that a good understanding should take place between Great Britain and the United States, and that he thought that the obvious advantages which would thereby result to both countries were a sufficient pledge of the sincerity of his sentiments.

These observations, sir, I beg leave to remark were made to me by Mr. Madison about a month after the intelligence had been received in this country of the rejection by His Majesty’s Government of the proposition made through Mr. Pinkney by the President for the removal of the embargo, as respects Great Britain, upon condition that the orders in council should be withdrawn, as respected the United States; and his sentiments were, as I conceived, expressed to me, in order that I might convey them to His Majesty’s Government, so as to lead to a reconsideration of the proposition above mentioned, with a view to the adjustment of the differences upon that subject between the respective countries. But I never considered that Mr. Madison meant that the Government of the United States would pledge themselves beyond the proposition respecting the embargo, as above stated, because that was the extent of the power of the President by the constitution of the United States.

I understood, very distinctly, that the observations of the Secretary of State were intended to convey an opinion, as to what ought and would be the course pursued by the United States, in the event of His Majesty’s orders in council being withdrawn.

In these sentiments and opinions you concurred, as I collected from the tenor of several conversations which I held with you at that period.

With respect to the second point, as stated in your letter to be contained in a "despatch from Mr. Canning," I beg leave to offer the following explanation:

In the course of a private interview I had with Mr. Gallatin, the Secretary of the Treasury, he intimated that the non-intercourse law which was then likely to be passed by the Congress, might be considered as removing two very important grounds of difference with Great Britain, viz: the non-importation act, as applicable to her alone, and also the President's proclamation, whereby the ships of Great Britain were excluded from the ports of the United States, while those of France were permitted to enter; but that, by the non-intercourse law, both Powers were placed on the same footing. He did not pretend to say that this measure had been taken from any motives of concession to Great Britain; but as, in fact, those consequences followed, he conceived they might be considered as removing the two great obstacles to a conciliation.

He adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he said he knew that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of the belligerents in time of war, which was not allowed in time of peace, and to trust to their being permitted by the French to carry on such trade in peace, so as to entitle them to a continuance of it in time of war.

As it may be very material to ascertain what "trade with the colonies of belligerents" was, in my conception, meant by Mr. Gallatin as intended to be abandoned by the United States, I feel no hesitation in declaring that I supposed he alluded to the trade from the colonies of belligerents *direct* to their mother country, or to the ports of other belligerents, because the right to such trade had been the point in dispute; whereas, the right to carry on a trade from the colonies of belligerents to the United States had never been called in question, and had been recognised by His Majesty's Supreme Court of Admiralty; and the terms even upon which such colonial produce might be re-exported from the United States, had been formally arranged in a treaty signed in London by the ministers plenipotentiary of both countries, which was not, indeed, ratified by the President of the United States, but was not objected to as to that article of it which settled the terms upon which such trade was to be permitted.

Such was the substance, sir, of the unofficial conversations which I had held with Mr. Madison, Mr. Gallatin, and yourself, which I did not consider, or represent to His Majesty's Government, as intended with any other view than to endeavor to bring about the repeal of the orders in council, by showing that many of the obstacles which had stood in the way of an amicable adjustment of the differences between the two countries were already removed, and that a fair prospect existed of settling what remained; since the United States exhibited a determination to resist the unjust aggressions upon her neutral rights, which was all that Great Britain had ever required; but I certainly never received any assurances from the American Government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries; nor did I ever hold out such an expectation to His Majesty's Government; having always stated to them that, in the event of His Majesty's thinking it just or expedient, to cause his orders in council to be withdrawn the President would take off the embargo as respected England, leaving it in operation against France, and the Powers which adopted or acted under her decrees, according to the authority which was vested in him at that time by the Congress of the United States; and that there was every reason to expect that a satisfactory arrangement might be made upon the points of the colonial trade, which had been so long in dispute between the two countries.

As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the members of the Government of the United States relative to it until my late negotiation, or had ever mentioned the subject to His Majesty's Government; it having, for the first time, been presented to my consideration in Mr. Canning's despatch to me of the 23d of January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney.

It would be unavailing at the present moment to enter upon an examination of the "pretensions set forth in Mr. Canning's letter of instructions," which you are pleased to term "extraordinary."

I consider it, however, to be my duty to declare that, during my negotiation with you, which led to the conclusion of the provisional agreement, I found no reason to believe that any difficulties would occur in the accomplishment of the two former conditions, as far as it was in the power of the President of the United States to accede to the first, and consistently with the explanation which I have before given of the second point; on the contrary, I received assurances, through you, that the President would comply (as far as it was in his power) with the first condition, and that there could be no doubt that the Congress would think it incumbent upon them to assert the rights of the United States against such Powers as should adopt or act under the decrees of France, as soon as their actual conduct or determination upon that subject could be ascertained; but that, in the mean time, that the President had not the power, and could not undertake to pledge himself in the formal manner required to that effect.

I received also assurances from you that no doubt could be reasonably entertained that a satisfactory arrangement might be made in a treaty upon the subject of the second condition mentioned in Mr. Canning's instructions, according to my explanation of it in the foregoing part of this letter, but that it necessarily would form an article of a treaty, in which the various pretensions of the two countries should be settled.

The third condition you certainly very distinctly informed me could not be recognised by the President, but you added, what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition; because it would be impossible that a citizen of the United States could prefer a complaint to his Government, on account of the capture of his vessel, while engaged in a trade absolutely interdicted by the laws of his country.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d of January, (which formed but *one part* of his instructions to me,) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at *liberty* to have done *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes; and, accordingly, concluded the late provisional agreement, on His Majesty's behalf, with the Government of the United States.

The disavowal, by His Majesty, is a painful proof to me that I had formed an erroneous judgment of His Majesty's views and the intention of my instructions; and I have most severely to lament that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries.

It is a great consolation to me, however, to perceive that measures have been adopted by both Governments to prevent any losses, and to obviate any inconveniences which might have arisen to the citizens or subjects of either country from a reliance on the fulfilment of that provisional agreement; and I cannot but cherish a hope that a complete and cordial understanding between the two countries may be effected.

I beg leave to add, that it would have given me great happiness to have contributed to so desirable an object, and to offer you the assurances of the great respect and high consideration with which

I remain, sir, your obedient servant,

HON. ROBERT SMITH.

D. M. ERSKINE.

No. 4.

The Secretary of State to Mr. Erskine.

SIR:

WASHINGTON, August 13, 1809.

I do not believe that, in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever have misunderstood one another. Yet as, from Mr. Canning's instructions lately published by your Government, it would seem that some opinions are ascribed to several members of this administration which they did not entertain, it appears necessary to ascertain whether on any point a misapprehension can have taken place.

I will forbear making any observations on what, in the instructions, is called the third condition, since it is not asserted that that inadmissible proposition was suggested at Washington.

The points embraced in Mr. Canning's first proposition formed the principal topic of our conversations relative to a revocation of the orders in council. Yet, in the manner in which that proposition is expressed, it goes farther than had been suggested by the members of this administration. It is sufficiently evident, from the proceedings of Congress, both previous and subsequent to the unratified agreement of April last, that the United States intended to continue the restrictions on the commercial intercourse with France, whilst such of her decrees as violated our neutral rights continued in force, and to remove those restrictions, in relation to Great Britain, in the event of a revocation of the orders in council. But that state of things, so far as it related to France, was to result from *our own laws*, known or anticipated by your Government when they authorized an arrangement; and it was not proposed by us that the continuance of the non-intercourse with France should be made a condition of that arrangement. Whilst on that subject, I will add an observation, though, perhaps, not immediately connected with the object of this letter. I think that the object of that proposition, so far as it agreed with your previous understanding of the intentions of this Government, has been substantially carried into effect on our part. It is true, that your Government might at the date of the instructions have expected, from the incipient proceedings of Congress, that Holland would be embraced by the restrictive laws of the United States. Not only, however, was the omission nominal, since American vessels were at the time, by the decrees of that country, refused admission into its ports; but, under the same construction of our laws, by which the commercial intercourse with Holland was permitted, that with Portugal was also considered as legal, in the event of that country being occupied by British troops, in the name of the Prince Regent.

It is, therefore, principally as respects the second condition, which relates to the colonial trade, that erroneous inferences might be drawn from the expressions used in Mr. Canning's instructions. Although the subject must have been mentioned here incidentally, and only in a transient manner, as it is one to which I had paid particular attention, and on which my opinion had never varied, I think that I can state with precision in what view I have always considered it, and must have alluded to it.

1st. I never could have given countenance to an opinion that the United States would agree, or that it would be proper to make any arrangement whatever respecting the colonial trade, a condition of the revocation of the orders in council. The two subjects were altogether unconnected, and I am confident that such a proposition was never suggested either by you or by any member of this administration. Such an arrangement could be effected only by treaty; and it is with a considerable degree of surprise that I see your Government now asking, not only resistance to the French decrees, but the abandonment of a branch of our commerce, as the price of the revocation of the orders in council. This seems to give a new character to a measure which had heretofore been represented as an act of retaliation reluctantly adopted, and had been defended solely on the ground of a supposed acquiescence on the part of the United States in the injurious decrees of another nation.

2d. In the event of a treaty embracing all the points in dispute, and particularly that of impressments, without which, I trust, no treaty will ever take place, it was my opinion, and I may certainly have expressed it, that if the other subjects of difference were arranged, that respecting the colonial trade would be easily adjusted. I had considered the principles recognised in a former correspondence between Lord Hawkesbury and Mr. King, on the subject of the colonial trade, and, subsequently, again adopted in the treaty negotiated by Messrs. Monroe and Pinkney, as a general basis agreed on under different administrations by both Governments, from which neither could now recede, and susceptible only of modifications as to details. The instructions to our ministers in London on that subject had also been published, and were known to your Government. I therefore believed, that the United States, in the event of a treaty, would still be disposed to waive for the present, in the manner and on the terms contemplated by those instructions, their right to that branch, and to that branch only, of the colonial trade, known by the name of *direct trade*, that is to say, the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which these colonies belonged. The right to a trade between such colonies and the United States generally, and to that in colonial articles between the United States and other countries, never can, nor will, in my opinion, be abandoned, or its exercise be suspended, by this Government. On the contrary, it is solely in order to secure, by an express treaty stipulation, that trade against the danger of interruption, and thus, by a mutual spirit of accommodation, to avoid collisions, that the abandonment of the direct branch can ever be assented to.

Permit me, therefore, to request, that you will inform me whether you understood me on those two points, as I certainly meant to be understood; namely, that the relinquishment, during the present war, of what is called the direct trade, was alone contemplated; and that no arrangement on that subject was suggested as a condition of the revocation of the orders in council.

I have the honor to be, with the highest respect and consideration, sir, your obedient servant,

ALBERT GALLATIN.

HON. D. M. ERSKINE, *Minister Plenipotentiary, &c.*

No. 5.

Mr. Erskine to Mr. Gallatin.

SIR:

WASHINGTON, August 15, 1809.

I have the honor to acknowledge the receipt of your letter of the 13th instant, in which you have been pleased to say, that although you "do not believe that in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever have misunderstood one another; yet as, from Mr. Canning's instructions, lately published by my Government, it would seem that

some opinions are ascribed to several members of this administration which they did not entertain, it appears necessary to ascertain whether, on any point, a misapprehension can have taken place."

In answer to your inquiries, I have great satisfaction in assuring you that there appears to have been no misunderstanding respecting the substance or meaning of the conversations which passed between us, as stated in Mr. Canning's instructions alluded to.

After the most careful perusal of your statement of the purport of our conversations, I cannot discover any material difference from the representation which I have made upon that subject to the Secretary of State, (Mr. Robert Smith,) in my letter to him of the 14th instant, to which I will, therefore, beg to refer you, as I have therein detailed the substance of the conversation according to my recollection of it; which is, in every respect, essentially the same as that which you seem to have entertained.

During the conversation which we held, respecting the practicability of an amicable adjustment of the differences between the two countries, when the relinquishment, by the United States, during the present war, of what is called the colonial trade, was suggested by you, I conceived that you meant (as you have stated) "the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which those colonies belonged."

I never supposed that you intended to convey an opinion that the Government of the United States would make any arrangement respecting the colonial trade, as a condition of the revocation of the orders in council, the two subjects being altogether unconnected, nor have I ever represented to His Majesty's Government that such preliminary pledges would be given.

With sentiments of the highest respect, I have the honor to be, sir, your most obedient humble servant,
D. M. ERSKINE.

The Hon. ALBERT GALLATIN, &c.

No. 6.

The Secretary of State to Mr. Jackson.

SIR:

DEPARTMENT OF STATE, *October 9, 1809.*

An arrangement as to the revocation of the British orders in council, as well as to the satisfaction required in the case of the attack on the Chesapeake frigate, has been made in due form by the Government of the United States, with David Montague Erskine, Esq. an accredited minister plenipotentiary of His Britannic Majesty. And after it had been faithfully carried into execution on the part of this Government, and under circumstances rendering its effects on the relative situation of the United States irrevocable, and in some respects irreparable, His Britannic Majesty has deemed it proper to disavow it, to recall his minister, and to send another to take his place.

In such a state of things, no expectation could be more reasonable, no course of proceeding more obviously prescribed by the ordinary respect due to the disappointed party, than a prompt and explicit explanation by the new functionary of the grounds of the refusal, on the part of his Government, to abide by an arrangement so solemnly made, accompanied by a substitution of other propositions.

Under the influence of this reasonable expectation, the President has learned, with no less surprise than regret, that in your several conferences with me you have stated:

1st. That you have no instructions from your Government which authorize you to make any explanations whatever to this Government as to the reasons which had induced His Britannic Majesty to disavow the arrangement lately made by your predecessor; and that, therefore, you could not make any such explanations.

2d. That in the case of the Chesapeake, your instructions only authorize you (without assigning any reason whatever why the reasonable terms of satisfaction tendered and accepted have not been carried into effect) to communicate to this Government, a note tendering satisfaction, with an understanding that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this Government, and that the signing and the delivery of your note, and of the answer of this Government, should be simultaneous.

3d. That you have no instructions which authorize you to make to this Government any propositions whatever in relation to the revocation of the British orders in council, but only to receive such as this Government may deem it proper to make to you.

4th. That, at all events, it is not the disposition or the intention of the British Government to revoke their orders in council, as they respect the United States, but upon a formal stipulation, on the part of the United States, to accede to the following terms and conditions, viz:

1st. That the act of Congress, commonly called the non-intercourse law, be continued against France so long as she shall continue her decrees.

2d. That the navy of Great Britain be authorized to aid in enforcing the provisions of the said act of Congress.

3d. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States.

If, in the foregoing representation, it should appear that I have, in any instance, misapprehended your meaning, it will afford me real pleasure to be enabled to lay before the President a statement corrected agreeably to any suggestions with which you may be pleased to favor me.

To avoid the misconceptions incident to oral proceedings, I have also the honor to intimate, that it is thought expedient that our further discussions, on the present occasion, be in the written form. And with great sincerity I assure you, that whatever communications you may be pleased thus to make, will be received with an anxious solicitude to find them such as may lead to a speedy removal of every existing obstacle to that mutual and lasting friendship and cordiality between the two nations, which it is obviously the interest of both to foster.

I have the honor to be, &c.

R. SMITH.

The Hon. FRANCIS JAMES JACKSON, &c.

No. 7.

Mr. Jackson to Mr. Smith.

SIR:

WASHINGTON, *October 11, 1809.*

I have had the honor of receiving your official letter of the 9th inst., towards the close of which you inform me, that it had been thought expedient to put an end to all verbal communication between yourself and me, in discussing the important objects of my mission. Considering that a very few days have elapsed since I delivered to

the President a credential letter from the King my master, and that nothing has been even alleged to have occurred to deprive me of the facility of access, and of the credit to which, according to immemorial usage, I am by that letter entitled, I believe there does not exist in the annals of diplomacy a precedent for such a determination between two ministers who have met for the avowed purpose of terminating amicably the existing differences between their respective countries; but, after mature reflection, I am induced to acquiesce in it, by the recollection of the time that must necessarily elapse before I can receive His Majesty's commands upon so unexpected an occurrence, and of the detriment that would ensue to the public service, if my ministerial functions were, in the interval, to be altogether suspended. I shall, therefore, content myself with entering my protest against a proceeding which I can consider in no other light than as a violation, in my person, of the most essential rights of a public minister, when adopted, as in the present case, without any alleged misconduct on his part. As a matter of opinion I cannot, I own, assent to the preference which you give to written over verbal intercourse for the purpose of mutual explanation and accommodation. I have thought it due to the public character with which I have the honor to be invested, and to the confidence which His Majesty has most graciously been pleased to repose in me, to state to you unreservedly my sentiments on this point. I shall now proceed to the other parts of your letter, and apply to them the best consideration that can arise from a zeal proportioned to the increase of difficulty thus thrown in the way of the restoration of a thorough good understanding between our respective countries.

You state, sir, very truly, that an arrangement had been made between you and Mr. Erskine, and that His Majesty had thought proper to disavow that arrangement.

I have here, in the outset, to regret the loss of the advantage of verbal intercourse with you, as I should have availed myself of it to inquire whether, by your statement, it was your intention to complain of the disavowal itself, or of a total want of explanation of it, or of the circumstance of that explanation not having been made through me. I observe, that, in the records of this mission, there is no trace of a complaint, on the part of the United States, of His Majesty having disavowed the act of his minister. You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance on your part, an instance of that candor, which, I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances as *could only* lead to the consequences that have actually followed.

It was not known, when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to a despatch addressed, on the 20th of April, to His Majesty's Secretary of State for Foreign Affairs, I find that he there states that he had submitted to your consideration the three conditions specified in those instructions as the groundwork of an arrangement, which, according to information received from this country, it was thought in England might be made with a prospect of great mutual advantage. Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly communicated to you, and by you, of course, laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint, on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his minister. I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might, perhaps, have been in some degree affected. You have informed me that you understood that Mr. Erskine had two sets of instructions, by which to regulate his conduct; and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter minister, and which was read by the former to the American minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement with this country on the matter to which it relates.

To return to the immediate subject of your letter. If, sir, it be your intention to state, that no explanation whatever has been given to the American Government of the reasons which induced His Majesty to disavow the act of my predecessor, I must, in that case, observe, that, in the instructions conveying to him His Majesty's intention, those reasons were very fully and forcibly stated; and if he has not transmitted them to you, I can only attribute it to the peculiar delicacy and embarrassment of his situation, for which he probably trusted to the President's goodness to make some allowance; and he might the more reasonably be led to that reliance on it, as a full and ample communication was also made upon the subject by His Majesty's Secretary of State for Foreign Affairs to Mr. Pinkney, to whom the whole of Mr. Erskine's original instruction was read, and who, it was natural to suppose, would convey to his Government so much information upon a very momentous occasion, as would relieve Mr. Erskine from the necessity of entering into minute details of the misunderstanding that had occurred. At all events, no complaint can be substantiated against His Majesty's Government on this score, seeing that they not only instructed the minister who had made the disavowed arrangement as to the motives which occasioned the disavowal, but also with frankness, promptitude, and a most scrupulous regard to national honor, gave notice to the American minister in London of the disavowal of the motives of it, and of the precautions spontaneously taken by His Majesty to prevent any loss or injury accruing to the citizens of the United States from a reliance on any agreement, however unauthorized, made in His Majesty's name. The mere allusion to this latter circumstance dispenses me from further noticing the effects which you describe as being produced upon the United States by the circumstances of this agreement. How far they are irrevocable is not for me to determine; but the word *irreparable* seems to imply that a loss had been sustained on the occasion by the public, or by the individuals of this country. So far as His Majesty could be, by possibility, supposed answerable for such an eventual loss, he has, as I have before stated, taken the utmost precautions to avert it.

As to the expectation entertained here, that the explanation of His Majesty's share in this transaction should be made through me, I might content myself with simply observing, that I was not provided with instructions to that effect, because it was known that the explanation in question had already been given. But it accords with the sentiments of His Majesty towards this country, to observe, also, that he considered that, as some time must necessarily elapse between my appointment and my entrance on the duties of my ministry, it would be a more friendly mode of proceeding to state, without delay, and through the channels I have already mentioned, the motives that compelled His Majesty to disavow the agreement, than to leave the American Government in uncertainty in these respects, till the unavoidably protracted period of my arrival in America. I say this in regard to the original notification of His Majesty's determination, and of the motives of it, which, being already made, it could not be sup-

posed in London that a repetition of them would be expected from me; and, of course, no such case has been foreseen in my instructions. But if, beyond this, any incidental explanation or discussion should be wished for by this Government, I came fully prepared to enter into them. I even consider them to have taken place between us. I have certainly derived great satisfaction from the several hours which we have spent in conference upon these subjects, because they have enabled me to remove some misunderstandings, and to refute many misrepresentations, which you yourself informed me of, in regard to the conduct of the British Government. I consider such mutual explanations as highly beneficial to a right understanding of the views and interests of the two countries, and I should, with much pleasure, have renewed them, if you had not informed me that the President had been pleased to prescribe another and a different mode of conducting our negotiations.

I will, nevertheless, avail myself of that mode, which he still permits, to repeat to you, that His Majesty has authorized me, notwithstanding the ungracious manner in which his former offer of satisfaction for the affair of the Chesapeake was received, to renew that which Mr. Erskine was instructed to make. You have said that you so fully understood the particulars of that offer, that I deem it unnecessary to recapitulate them here. I regret that, since they were so clearly understood by you, you should not yet have been enabled to state to me, either in our personal communications, or in the letter which I am now answering, whether they are considered by the President as satisfactory, or whether they are such as he ultimately means to accept. You seem not so distinctly to have understood the form of proceeding in this affair, which I took the liberty of suggesting as likely to lead to a satisfactory result, without, however, at all precluding any other method which might appear preferable to you. My proposal was, not to communicate a note *tendering* satisfaction, but to agree with you beforehand upon the terms of a declaration on the part of His Majesty, *which should actually give the satisfaction*, (the conditions of which I informed you that I was authorized to carry into immediate execution,) and of a counter-declaration, to be signed by you on the part of the United States, for the purpose of accepting such satisfaction. I expressly stated that this interchange of official documents was not meant by me as the means of conveying to each other our respective sentiments; that I understood to be, as is usual, the object of our conferences; and I imagined that the papers to be signed by us, respectively, would be the result of those sentiments so communicated; and that, by being reciprocally corrected and modified, and simultaneously delivered, they would form one compact by which the two countries would be equally bound. This course of proceeding is conformable to the practice of the courts of Europe on similar occasions. You did not, at the time, appear to object to it; you even requested me to come the next day, prepared with a draught or *projet* of a paper, framed in pursuance to these ideas; and although you desired to refer the subject to the President for his approbation, I do not find in your letter either an expression of his sentiments upon it, or the substitution of any other form that might be more agreeable to him than the one which I have proposed.

I touch, with considerable and very sincere reluctance, upon that part of your letter, in which you state that I had not assigned "any reason whatever why the reasonable terms of satisfaction, tendered and accepted, have not been carried into effect."

I believed that I had observed to you, in the words of my instructions, that if His Majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, His Majesty might be well warranted in doing so, both by the form in which his accredited minister had tendered that reparation, and by the manner in which that tender had been received. I believe that I elucidated this observation by a reference to the particular expressions, which made the terms of satisfaction appear to be unacceptable even to the American Government, at the very moment when they were accepted, and which, at all events, put it totally out of His Majesty's power to ratify and confirm any act in which such expressions were contained.

On the subject of His Majesty's orders in council, I have had the honor of informing you that His Majesty, having caused to be made to the Government of the United States certain proposals founded upon principles, some of which were understood to originate in American authorities, and others to be acquiesced in by them; and having afterwards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American Government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been so recently declined, especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing.

These considerations, which were first intimated in Mr. Canning's official letter to Mr. Pinkney of the 23d September, 1808, and which, in the process of the following six months, acquired greater weight and influence, induced His Majesty, before the result of Mr. Erskine's negotiation was known, to modify the orders in council of November, 1807, by that of the 26th April, 1809.

The effect of this new order is to relieve the system under which the former orders were issued from that which has always been represented in this country as the most objectionable and offensive part of it, the option given to neutrals to trade with the enemies of Great Britain, through British ports, on payment of a transit duty. This was originally devised and intended as a mitigation of what is certainly more correct but more rigid in principle—the total and unqualified interdiction of all trade with the enemy. If, however, this mitigation was felt as an aggravation, and, as has been sometimes warmly asserted, as an insult, that cause of complaint is now entirely removed. By the order in council of the 26th April, 1809, all trade with France and Holland, and the ports of Italy comprehended under the denomination of the kingdom of Italy, is simply prohibited altogether. No option is afforded, and, consequently, no transit duty is required to be paid. In another respect, the order in council of the 26th April must be admitted to be more restrictive than those of November, 1807.

The trade with enemies' colonies, which was opened to neutrals at the commencement of the present war by the order in council of the 24th June, 1803, was continued to be left open by those of November, 1807. The order in council of the 26th April retracts this indulgence. But it is to be observed, that since the period when the orders in council of November, 1807, were issued, the opening of the ports of Spain, of Portugal, of the south of Italy, and of Turkey, has afforded a more ample scope to neutral commerce; and that, by the capture of Martinique, in addition to that of almost all the colonies of the enemies of Great Britain, together with the blockade of Guadaloupe, the extent to which the liberty of commerce with enemies' colonies applied has been so far narrowed, that there is little of practical hardship in recurring to the rule, which, however occasionally mitigated in its application, Great Britain can never cease in principle to maintain. It is further to be observed, that the order in council of the 26th April has this operation, highly favorable to neutrals, that, restricting the regulations of blockade to France, Holland, and their colonies, and to the territories denominated the kingdom of Italy, it lays open to the direct trade of neutrals the ports of the north of Europe. Under the order of the 26th of April, therefore, while there are on the one hand fewer points of difference to stand in the way of a satisfactory arrangement between Great Britain and the United States, it is possible that there may be less temptation to the latter to enter into such an arrangement, as the extent of their commerce may be, if they please, nearly as great under the order in council of the 26th April as it would be under any arrangement which should effect the

indispensable objects to which that order applies, or as it would be even without any such order, so long as France and the Powers subservient to France continue to enforce their decrees. It is, in the same proportion, matter of indifference to Great Britain, whether the order in council be continued, or an arrangement by mutual consent substituted in its room.

Such, sir, are the grounds on which it has appeared to His Majesty to be unnecessary to command me to propose to the Government of the United States any formal agreement to be substituted for that which His Majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorized to make to me on this head.

As no disposition has hitherto been shown on your part to make any such proposal, it has been impossible for me to state, by anticipation, (nor was I instructed so to do,) what might be the answer that I should eventually think it my duty to return to you; consequently, I could not have made, with that view, the statement contained in the fourth section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture, which you very correctly record in the third section, viz: that I was not instructed to make to you any proposal whatever upon this subject. I must necessarily reserve, until I hear from you what proposals it may be deemed proper to make on behalf of the United States, to state in how far they do or do not accord with the instructions which it has pleased His Majesty to give me for my guidance in this negotiation.

I will only add, sir, in conclusion of this letter, that His Majesty is very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment all the points of difference that have arisen between the two Governments; and that, agreeing as I do with you, most heartily, as to the interest which both nations have in fostering a mutual and solid friendship and cordiality, no zeal or exertions shall be wanting on my part to carry into effect His Majesty's commands for this most salutary purpose.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

F. J. JACKSON.

The Hon. ROBERT SMITH, &c.

Mr. Smith, Secretary of State, to Mr. Jackson.

SIR:

DEPARTMENT OF STATE, October 19, 1809.

I have had the honor of receiving your letter of the 11th instant.

Before I proceed to the more material topics which it embraces, it is proper that I should take some notice of your construction, which has unhappily converted an intimation of the expediency of conducting in a written form our further discussions on this particular occasion into a general prohibition of all verbal communications whatever, and into an unprecedented violation of the most essential rights of a public minister, requiring a formal protest and a resort to the commands of your sovereign.

A recurrence to that intimation cannot fail to show that its sole object was to avoid, in the further discussions of a case of unusual delicacy and importance, the misconceptions well known to be incident to oral proceedings, and of which the diplomatic intercourse between the two Governments had furnished so many and such serious proofs; nay, of which your letter itself is an additional illustration. That a change in diplomatic discussions from an oral to a written form is not without precedent, I cannot refer to one which will be more satisfactory to you than the intimation recently given by Mr. Canning, in the case of the proposal by Mr. Pinkney, on the subject of the orders in council and the embargo, that the discussions, which had been previously verbal, must thenceforth take a written form. And, with this view, I take the liberty of recalling your attention to the subjoined extracts of letters [see A and B] that passed on that occasion.

On the present, as on that occasion, the change from verbal to written communications was requested after two conferences, and when the subject appeared to one of the parties to have, by those verbal discussions, been brought to a point which required a precise understanding of the views and propositions of the other.

You will, sir, hence perceive, that, in maintaining the right which every Government has as to the rules of intercourse with foreign functionaries near it, no encroachment has been made or intended on any right or customary privilege belonging to you in that character, nor any thing done to impede the proper and usual course of negotiation.

You have been sufficiently apprized, by my letter of the 9th, of the light in which the President views the arrangement lately made by your predecessor with this Government, and of the grounds on which he has accepted a formal and satisfactory explanation of the reasons for the refusal of His Britannic Majesty to carry it into effect. He persists in that expectation, and in the opinion that there has been given no explanation that is adequate, either as to the matter or as to the mode.

When one Government has been solemnly pledged to another in a mutual engagement by its acknowledged and competent agent, and refuses to fulfil the pledge, it is perfectly clear that it owes it both to itself and to the other party to accompany its refusal with a formal and frank disclosure of sufficient reasons for a step which, without such reasons, must deeply injure its own character, as well as the rights of the party confiding in its good faith.

"To refuse, with honor," (says a high authority on public law,) "to ratify what has been concluded on by virtue of a full power, it is necessary that the Government should have *strong and solid reasons*, and that he show, in particular, that his minister has violated his instructions."

Although it is particularly incumbent on the sovereign, in such case, to show that his instructions have been violated, yet it is not a mere violation of them on immaterial points that will be sufficient. It is indispensably requisite, moreover, that the reasons be *strong and solid*; that they manifestly outweigh, not only the general obligation to abide by what has been so done, but also the disappointment and injury accruing to the other party. And it is worthy of notice, that the case under discussion is of a higher character, and appeals with greater solemnity to the honor and justice of the refusing party, than the case stated in Vattel, inasmuch as the transaction, now disavowed, was not a treaty or convention to be ratified by both parties, previous to an execution by either. It had, according to the terms of it, (and this peculiarity appears to have been contemplated by your Government,) been actually and immediately carried into execution on the part of the United States. The refusal of His Britannic Majesty is, therefore, not simply to ratify what had been ratified by the other party, but to carry into effect on his part an arrangement which had been carried into full effect, with good faith, on the part of the United States. Nay, the case is strengthened by the further peculiarity, that some of the circumstances attending the execution of the arrangement on the part of the United States render it unsusceptible of a full equivalent for the refusal to execute it on the other side.

It has not escaped observation, that the obligation of your Government to tender explanations on this occasion is admitted by your attempt to show that it has been sufficiently done in what passed in conversation between Mr. Canning and Mr. Pinkney, and by the instructions given to Mr. Erskine to communicate such explanations.

With every disposition to view in the most favorable light whatever may affect the relations between the two countries, it is impossible to mistake the conversations of those ministers for a discharge of such a debt to the good faith and reasonable expectations of the United States. Besides that they were mere conversations in a case requiring the precision and respect of a formal communication, it is certain that it was neither understood by Mr. Pinkney, nor intended by Mr. Canning, that those conversations were so to be regarded. Mr. Pinkney is explicit on this point. And Mr. Canning himself, after declining to recapitulate in writing what he had verbally remarked, signified to Mr. Pinkney, in a letter dated May 27, that his observations on the subject would be more properly made through the successor of Mr. Erskine, who was about to proceed to the United States.

With respect to the instructions on this point, given to Mr. Erskine, it might be sufficient to remark that they were never carried into execution; but it may be asked, whether it was a mark of friendly respect to the United States to employ for such a purpose a minister, from whom his Government had thought proper publicly to withdraw its confidence, and to the peculiar delicacy and embarrassment of whose situation you have yourself referred, as accounting for his not having executed the task imposed upon him.

I must here repeat, what was suggested in my former letter, that the successor of Mr. Erskine is the proper functionary for a proper explanation. Nor can I perceive the force of your remark, that the delay incident to your arrival in the United States rendered it more consistent with the friendly sentiments of His Majesty to prefer the other channels for communicating the motives for his disavowal. To your own reconsideration I appeal, whether the course most consonant to those friendly sentiments was not the obvious one of employing the new organ, guarding, at the same time, against any misconstruction of the delay, by apprizing the American Government, through its minister, of the cause of it. The supposition that the delay incident to your mission gave rise to the conversation of Mr. Canning and Mr. Pinkney, is not reconcilable to the correspondence of the latter, which contains no such indication. On the contrary, it distinctly shows that he was apprized of the intention to replace Mr. Erskine by a successor, whom he regarded as the proper channel for the explanatory communications; that he understood Mr. Canning to be under the same impression; and that he learned from yourself, not more than two days after his conversations with Mr. Canning, that you were to sail for the United States within three weeks.

Although it may not have been your intention to have given to this subject a posture which it would not have naturally assumed, yet such has been the tendency of some of your remarks, and particularly of the conclusion you have drawn from the two circumstances, 1st, That no trace of complaint from this Government against the disavowal appears in the records of the British mission, or was distinctly announced by me in our conferences; and 2d, That, from the official correspondence of Mr. Erskine with his Government, it appears that, although he did not communicate *in extenso* his original instructions, he submitted to me the three conditions therein specified, and received my observations on each.

If there be no trace of complaint against the disavowal in the archives of the mission, it is because this Government could not have entered such complaint before the reasons for the disavowal had been explained, and especially as the explanations were justly and confidently expected through the new functionary. And as to the supposed reserve on my part on this subject, in our several conferences, I did imagine that my repeated intimations to you of the necessity of satisfactory explanations, as to the disavowal, were sufficient indications of the dissatisfaction of this Government with respect to the disavowal itself.

The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on for the terms first proposed, has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the three conditions which now appear on the printed document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit, and that, on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the orders in council were adopted. And what, sir, is there in this to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is any thing more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and it is confirmed by universal experience.

What were the real and entire instructions given to your predecessor is a question essentially between him and his Government. That he had, or at least that he believed he had, sufficient authority to conclude the arrangement, his formal assurances, during our discussions, were such as to leave no room for doubt. His subsequent letter, of the 15th of June, renewing his assurance to me "that the terms of the agreement, so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty," is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been, even since the disavowal, I must take the liberty of referring you to the annexed extracts [see C] from his official letters of the 31st July, and of the 14th of August.

The declaration "that the despatch from Mr. Canning to Mr. Erskine, of the 23d January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates," is now for the first time made to this Government. And I need hardly add, that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

As you have disclaimed any authority to offer explanations for the disavowal, as you have been willing to ascribe the want of such authority to the consideration that other channels had been preferred, and as you have even considered the circumstances under which the arrangement took place to be such as could only lead to a disavowal, and, therefore, as superseding the necessity of any explanation whatever, it is to be regretted that you had not deemed it proper to render precise and explicit that part of your letter, which seems to imply that you had, in our conversations in relation to the affair of the Chesapeake, following the words of your instructions, held out not only the manner in which the reparation had been accepted, but even the form in which it had been tendered, as warranting His Majesty in even retracting the offer of reparation, and that you had elucidated the observation by a reference to the particular expressions which, at all events, put it totally out of his power to confirm any act containing them.

Whatever may have been your intention in this part of our conversation, or whatever may be the import of the passage to which I have just alluded, I have now the honor of signifying to you that I am authorized to receive in a proper form whatever explicit explanations you may choose to make with respect to the grounds of this part

of the disavowal; and without inquiring whether your authority be derived from instructions that have been addressed to yourself, or that have devolved on you as the successor of the minister, who had declined to execute them.

As you have at the same time been pleased to say that His Britannic Majesty had authorized you to renew the offer of satisfaction which Mr. Erskine was instructed to make, it was also naturally expected that you would in your letter have stated with precision in what that offer differed from the reparation solemnly tendered by Mr. Erskine, and accepted by the United States; and that you would have shown in what the reparation thus tendered differed from his instructions. And when I had the honor to intimate that, in order to avoid the misconceptions incident to oral proceedings, it was thought expedient that our further discussions on the present occasion should be in the written form, there was no part of the subject to which that intimation applied with more force than the case of the Chesapeake; none on which it was more desirable to avoid misconceptions, and to obtain a precise knowledge of the propositions which you were authorized to make; not only because I did not really understand the particulars of the offer as distinctly as you seem to have supposed, but also because, on that point, and on that alone, you had expressly stated that you had propositions to make, and that you were authorized to carry them into immediate execution.

On the subject of the orders in council, the President perceives, with sentiments of deep regret, that your instructions contemplate neither an explanation of the refusal of your Government to fulfil the arrangement of that branch of the existing differences, nor the substitution of any other plan of adjustment, nor any authority to *conclude* any agreement on that subject, but merely to receive and discuss proposals that might be made to you on the part of the United States; and these, it appears, must include a stipulation on the part of the United States to relinquish the trade with the enemies' colonies, even in branches not hitherto interrupted by British orders for capture, and also a sanction to the enforcing of an act of Congress by the British navy.

Were the way properly opened for formal propositions from this Government, a known determination on the part of His Britannic Majesty to adhere to such extraordinary pretensions, would preclude the hope of success in such advances, whether regard be had to the conditions themselves, or to the disposition they indicate in return for the conciliatory temper which has been evinced by the United States.

As to the demand in relation to the colonial trade, it has been the less apprehended, as it is not in itself connected, nor has it ever before been brought into connexion, either with the case of the orders in council, or with that of the Chesapeake. And it was reasonably to be presumed, if the idea of such a condition had in the first instance proceeded from the erroneous belief that it was not objectionable to the United States, that it would not have been persisted in after that error had been ascertained and acknowledged.

The other demand could still less have been apprehended. Besides the inevitable and incalculable abuses incident to such a license to foreign cruisers, the stipulation would touch one of those vital principles of sovereignty which no nation ought to have been expected to impair: for, where would be the difference in principle between authorizing a foreign Government to execute, and authorizing it to make laws for us? Nor ought it to be supposed that the sanctions and precautions of a law of the United States, in the cases of the prohibited trade in question, would prove inefficacious for its purposes.

Had none of these obstacles presented themselves to the course corresponding with the sentiments and dispositions of the President, I should have felt great pleasure in giving you formal assurances of his readiness to execute the conditional authority with which he is invested for restoring, in its full extent, as far as it may depend upon the United States, the commercial intercourse of the two countries; and that he would, moreover, be disposed to extend the experiment of a friendly negotiation to every point of difference and of mutual interest between them. If, indeed, in the event of a successful termination of what relates to the case of the Chesapeake, it be thought that a removal of the difficulties arising from the orders in council might be facilitated by comprehending them in a general negotiation, and the operation of the orders can in the mean time be suspended, the door might be considered as immediately open to that course of proceeding.

To such a suspension no reasonable objection can be made, if, as you have stated, the orders in council, as now modified, leave the trade of the United States nearly as great as it would be without the existence of such orders, so long as France and the other Powers shall continue their decrees; and inasmuch as a discontinuance of their decrees, by those Powers, confessedly requires an immediate and entire revocation of the orders in council.

That a suspension of the orders, with a view to their being brought into a general negotiation, is more reasonable than a temporary submission to their authority by the United States with that view, is obvious from the reflection, that such a submission would necessarily involve a relinquishment of the principle which they have steadfastly asserted; whereas, a discontinuance of the orders in council, in the present actual state of things, would not be incompatible with the principle on which they were originally founded.

This principle was, as you well know, the necessity of retaliating, through neutrals, injuries received through a violation of their rights by another belligerent. In the actual state of things, and under the actual modification of the orders in council produced by it, it is admitted by you, that the orders have no practical effect in abridging the commerce of neutrals, and can of course have no retaliating effect on the other belligerents.

Although it cannot be allowed to be true that the orders in council are no longer injurious to the commerce of the United States, it is certainly true that they produce no degree of injury to the enemies of Great Britain that can countenance the retaliating plea alleged in support of them.

What, permit me to ask, is the degree of injury actually accruing to the enemies of Great Britain from her retaliating orders? According to those orders, as now modified, and more especially taking into view along with them the prohibitory law of this country in relation to France, the essential difference between their repeal and their existence consists in this: that, in the case of their repeal, as pledged by the arrangement of April, the trade of the United States might be carried on directly with the ports of Holland; whilst during their existence, as at present, it is to be carried on through the contiguous and neighboring ports.

To your own calculations, sir, I submit, whether the inconsiderable effect of this circuit on the prices in Holland, and in the countries supplied through her, can any longer sustain the plea of inflicting distress on an enemy, or palliate the injuries done to a friend by a proceeding so contrary to his sentiments of justice, and which subjects his regular commerce not only to inconvenient channels, but to all the abuses which may result from the suspicions, real or pretended, of interested cruisers. You cannot but be sensible that a perseverance, under such circumstances, in a system which cannot longer be explained by its avowed object, would force an explanation by some object not avowed. What object might be considered as best explaining it, is an inquiry into which I do not permit myself to enter, further than to remark that, in relation to the United States, it must be an illegitimate object.

It remains to make a few observations, which are due to the just interest of the United States, and which are invited by yours relating to the order in council of May last.

You seem to consider that measure as comprising the utmost precaution that was in the power of His Britannic Majesty to take, for preventing losses, from his disavowal of the engagement of your predecessor to citizens of the United States who had resumed their commercial pursuits on the faith of that act.

Without entering into a full view of the inadequacy of the order in that respect, I take the liberty of pointing out the following instances in which it falls essentially short of its declared intention:

1. The order does not provide for the important case of vessels returning with cargoes from the ports of Holland.

2. The exemption from interruption of vessels bound from the United States to Holland was restricted by that order to such as should have departed prior to the 20th of July; at which date it is not certain that the order, which was not officially communicated until the 31st of that month, had even reached any one point of the United States. So that some vessels may have sailed between the limited date and the arrival of the order in the United States; and many from distant ports must have done so after its arrival, but before a knowledge of it had become general: all proceeding on the faith of the arrangement, yet all left by the order exposed to capture and condemnation.

3. The order does not provide for the important case of vessels which had sailed on the like faith for Dutch ports, other than those of Holland.

4. It does not include in its provisions the extensive list of vessels going indirectly from the United States, but directly from foreign ports to those of Holland, nor vessels trading entirely from foreign ports to Holland; and, in both these instances, proceeding on the faith of the arrangement professed to be respected within the defined period.

It is true that, in these last instances, the vessels were not to be captured without an attempt, after contrary warning, to proceed to those ports. But I need not remind you that the injuries incident to the delay and to the breaking up of such voyages cannot but have been considerable, and will have resulted as manifestly from the disappointed faith in the arrangement, as in the cases specially provided for; and, consequently, with all other losses fairly resulting from the same *bona fide* confidence in that act, they will fall within the just indemnification for which the principle assumed in the order is a formal pledge.

I conclude, sir, with pressing on your candid attention that the least which the President could have looked for in consequence of the disavowal of a transaction such as was concluded by your predecessor, and carried faithfully into effect by this Government, was an explanation from yours of the disavowal, not through the minister disavowed, but through his successor—an explanation founded on reasons strong and solid in themselves, and presented neither verbally nor vaguely, but in a form comporting with the occasion and with the respect due to the character and the good faith of the disappointed party; that it has been found, with much concern, and with not less surprise, that you are charged with no such explanations; that you have apparently wished to bring the subjects, which have been formally and definitively arranged, into fresh negotiation, as if no such arrangement had taken place; that one of the cases thus slighted, viz: that of the frigate Chesapeake, is a case for which reparation, not denied to be due, had been previously so long withheld, or rather in which the aggression itself has been spun out to the present moment by the continued detention of the mariners, whose seizure, making a part of the hostility committed against the American frigate, must be regarded in a light analogous to a continued detention of the ship itself; that, in the other case, viz: that of the orders in council, you are not authorized to tender explanations for the disavowal, or to propose any new arrangement, nor to conclude any agreement, but solely to receive and discuss proposals which might be made to you: not concealing, at the same time, that, to be satisfactory, they must include two conditions, both inadmissible, one altogether irrelevant to the subject, and the other requiring nothing less than a surrender of an unalienable function of the national sovereignty.

Notwithstanding these repulsive considerations, such is the disposition of the President to facilitate a final and comprehensive accommodation between the two nations, that he is ready, as I have already had the honor of signifying to you, to favor any mode of bringing about so happy an event that may be found consistent with the honor and the essential interest of the United States.

I have the honor to be, with the highest consideration, sir, your obedient servant,

R. SMITH.

The Hon. FRANCIS JAMES JACKSON, &c.

A.

Extract of a letter from Mr. Pinkney to Mr. Canning, dated

LONDON, October 10, 1808.

At our first interview (on the 29th June) verbal communication was not discountenanced, but commended; for, after I had made myself understood as to the purpose for which the interview had been requested, you asked me if I thought of taking a more formal course, but immediately added that you presumed I did not, for that the course I had adopted was well suited to the occasion. My reply was, in substance, that the freedom of conversation was better adapted to our subject, and more likely to conduct us to an advantageous conclusion, than the constraint and formality of written intercourse; and that I had not intended to present a note. At the second interview (on the 22d July, it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable, as a preparatory course; and it was not until the third interview (on the 29th July) that it was rejected as inadmissible.

B.

Extract:—Mr. Canning to Mr. Pinkney, dated

NOVEMBER 22, 1808.

It is highly probable that I did not (as you say I did not) assign to you, as the motive of the wish which I then expressed, my persuasion that written communications are less liable to mistake than verbal ones, because that consideration is sufficiently obvious, and because the whole course and practice of office is, in that respect, so established and invariable, that I really could not have supposed the assignment of any specific motive to be necessary to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

I had taken for granted all along that such would, and such must, be the ultimate proceeding on your part, however you might wish to prepare the way for it by preliminary conversations.

C.

Extract of a letter from Mr. Erskine to Mr. Smith, dated

WASHINGTON, July 31, 1809.

Neither the present time nor the occasion will afford me a favorable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to His Majesty's wishes, and to the spirit, at least, of my instructions upon the subject; nor indeed would any vindication of my conduct (whatever I may have to offer) be of any importance, further than as it might tend to show that no intention existed on my part to practise any deception towards the Government of the United States.

From the same to the same, dated

AUGUST 14, 1809.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d January, (which formed but *one part* of his instructions to me,) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at *liberty* to have done *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my *several* letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes; and accordingly concluded the late provisional agreement, on His Majesty's behalf, with the Government of the United States.

The disavowal by His Majesty is a painful proof to me that I had formed an erroneous judgment of His Majesty's views and the intention of my instructions; and I have most severely to lament that an act of mine, though unintentionally, should produce any embarrassment in the relations between the two countries.

No. 9.

Mr. Jackson to the Secretary of State.

SIR:

WASHINGTON, October 23, 1809.

The letter which you did me the honor to address to me on the 19th instant was delivered to me on the following day. I shall, without loss of time, transmit it to my court, where the various and important considerations which it embraces will receive the attention due to them. In the interval, I would beg leave to submit to you the following observations, as they arise out of the communications that have already occurred between us.

In fulfilling a duty which I conceive to be due to my public character, I have never suggested, nor meant to suggest, that the mode of negotiating prescribed by you on this particular occasion—an occasion selected for the purpose of removing existing differences—was otherwise objectionable, than as it appeared to me to be less calculated, than it does to you, to answer the professed purpose of our negotiation.

It was against the general principle, of debarring a foreign minister, in the short space of one week after his arrival, and without any previous misunderstanding *with him*, from all personal intercourse, that I thought it right to protest. Since, however, I find by your letter that it is not intended to apply that principle to me, I will only observe that, in the case which you mention to have occurred between Mr. Canning and Mr. Pinkney, the conferences were held under an expectation, at least on the part of the former, of their leading to a written communication; whereas, in ours, I, from the beginning, stated that I had no such communication to make. There is also this essential difference between the two cases: that Mr. Pinkney was charged to convey an important proposal to His Majesty's Government, the particulars of which it might be very material to have correctly stated, whilst the object of that part of my conversation, to which you seem to attach the most importance, was to say that I was *not* charged to make any proposal whatever.

It could not enter into my view to withhold from you an explanation, merely because it had been already given, but because, having been so given, I could not imagine, until informed by you, that a repetition of it would be required at my hands. I am quite certain that His Majesty's Government, having complied with what was considered to be the substantial duty imposed upon it on this occasion, would, had this been foreseen, have added to the proofs of conciliatory good faith already manifested, the further complacency to the wishes of the United States, of adopting the form of communication most agreeable to them, and of giving, through me, the explanation in question. I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance, made known to you; no stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement.

Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, ministers are furnished with a gradation of conditions, on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that, in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as, in point of fact, Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms which he was actually induced to accept having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed.

It may, perhaps, be satisfactory that I should say here that I most willingly subscribe, on this occasion, to the highly respectable authority which you have quoted, and I join issue with you upon the essentials which that authority requires to constitute a right to disavow the act of a public minister.

It is not immaterial to observe on the qualification contained in the passage you have quoted, as it implies the case of a minister concluding *in virtue of a full power*; to this it would suffice to answer that Mr. Erskine *had no full power*; and his act, consequently, does not come within the range of your quotation, although it cannot be forgotten that the United States have, at no very distant period, most freely exercised the right of withholding their ratification from even the authorized act of their own diplomatic agents, done under the avowed sanction of a full power.

I conceive that what has been already said establishes, beyond the reach of doubt or controversy, that His Majesty's minister did violate his instructions, and the consequent right in His Majesty to disavow an act so concluded. That His Majesty had *strong and solid reasons* for so doing will appear, not only from his instructions having been

violated, but from the circumstance that the violation of them involved the sacrifice of a great system of policy, deliberately adopted and acted upon in just and necessary retaliation of the unprecedented modes of hostility resorted to by his enemy.

There appears to have prevailed, throughout the whole of this transaction, a fundamental mistake, which would suggest that His Majesty had proposed to propitiate the Government of the United States, in order to induce it to consent to the renewal of the commercial intercourse between the two countries; as if such had been the relations between Great Britain and America, that the advantages of that intercourse were wholly on the side of the former, and as if, in any arrangement, whether commercial or political, His Majesty could condescend to barter objects of national policy and dignity for permission to trade with another country.

Without minutely calculating what may be the degree of pressure felt at Paris by the difference in the price of goods whether landed at Havre or at Hamburg, I will, in my turn, appeal to your judgment, sir, whether it be not a *strong* and *solid reason*, worthy to guide the councils of a great and powerful monarch, to set bounds to that spirit of encroachment and universal dominion which would bend all things to its own standard? Is it nothing, in the present state of the world, when the agents of France authoritatively announce to their victims "that Europe is submitting and surrendering by degrees," that the world should know that there is a nation which, by that divine goodness, so strongly appealed to in the paper to which I allude,* is enabled to falsify the assertion? Is it not important, at such a moment, that Europe and America should be convinced that, from whatever country honorable and manly resistance to such a spirit may have been banished, it will still be found in the sovereign of the British nation and in the hearts of his subjects?

As to the precautions taken in England to insure from injury, upon this occasion, the citizens of the United States, and which appear to you to be even yet insufficient, I am confident that, in every doubtful case, the usual liberality of our tribunals will be exercised in determining upon the circumstances of it; and it was at Mr. Pinkney's express requisition that additional instructions were given to the commanders of His Majesty's ships of war and privateers to extend to vessels, trading to the colonies, plantations, and settlements of Holland, the same exemption from capture and molestation as was granted to vessels sailing for any of the ports of Holland.

On the subject of return cargoes from those ports, I must observe, that, although it was intended to prevent, as far as was practicable, the inconveniences likely to be created by the unauthorized agreement made here in April last, yet it was not and could not be intended to obviate all possible inconveniences, even such as might have arisen if no such agreement had ever been made.

If an American vessel had sailed from America for Holland in time of profound peace, or in time of war, the ports of Holland not being at the date of sailing under blockade, it might yet have happened that, in the period between the commencement of such voyage and the arrival of the vessel at the port of destination, a blockade might have been established before that port. The vessel arriving would, in that case, have been warned not to enter the port, and would have been turned away with the loss of the whole object of the voyage. This would be no extraordinary hardship, and would afford no legitimate ground of complaint.

The order in council is far less strict than such a blockade would be, forasmuch as it provides for the original voyage, commenced in expectation of being admitted to the port of destination, by permitting the entry into the ports of Holland; and it is no just ground of complaint that it does not superadd to that permission the liberty to re-export a cargo of the enemy's goods or produce.

I beg leave briefly to recapitulate the substance of what I have had the honor to convey to you, as well in verbal, as in written communications.

I have informed you of the reasons of His Majesty's disavowal of the agreement so often mentioned; I have shown them, in obedience to the authority which you have quoted, to be both strong and solid, and such as to outweigh, in the judgment of His Majesty's Government, every other consideration which you have contemplated; I have shown that that agreement was not concluded in virtue of a full power, and that the instructions given on the occasion were violated.

Beyond this point of explanation, which was supposed to have been attained, but which is now given, by the present letter, in the form understood to be most agreeable to the American Government, my instructions are prospective; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a real reconciliation of all differences may be substantially founded; and they authorize me not to renew proposals which have already been declared here to be unacceptable, but to receive and discuss any proposal made on the part of the United States, and *eventually* to conclude a convention between the two countries. It is not, of course, intended to call upon me to state as a preliminary to negotiation what is the whole extent of these instructions; they must, as I have before said, remain subject to my own discretion, until I am enabled to apply them to the overtures which I may have the honor of receiving from you.

I have the honor to be, with great respect, sir, your most obedient servant,

F. J. JACKSON.

No. 10.

Mr. Jackson to the Secretary of State.

SIR:

WASHINGTON, October 27, 1809.

Finding by your letter of the 19th instant, that, notwithstanding the frequent statements made by me, in our conferences, of the terms of satisfaction which I am empowered to offer to this country for the unauthorized attack made by one of His Majesty's ships of war upon the frigate of the United States, the Chesapeake, I have not had the good fortune to make myself distinctly understood by you, I have the honor to enclose herewith a paper of memoranda, containing the conditions, on the basis of which I am ready to proceed to draw up with you the necessary official documents in the form proposed in my letter of the 11th instant, or in any other form upon which we may hereafter agree.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

F. J. JACKSON.

The Honorable ROBERT SMITH, &c. &c.

[Enclosed in Mr. Jackson's letter of October 27, 1809.]

The President's proclamation of July, 1807, prohibiting to British ships of war the entrance into the harbors of the United States, having been annulled, His Majesty is willing to restore the seamen taken out of the Chesapeake, on reserving to himself a right to claim in a regular way, by application to the American Government, the discharge of such of them (if any) as shall be proved to be either natural born subjects of His Majesty, or deserters from His Majesty's service.

His Majesty is willing to make a provision for the families of such men as were slain on board the Chesapeake, in consequence of the unauthorized attack upon that frigate, provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of His Majesty, or a deserter from His Majesty's service.

* Augereau's proclamation to the Catalonians.

No. 11.

Mr. Smith to Mr. Jackson.

SIR:

DEPARTMENT OF STATE, *November 1, 1809.*

Your letter of the 23d ultimo, which was duly received, would have been sooner acknowledged, had I not by sickness been rendered for several days utterly unfit for business.

Although the delay and the apparent reluctance in specifying the grounds of the disavowal of the arrangement, with respect to the orders in council, do not correspond with the course of proceeding deemed most becoming the occasion; yet, as the explanation has at length been thus made, it only remains, as to that part of the disavowed arrangement, to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal; it being understood, at the same time, that His Britannic Majesty perseveres in requiring, as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with enemy's colonies, and also a permission to the British navy to aid in executing a law of Congress—pretensions which cannot but render abortive all proposals whatever upon this subject, whether made by the United States, or by His Britannic Majesty.

Whilst you have deemed it proper to offer an explanation with respect to the disavowal of one part of the arrangement, I must remind you that there is not to be found in your letter any like specification of the reasons for the disavowal, nor particularly is it shown that the instructions were violated, as to the other part, viz. the case of the Chesapeake; the case in which, in an especial manner, an explanation was required, and in which only you professed to have authority to make to this Government any overtures.

For the first time it is now disclosed that the subjects arranged with this Government by your predecessor are held to be not within the authority of a minister plenipotentiary, and that not having had a "full power distinct from that authority, his transactions on those subjects might, of right, be disavowed by his Government." This disclosure, so contrary to every antecedent supposition and just inference, gives a new aspect to this business. If the authority of your predecessor did not embrace the subjects in question, so as to bind his Government, it necessarily follows, that the only credentials yet presented by you, being the same with those presented by him, give you no authority to bind it; and that the exhibition of a "full power" for that purpose, such as you doubtless are furnished with, is become an indispensable preliminary to further negotiation; or, to speak more strictly, was required, in the first instance, by the view of the matter now disclosed by you. Negotiation, without this preliminary, would not only be a departure from the principle of equality, which is the essential basis of it, but would, moreover, be a disregard of the precautions and of the self-respect enjoined on the attention of the United States by the circumstances which have hitherto taken place.

I need scarcely add, that in the full power alluded to, as a preliminary to negotiation, is not intended to be included either the whole extent or any part of your instructions for the exercise of it. These, of course, as you have justly remarked, remain subject to your own discretion.

I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust, in an amicable manner, the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations, to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view, which you have again presented of the subject, makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign minister with a Government that understands what it owes to itself.

I have the honor to be, &c.

The Hon. FRANCIS JAMES JACKSON, &c. &c.

R. SMITH.

No. 12.

Mr. Jackson to the Secretary of State.

SIR:

WASHINGTON, *November 4, 1809.*

When I forwarded to my court your letter of the 19th ultimo, and the answer which I returned to it, I imagined, and I may add I hoped, that the retrospective correspondence, into which you thought it necessary to enter with me, had been closed. You will, no doubt, recollect with what reluctance I acquiesced in your intimation on this head; not, as I believe has been seen, from any difficulty in maintaining the justice of the cause which is entrusted to me, but because I was and still am of opinion, that this sort of correspondence is not calculated to remove differences and soothe irritations of the most unfortunate tendency. As, however, I had no choice but to renounce, for the present, the hope of effectuating this desirable object, or to pursue it in the manner prescribed in your letter of the 9th ultimo, so I am now unwillingly compelled to enter upon the consideration of another letter from you, under date of the 1st instant, which but too strongly confirms the opinion I before entertained.

Since, sir, it has been judged expedient to confine to a written form this important and interesting discussion; since that mode has been declared by you to be indispensable, I will first appeal to the written communications which have passed between us; and I do this with the greater satisfaction, because I consider it to be the chief cause of the present remarkable state of things, that in speaking of engagements contracted or supposed to have been contracted between the two countries, *understandings* or *implied engagements* have been allowed to take place of written compacts, and have been considered, in some instances, as having the same validity. It is, furthermore, necessary to place in the most unequivocal light a topic, which I observe to be constantly and prominently restated in your letters, notwithstanding the repeated, but, as it should seem, fruitless endeavors used in mine to clear it from the slightest shadow of obscurity.

You say, "that it is understood that His Britannic Majesty perseveres in requiring, as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemy's colonies, and also a permission to the British navy to aid in executing a law of Congress."

This same statement is contained in your letter of the 9th instant, and represented as the substance of what had fallen from me in our previous conferences. In my answer to that letter, I took the liberty of showing that such a supposition was erroneous, and I have looked in vain to my letter of the 23d, to find in it any suggestion of a similar tenor. I believe, therefore, that, by reference to my two letters, you will find that the statement now again brought forward is contained in neither of them; that it made no part of my previous conversations with you; and that I have in no way given room to suppose that I ever made any such statement at all.

That before the orders in council can be revoked their object must be obtained in some other way, is unquestionably true; but you may be assured, sir, that there is no wish whatever entertained in England, that the British navy should be employed in executing a law of Congress. If the proposal that was made upon that subject, and made, as you now know, because it was believed to be acceptable here, had been adopted, and had become a matter of compact between the two countries, and thereby a part, not of the law of Congress, but of the public law binding upon both parties, and which both would have had a common interest in seeing duly executed; in that case, the agency of the British navy would not have had the invidious aspect which is now attempted to be given to it. At present there is no engagement between the two countries, no laws of Congress which bear a reference to any such engagement, and, consequently, it cannot be wished to take any share whatever in the execution of those laws.

In regard to the colonial trade, I need only observe, that all or nearly all the enemy's colonies are blockaded by British squadrons; it cannot, therefore, be so much an object of solicitude as you imagine, to obtain the relinquishment of the trade of any country to those colonies. On the contrary, you will find it stated in my letter of the 11th ultimo, to be a "matter of indifference whether the order in council" (on this subject) "be continued, or an arrangement, by mutual consent, substituted in its room."

When I informed you that the agreement concluded here in April last had been framed in deviation from the instructions given for the occasion, my explanation was intended to apply to both parts of that agreement; that nothing, required by the most scrupulous accuracy, may be wanting, I now add, that the deviation consisted in not recording, in the official document signed here, the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ultimo.

There is another motive for the disavowal of this part of the arrangement, considered to be so strong and so self-evident, upon the very face of the transaction, that I am not commanded to do more than indicate it in the manner I have already done. By this forbearance His Majesty conceives that he is giving an additional pledge of his sincere disposition to maintain a good understanding with the United States.

I am somewhat at a loss to give a distinct reply to that part of your letter, which relates to Mr. Erskine's authority to conclude with you in virtue of his general letter of credence, because I do not very distinctly understand the tendency of it. I never before heard it doubted that a full power was requisite to enable a minister to conclude a treaty, or that a mere general letter of credence was insufficient for that purpose.

If it were otherwise, and a Government were in all cases to be bound by the act, however unauthorized, of an accredited minister, there would be no safety in the appointment of such a minister, and ratifications would be useless. No full power was given in the present case, because it was not a treaty, but the materials for forming a treaty, that was in contemplation.

In his despatch of the 23d January, Mr. Secretary Canning distinctly says to Mr. Erskine: "Upon receiving through you, on the part of the American Government, a distinct and official recognition of the three above-mentioned conditions, His Majesty will lose no time in sending to America a minister fully empowered to consign them to a formal and regular treaty."

This minister would, of course, have been provided with a full power; but Mr. Erskine was to be guided by his instructions, and, had the agreement concluded here been conformable to them, it would without doubt have been ratified by His Majesty. I must beg your very particular attention to the circumstance that His Majesty's ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded. The question of the full power was introduced by yourself to give weight, by a quotation from a highly respected author, to your complaint of the disavowal; in answer to which I observed, that the quotation did not apply, as Mr. Erskine had no full power. Never did I imagine, or any where attempt, to rest the right of disavowal upon that circumstance: indubitably his agreement would, nevertheless, have been ratified, had not the instructions, which in this case took the place of a full power, been violated.

I am surprised at the transition, by which it appears to you that this part of the subject is connected with the authority empowering me to negotiate with you. It will not, I dare say, have escaped your recollection, that I informed you, at a very early period of our communications, that in addition to the usual credential letter, His Majesty had been pleased to invest me with a full power under the great seal of his kingdom, for the express purpose of concluding a treaty or convention. I well remember your testifying your satisfaction at the circumstance; and I have only now to add, that I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided for the progress of our negotiation.

I am concerned, sir, to be obliged, a second time, to appeal to those principles of public law, under the sanction and protection of which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between ministers; and one, at least, of the epithets which you have thought proper to apply to my last letter is such as necessarily abridges that freedom. That any thing therein contained may be irrelevant to the subject, it is, of course, competent in you to endeavor to show; and as far as you succeed in so doing, in so far will my argument lose of its validity; but, as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own sovereign, whose commands I obey, and to whom alone I can consider myself responsible. Beyond this, it suffices that I do not deviate from the respect due to the Government to which I am accredited.

You will find, that in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose.

I have the honor to be, &c.

F. J. JACKSON.

Hon. RICHARD SMITH, &c.

No. 13.

The Secretary of State to Mr. Jackson.

SIR:

DEPARTMENT OF STATE, November 8, 1809.

In my letter of the 19th ultimo, I stated to you that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d January was the only despatch by which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement on the matter to which it related, was then, for the first time, made to this Government. And it was added that, if that despatch had been communicated at the time

of the arrangement, or if it had been known that the propositions contained in it were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

In my letter of the 1st instant, adverting to the repetition in your letter of the 23d ultimo, of a language implying a knowledge in this Government that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you that, after the explicit and peremptory asseveration that this Government had not any such knowledge, and that with such a knowledge such an arrangement would not have been made, no such insinuation could be admitted by this Government.

Finding that, in your reply of the 4th instant, you have used a language which cannot be understood but as reiterating and even aggravating the same gross insinuation, it only remains, in order to preclude opportunities which are thus abused, to inform you that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your Government. In the mean time, a ready attention will be given to any communications affecting the interests of the two nations, through any other channel that may be substituted.

I have the honor to be, &c.

R. SMITH.

The Honorable FRANCIS JAMES JACKSON, &c. &c. &c.

No. 14.

Mr. Oakley, the British Secretary of Legation, to the Secretary of State.

Mr. Oakley, His Majesty's Secretary of Legation, is desired by Mr. Jackson to state to the Secretary of State, that as Mr. Jackson has been already once most grossly insulted by the inhabitants of the town of Hampton, in the unprovoked language of abuse held by them to several officers bearing the King's uniform, when those officers were themselves violently assaulted and put in imminent danger, he conceives it to be indispensable to the safety of himself, of the gentlemen attached to his mission, and of his family, during the remainder of their stay in the United States, to be provided with special passports or safeguards from the American Government. This is the more necessary, since some of the newspapers of the United States are daily using language whose only tendency can be to excite the people to commit violence upon Mr. Jackson's person. In consequence, he requests that the undermentioned names may be inserted in the documents to be furnished him.

Francis James Jackson,
Mrs. Jackson,
Their three children,

Charles Oakley, Esq.,
His Majesty's Secretary of Legation.
Mr. George Ottley, *Private Secretary.*

Servants.

Robert Clavering,
Francis Martin,
William Attre,
Charles Beecroft,
Richard Lowe,
John Price,

John Lilly,
James Wright,
Amelia George,
Mary Smith,
Harriet Patten,
Martha Wood,
Frances Blackwell,

[This note was received at the Department of State on the 11th November.]

No. 15.

Mr. Oakley to the Secretary of State.

WASHINGTON, November 13, 1809.

Mr. Oakley is desired by Mr. Jackson to say to the Secretary of State:

That Mr. Jackson has seen, with much regret, that facts, which it has been his duty to state in his official correspondence, have been deemed by the American Government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the minister charged by his Sovereign with that negotiation so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the Secretary of State himself, in his letter of the 19th October, viz: That the three conditions forming the substance of Mr. Erskine's original instructions, were submitted to him by that gentleman. The other, viz: that that instruction is the only one in which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received.

In stating these facts, and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on his part; but since he has been informed by the Secretary of State that no further communications will be received from him, he conceives that he has no alternative that is consistent with what is due to the King's dignity, but to withdraw altogether from the seat of the American Government, and wait the arrival of His Majesty's commands upon the unlooked for turn which has thus been given to his affairs in this country.

Mr. Jackson means to make New York the place of his residence.

No. 16.

The Secretary of State to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, November 23, 1809.

My letters in the correspondence with Mr. Jackson, already transmitted to you, sufficiently evince the disappointment that was felt on finding that he had not been charged to make to this Government either the frank explanations or the liberal propositions which the occasion manifestly required. Instead of this obvious course of proceeding, it was in the outset perceived that his object was to bring us to resume the subjects of the arrangement of April, in a way that would imply that we were aware that the arrangement was not binding on his Government, because made with a knowledge, on our part, that Mr. Erskine had no authority to make it; and thus to convert the responsibility of his Government for the disavowal, into a reproach on this for its conduct in the transaction disavowed.

In the first instance, it was deemed best rather to repel his observations argumentatively, than to meet them as an offensive insinuation. This forbearance had not the expected effect of restraining him from a repetition of the offence. And even on his further insinuations, nothing more was done than to premonish him of the inadmissibility of so indecorous a course of proceeding. This, also, being without effect, nothing remained but the step finally taken. And there was the less hesitation in shutting the door to further opportunities for insulting insinuations, as the disclosures he had made and the spirit of his discussions had so entirely shut it to the hope of any favorable result from his mission.

I will not dwell on his reluctance to give up the uncertainties of verbal, for the precision of written discussion; nor on the *manner* or the *time* of his denial that he had given any room at all for a statement, which, in order to guard against the misconceptions incident to verbal conferences, I had placed before him in writing, with a request that he would point out any inaccuracies, and to which he did not *then* object, otherwise than by intimating that he could not have made the statement *with the particular view which seemed to be supposed*. Nor will I dwell on the various instances in which partial or inconsistent views of the subject have taken place of its real merits. But it may not be amiss to make some observations on the correspondence, as it relates to the *justification of his Government*, in having disavowed the act of his predecessor.

With respect to the orders in council, the *ground* of the disavowal is, the *difference* between the arrangement and the printed despatch of Mr. Canning to Mr. Erskine, of the 23d of January. According to this despatch, then, the arrangement failed in three points.

1st. In not relinquishing the trade of the United States with enemies' colonies.

With respect to this point, it is not necessary at this time to discuss the right to that trade. It is sufficient to remark, 1st, That as the trade is admitted to have become, in the view of Great Britain, of little practical importance, why has it been made a ground of the disavowal, and especially as important considerations only could, upon principles of public law, have justified a measure of so serious a character? 2d, That as the colonial trade is a subject nowise connected either with the orders in council, or with the affair of the Chesapeake, why has it been permitted to frustrate an arrangement relating to those subjects, and to those only? 3d, That as this condition is alleged to have originated in a supposition that it would be agreeable to the American Government, why has it been persisted in, after the error was made known by the representation of Mr. Erskine to his Government, that neither this nor the other conditions of the despatch of the 23d January were attainable here?

2d. Another point in the despatch, and not in the arrangement, is, that the British navy might capture our trade to ports prohibited by the United States.

This condition, too, appears to have had its origin in a mistake of your meaning in a conversation with Mr. Canning, as noted by yourself, and in an inference thence deduced as to the disposition of this Government. But this double mistake must have been brought to light in time to have been corrected in the new mission. In urging it, Mr. Canning has taken a ground forbidden by those principles of decorum which regulate and mark the proceedings of Governments towards each other. In his despatch, the condition is stated to be for the purpose of *securing the bona fide intention* of America to prevent her citizens from trading with France and certain other Powers; in other words, to secure a pledge to that effect against the *mala fide* intention of the United States. And this despatch too, was authorized to be communicated *in extenso* to the Government of which such language was used. Might it not have been reasonably expected that such a condition, and such observations, would, at least on such an occasion, have been given up by a Government willing to smooth the way to an amicable settlement of existing differences.

In his zeal to vindicate his Government, Mr. Jackson, too, has attempted a gloss on this most extraordinary idea of calling on a foreign sovereignty, not, indeed, to make laws for us, but what is equivalent in principle, to supply a supposed inability to execute them. He calls such an interposition of his Government not an execution of the law of Congress, but of a compact binding as a public law on both parties, and which both would have a common interest in seeing duly executed. On his own principles, there ought to be a reciprocity, not only in the execution of the compact, but in the obligation and interest resulting from it. Besides, where there is a reciprocity in compacts between nations touching attributes of sovereignty, there is always as much of sovereignty gained as is parted with, so that there be no loss nor indignity on either side.

3d. The remaining point in the despatch, not secured by the arrangement, is that which required, that whilst our prohibitory laws should be repealed as to Great Britain, they should be left in force as to France, and the Powers adopting or acting under her decrees.

This is the condition which alone properly belongs to the subject; and it is to be remarked, in the first place, that the British project, of which this condition makes a part, contemplated two things in their nature incompatible; one, a repeal of the prohibitory acts as to Great Britain, without waiting for the conclusion of a regular treaty; the other, a pledge or engagement for their continuance as to other Powers. Now, from the nature of our constitution, which, in this particular, ought to have been attended to by the British Government, it is manifest that the Executive authority could have given no such pledge, that the continuance of the prohibitory acts, being a subject of legislative consideration, could not have been provided for until the meeting of the Legislature; and that the condition could not, therefore, but have failed either in the immediate renewal of commerce with Great Britain, or in the immediate engagement that it should not be renewed with France.

The British Government ought to have acquiesced in, and, indeed, ought to have been satisfied with the attainment of the important object of an immediate repeal of our prohibitory laws, and with the consideration that the other object, not immediately attainable, was unnecessary at the time, because the prohibition as to France was then in force, and because there was every reason to infer, not only from this fact, but from the spirit of the communications made from time to time, and from the overtures before submitted to the British Government, that, without a repeal of the French decrees, our prohibitory laws would be continued in force against France, and especially in the case of a repeal of the British orders, which would necessarily render a continuance of the French decrees doubly obnoxious.

But if, on this head, doubts could have been entertained, instead of rejecting the arrangement, ought not the repealing act on our part to have been met with a suspension at least of the orders in council, until it could have been seen whether the non-intercourse law would or would not have been continued against France? Such a suspension would not have given, in any point of view, more advantage to the United States than was given to Great Britain by the repeal which had taken place on their part.

If this reasonable course could not have been substituted for the disavowal, why was not a final disavowal suspended, with a proposition that the arrangement would be executed by Great Britain in the event of a compliance on the part of the United States with the condition required as to France?

I am not unaware, you may be told, that the non-intercourse law of the United States did not extend to Holland, though so intimately connected with France, and so subservient to her decrees against neutral commerce.

It would not be improper on this occasion to observe, that this objection can be the less urged by Great Britain, as she has herself never, in her alleged retaliations, adhered to the principle on which they were founded.

Thus she has from the date of them, until very lately, directed them against the American trade even to Russia, although Russia had never adopted the French decrees, nor otherwise violated our neutral trade with Great Britain. So in her order of April last, she has discriminated not only between the countries devoted to France by the ties of blood, and other Powers, but between Holland, Westphalia, and Naples, in enforcing her prohibitory order against the first and not against the two last. Whilst, therefore, she finds it expedient to make these distinctions; she ought to presume that we too may perceive equal propriety in the distinctions we have made.

But it may be of more importance here to compare the British order in council of April last with the arrangement of April made by Mr. Erskine. It will thence be seen how little is the real difference, and how trivial it is when compared to the extensive and serious consequences of the disavowal.

Under the order in council of April, all the ports of Europe except France, including the kingdoms of Italy and Holland, with their dependencies, are opened to our commerce.

Under the arrangement of April, combined with our act of non-intercourse, all the ports of Europe except France and her dependencies, including the kingdom of Italy, would have been opened to our commerce.

The difference then is reduced merely to Holland, and that again is reduced to the difference between a direct trade to the ports of Holland and an indirect trade to Holland through the neighboring ports of Tonningen, Hamburg, Bremen, and Embden.

Now, as the injuring of the enemies of Great Britain is the only avowed object of her interdicting order against our trade, let a computation be made of the effect which this difference between the order in council and the arrangement could possibly have in producing such an injury. And then let the question be candidly answered, whether, laying aside all considerations of right and justice, sufficient inducements could have been found in that result for rejecting the arrangement, and for producing the consequent embarrassments as well to Great Britain as to the United States.

If it be necessary, as Mr. Jackson has stated, to set bounds to a spirit of encroachment and universal dominion, which would bend all things to its own standard, and to falsify by honorable and manly resistance an annunciation that all Europe is submitting by degrees, the effort must be feeble, indeed, which is to be found in the inconvenience accruing to the formidable foe from the operation of this order in council, and especially when we combine with it the strange phenomenon of substituting for the lawful trade of the United States a trade of British subjects contrary to the laws of the adverse party, and amounting, without a special license in the eye of British law, to high treason.

Thus much for the orders in council. What has taken place with respect to the case of the Chesapeake will equally engage your attention.

You will perceive that, throughout the early stages of the correspondence, this case was, in some respects, improperly confounded with, in others improperly separated from, that of the orders in council; and particularly that pains had been taken by Mr. Jackson to substitute verbal and vague observations on the disavowal of this part of the arrangement for an explicit and formal explanation, such as was obviously due. It will be seen, also, that when finally brought to the point, he referred for a justification of the disavowal to the departure of Mr. Erskine from his instructions without *showing* what those instructions were, and to allusions to an expression in the arrangement without giving to his meaning the distinctness prerequisite to a just reply.

It appears, however, that he lays great stress on the proposal enclosed in his letter of the 27th of October, as at once indicating the departure of Mr. Erskine from his instructions, and as containing the conditions on the basis of which he was ready to enter on an adjustment. And from a note from the secretary of the British legation, it appears that he has complained of not having received an answer to this proposal, as he had before complained that no answer had been given to his verbal disclosures on this head in his interviews with me.

With respect to his intimations in conversation, as they were preceded by no proper assignment of the reasons for not having executed the original adjustment, it cannot be necessary to remark, that no such notice as he wished to obtain could with any sort of propriety have been taken of them.

With respect to his written project, it will suffice to remark:

1st. That besides his reluctant and indistinct explanation of the disavowal of the original adjustment, he did not present his proposal until he had made such progress in his offensive insinuation as made it proper to wait the issue of the reply about to be given to it, and that this issue had necessarily put a stop to further communication.

2d. That although he had given us to understand that the ordinary credentials, such alone as he had delivered, could not bind his Government in such a case, his proposal had neither been preceded by, nor accompanied with, the exhibition of other commission or full power: nor, indeed, has he ever given sufficient reason to suppose that he had any such full power to exhibit in relation to this particular case. It is true that, in his letter of the 23d October, he has stated an authority *eventually* to conclude a *convention between the two countries*. Without adverting to the ambiguity of the term *eventually*, with the mark of emphasis attached to it, and to other uncertainties in the phraseology, it is clear that the authority referred to, whatever it may be, is derived from instructions *subject to his own discretion*, and not from a patent commission, such as might be properly called for. It is true, also, that in his letter of the 4th of November, subsequent to his proposal, he says he was possessed of a full power in due form for the express purpose of concluding a treaty or convention. But it still remains uncertain whether by the treaty or convention to which it related was not meant an *eventual* or provisional treaty on the general relations between the two countries, without any reference to the case of the Chesapeake. Certain it is, that the British Government, in former like cases, as will be seen by the adjustment of that part of the affair at Nootka Sound, which is analogous to this case, did not consider any such distinct full power as necessary; nor is there the slightest ground for supposing that Mr. Erskine, although confessedly instructed to adjust this very case of the Chesapeake, was furnished with any authority distinct from his credential letter. That Mr. Jackson has any such commission is the less to be supposed, as it is but barely possible that, possessing it, he should not on some occasion, or in some form, have used a language susceptible of no possible doubt on this point.

But, proceeding to the proposal itself, it is to be kept in mind that the conditions forming its basis are the very conditions for the deviating from which Mr. Erskine's adjustment was disavowed. Mr. Jackson, if not on others, is on this point explicit. "I now add," says he, "that the deviation consisted in not recording in the official document signed here the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ultimo."

Considering, then, the conditions in the proposal as an ultimatum, in what light are we compelled to view such an attempt to repair the outrage committed on the frigate Chesapeake, and to heal the disappointment produced by a disavowal of a previous equitable reparation?

It is impossible, on such an occasion, not to recall the circumstances which constituted the character of the outrage to which such an ultimatum is now applied. A national ship, proceeding on an important service, was watched

by a superior naval force, enjoying at the time the hospitality of our ports, was followed, and scarcely out of our waters, when she was, after an insulting summons, attacked in a hostile manner; the ship so injured as to require expensive repairs; the expedition frustrated; a number of the crew killed and wounded; several carried into captivity; and one of them put to death under a military sentence. The three seamen, though American citizens, and therefore on every supposition detained as wrongfully as the ship would have been detained, have, notwithstanding, now remained in captivity between two and three years, and, it may be added, after it has long ceased to be denied that they are American citizens.

Under these circumstances, we are called upon to ransom the captives:

1st. By acknowledging that a precautionary proclamation, justified by events preceding the outrage, by the outrage itself, and by what immediately followed it, was unjustifiable, and that a repeal of it was properly a condition precedent to a reparation for the outrage. And this requisition is repeated, too, after such an acknowledgment had been uniformly asserted by this Government to be utterly inadmissible, and, what is particularly remarkable, at a time when the proclamation, as is well understood, was no longer in force. The occasion obviously invited a silent assumption of the existing fact, and this would have excluded the difficulty heretofore found to be insuperable.

2d. By throwing into complete oblivion the conduct of the officer answerable for the murderous transaction, with a knowledge, too, on our part that, instead of being punished, or even brought to trial, he has been honored by his Government with a new and more important command.

3d. By admitting a right on the part of Great Britain to claim a discharge from our service of deserters generally, and particularly of her natural born subjects, without excepting such as had been naturalized in due form under the laws of the United States.

It has not been explained whether it was meant, as the universality of the term "deserters" would import, to include American citizens who might have left the British service. But what possible consideration could have induced the British Government to expect that the United States could admit a principle that would deprive our naturalized citizens of the legal privileges which they hold in common with their native fellow-citizens. The British Government, less than any other, ought to have made such a proposition, because it not only, like others, naturalizes aliens, but, in relation to the United States, has even refused to discharge from the British service native citizens of the United States involuntarily detained. If an American seaman has resided in Great Britain, or has married therein, or has accepted a bounty in her naval service, his discharge therefrom on the regular application to the British Government has been invariably refused by its Board of Admiralty. This I state on the authority of the official reports made to this Department. It is therefore truly astonishing, that, with a knowledge of these facts, such a pretension should have been advanced at all, but, above all, that it should have been made a *sine qua non* to an act of plain justice already so long delayed. This is the more to be regretted, as the omen does not favor the belief we would willingly cherish, that no predetermination exists in the councils of His Britannic Majesty irreconcilable to an amicable arrangement of an affair which, affecting so deeply the honor of the United States, must precede a general regulation of the mutual interests of the two countries.

After the correspondence with Mr. Jackson was terminated, two notes, of which copies are herewith sent to you, were presented to me in the name and by the hand of Mr. Oakley, the British secretary of legation.

The first requested a document having the effect of a special passport or safeguard to Mr. Jackson and his family, during their stay in the United States. As the laws of this country allow an unobstructed passage through every part of it, and, with the law of nations equally in force, protect public ministers and their families in all their privileges, such an application was regarded as somewhat singular. There was no hesitation, however, in furnishing a certificate of his public character, and to be used in any mode he might choose. But what surprised most was the reasons assigned for the application. The insult he alluded to was then for the first time brought to the knowledge of this Government. It had, indeed, been among the rumors of the day, that some unbecoming scene had taken place at Norfolk or Hampton, between some officers belonging to the Africaine and some of the inhabitants, and that it originated in the indiscretion of the former. No attention having been called for, and no inquiry made, the truth of the case is unknown. But it was never supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted; nor is it yet perceived in what way he considers it as having happened. It is needless to remark, that any representation on the subject would have instantly received every proper attention.

Another ground on which a protection was asked for, is the supposed tendency of the language of our newspapers to excite popular violence on Mr. Jackson's person. Had he been longer and better acquainted with the habits and spirit of the American people, he would probably never have entertained an apprehension of that sort. If he meant to animadvert on the free language of the newspapers, he might justly be reminded that our laws, as those of his own country, set bounds to that freedom; that the freedom of British prints, however great with respect to public characters of the United States, has never been a topic of complaint; and that, supposing the latitude of the American press to exceed that of Great Britain, the difference is infinitely less in this respect between the two, than between the British press and that of the other nations of Europe.

The second note seems to be essentially intended as a justification of the conduct of Mr. Jackson, in that part of his correspondence which had given umbrage. If he intended it as a conciliatory advance, he ought not to have preceded it by a demand of passports, nor by the spirit or the manner in which that demand was made. He ought, in fact, if such was his object, to have substituted an explanation in the place of his reply to my premonitory letter. But whether he had one or other, or both, of these objects in view, it was necessary for him to have done more than is attempted in this paper.

It was never objected to him, that he had stated it as a fact that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it as made known to him by the instructions of Mr. Canning, that the instruction to Mr. Erskine, containing these three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this restriction of the authority of Mr. Erskine was imputed to this Government; and the repetition of the imputation, even after it had been peremptorily disclaimed. This was so gross an attack on the honor and veracity of this Government, as to forbid all further communications from him. Care was nevertheless taken, at the same time, to leave the door open for such as might be made through any other channel, however little the probability that any satisfactory communications would be received through any channel here.

To the other enclosures I add a printed copy of a paper purporting to be a circular letter from Mr. Jackson to the British consuls in the United States. The paper speaks for itself. As its contents entirely correspond with the paper last referred to, as they were unnecessary for the ostensible object of the letter, which was to make known Mr. Jackson's change of residence, and as the paper was at once put into public circulation, it can only be regarded as a virtual address to the American people of a representation previously addressed to their Government—a procedure which cannot fail to be seen in its true light by his sovereign.

The observations to which so much extent has been given in this letter, with those contained in the correspondence with Mr. Jackson, will make you fully acquainted with the conduct and the character he has developed, with the necessity of the step taken in refusing further communications from him, and with the grounds on which the President instructs you to request that he may be immediately recalled. You are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest.

I have the honor to be, with great respect and consideration, sir, your obedient servant,

R. SMITH.

WILLIAM PINKNEY, Esq.

[CIRCULAR.]

SIR:

WASHINGTON, *November 13, 1809.*

I have to inform you, with much regret, that the facts which it has been my duty to state in my official correspondence with Mr. Smith, have been deemed by the President of the United States to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with me as the minister charged with that negotiation, so interesting to both nations, and on one most material point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the Secretary of State himself, in his letter to me of the 19th October, viz: That the three conditions, forming the substance of Mr. Erskine's original instruction, were submitted to him by that gentleman. The other, viz: That that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to me by the instructions which I have myself received.

In stating these facts, and in adhering to them, as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill faith which have been made against His Majesty's Government, I could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on my part; and this view of the subject has been made known to Mr. Smith. But, as I am informed by him that no further communication will be received from me, I conceive that I have no alternative left, which is consistent with the King's dignity, but to withdraw altogether from this city, and await elsewhere the arrival of His Majesty's commands upon the unlooked-for turn which has thus been given to his affairs in this country.

I mean in the interval to make New York the place of my residence; where you will henceforward please direct your communications to me, as I shall be accompanied by every member of His Majesty's mission.

I am, &c.

F. J. JACKSON.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, *February 28, 1810.*

I have received from General Armstrong a letter, of which a copy is enclosed; and have in consequence made a written inquiry of Lord Wellesley, (with whom I had before communicated personally on the subject,) as to the existence of the blockades to which it alludes. I am not without hopes that the reply to my inquiry will amount to a declaration (satisfying, in substance, the condition mentioned in General Armstrong's letter) that these blockades are not in force; and, if it should, I will send immediate notice to General Armstrong. I have prepared an official letter to you on this head; which, with such additions as circumstances may enable me to make to it, will be sent by the corvette, [the John Adams.]

11th CONGRESS.]

NO. 225.

[2d SESSION.]

FRANCE.

COMMUNICATED TO CONGRESS, NOVEMBER 29, 1809, FEBRUARY 19, AND MAY 1, 1810.

MAY 1, 1810.

To the House of Representatives of the United States:

I transmit to the House a report of the Secretary of State, complying with their resolution of the 30th of April.

JAMES MADISON.

DEPARTMENT OF STATE, *May 1, 1810.*

In pursuance of the resolution of the House of Representatives of yesterday, the Secretary of State has the honor of transmitting to the President of the United States, the accompanying papers marked A, B, C, D, E, and F.

No information has been received, that any communication has been made to our minister at London, on the part of the British Government, "in answer to any note presented by him in pursuance of instructions given on the 23d November, 1809."

No answers have been given to the "propositions or overtures, made on the part of the United States to the Governments of Great Britain and France, respecting any of the orders and decrees affecting neutral commerce," which have not been heretofore, or which are not herewith, communicated.

All which is respectfully submitted.

R. SMITH.

Extract:—Mr. Smith, Secretary of State, to Mr. Armstrong.

DEPARTMENT OF STATE, *March 15, 1809.*

The proceedings of Congress at their late session, combined with the Executive communications, affording, as they do, additional proofs of the pacific disposition of this Government, and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The first, second, third, fourth, eleventh, and seventeenth sections of the act interdicting our commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the eleventh section, authorizing the Executive to renew our commerce with the nation withdrawing the operations of its illegal edicts. And you will be careful to let it be understood that the authority thus vested will, of course, be exercised in the event stated in the law.

Mr. Armstrong to Count Champagny.

PARIS, *April 29, 1809.*

The undersigned, minister plenipotentiary of the United States, has the honor of presenting to his excellency the Minister of Exterior Relations, the enclosed copy of a law recently passed by the Legislature of the Union.

This law, as may be seen by the several provisions of it, has been forced upon them, by the extraordinary circumstances of the times, and is to be regarded as an act of precaution, taken with the view only of protecting their own property and rights, and of once more appealing to the interests and justice of those who would disturb or destroy them.

Your excellency may be assured, that as nothing has given more disquietude to the United States than the necessity which has impelled them to the adoption of this measure, so nothing will give them more satisfaction than to see that necessity cease. It is in the spirit and sincerity of this declaration, that the undersigned is instructed to add, that any interpretation of the imperial decrees of the 21st of November, 1806, and 17th of December, 1807, which shall have the effect of leaving unimpaired the maritime rights of the Union, will be instantaneously followed by a revocation of the present act, and a re-establishment of the ordinary commercial intercourse between the two countries.

I offer to your excellency, &c.

JOHN ARMSTRONG.

His Excellency COUNT CHAMPAGNY.

General Armstrong to Mr Smith, Secretary of State.

SIR:

PARIS, *September 4, 1809.*

The letter of which I send you a copy, was received during my absence, and detained in Paris till my return. The note promised in it has not yet been received. Mr. Warden informs me, that the council of prizes have been ordered to suspend their proceedings with regard to our vessels.

I have the honor to be, &c.

JOHN ARMSTRONG.

The Honorable ROBERT SMITH, *Secretary of State.*

[TRANSLATION.]

Count Champagny to General Armstrong.

SIR:

VIENNA, *August 8, 1809.*

You have desired that one of the American vessels, which are in the ports of France, might be authorized to depart to the United States with your despatches. I have taken the orders of His Majesty on the subject of this demand, and His Majesty, always disposed to facilitate your communications with your Government, has permitted the departure of the vessel which you shall designate. I informed the Ministers of the Marine and of the Finances of this disposition, requesting them to ensure the execution of it so soon as you shall have made known to them the name of the vessel and the port from which she is to depart.

I have the honor, sir, to apprise you, that I shall forthwith address to you a note, by order of His Majesty, on the actual situation of our relations with the United States. Please to profit by the departure of the vessel to make this known to the Federal Government, and permit me also to send by that conveyance some despatches to the minister plenipotentiary of His Majesty to the United States.

Accept, sir, the assurances, &c.

CHAMPAGNY.

Extract:—General Armstrong to Mr. Champagny.

PARIS, *September 8, 1809.*

I had the honor of receiving your excellency's letter of the 22d August last, in [exposition of the principles adopted by His Majesty with regard to neutral commerce. I shall hasten to transmit a copy of this note to my Government.

Extracts:—General Armstrong to Mr. Smith, Secretary of State.

PARIS, *September 16, 1809.*

I received on the 6th instant, on my return from Holland, two notes from Count Champagny, copies of which I have the honor to enclose. In one of these you will find an exposition of the principles which have governed, and which will continue to govern, the conduct of His Majesty, with regard to neutral commerce. To this, which was

offered as a definitive answer to our propositions, I have believed that any reply, before I had received the further instructions of the President, would have been premature.

Mr. Laurence arrived at L'Orient on the 9th, and Mr. Hazewell at Paris, with your despatch of the 12th of August last, on the 13th instant. I immediately communicated to Count Champagny the President's proclamation interdicting anew all commercial intercourse between the United States and Great Britain, and gave such other explanations as the case appeared to require.

[TRANSLATION.]

Extract:—Count Champagny to General Armstrong.

ALTENBURG, August 22, 1809.

I have the honor to address to you the subjoined note, which His Majesty has ordered me to send to you, and which I have announced in my last despatch. If France does not do at this time all that the United States of America can desire, your Government will be able to see, that neither prejudice nor animosity influences its conduct; that it is the effect of its attachment to principles which the Americans, more than any other people, are interested in supporting, and of the necessity of reprisals which circumstances impose. The Emperor will consider as a happy event, that which shall enable him to contribute to the prosperity of America, in leaving to its commerce all the liberty and all the extension which can render it flourishing.

[TRANSLATION.]

Official note from Count Champagny to General Armstrong.

SIR:

ALTENBURG, August 22, 1809.

His Majesty the Emperor, apprised that you are to send a vessel to America, has ordered me to make known to you the invariable principles which have regulated, and which will regulate, his conduct on the great question of neutrals.

France admits the principle that the flag covers the merchandise.

A merchant vessel, sailing with all the necessary papers (*avec les expéditions*) from its Government, is a floating colony. To do violence to such a vessel, by visits, by searches, and by other acts of an arbitrary authority, is to violate the territory of a colony; this is to infringe on the independence of its Government. The seas do not belong to any nation; they are the common property of mankind, and the domain of all.

Enemy merchant vessels belonging to individuals ought to be respected. Individuals who do not fight ought not to be made prisoners of war. In all her conquests, France has respected private property. The warehouses and the shops have remained with their proprietors. They have been free to dispose of their merchandises as they pleased, and at this moment a great number (*convois*) of wagons, loaded principally with cotton, pass through the French armies, through Austria and Germany, on their way to such places as commerce has directed.

If France had adopted the usages of maritime war, all the merchandise of the continent of Europe would have been accumulated in France, and would have become a source of immense wealth. Such would have been, without doubt, the pretensions of the English, if they had had on the land that superiority which they have obtained at sea. We should have seen, as in the times of barbarism, the vanquished sold as slaves, and their lands parcelled out. Mercantile avidity would have usurped every thing; and the return to barbarous usages would have been the work of the Government of a nation who have improved the arts and civilization. That Government is not ignorant of the injustice of its maritime code. But what signifies to it what is just? It only considers what is useful to itself.

Such are the principles of the Emperor on the usages and rights of maritime war. When France shall have acquired a marine proportioned to the extent of her coasts and her population, the Emperor will put more and more in practice these maxims, and will use his endeavors to render the adoption of them general.

The right, or rather the pretension of blockading, by a proclamation, rivers and coasts, is as monstrous (*revoltante*) as it is absurd. A right cannot be derived from the will or the caprice of one of the interested parties, but ought to be derived from the nature of things themselves. A place is not truly blockaded, until it is invested by land and by sea; it is blockaded to prevent it from receiving the succors which might retard its surrender. It is only then that the right of preventing neutral vessels from entering it exists; for the place so attached is in danger of being taken, and the dominion of it is doubtful, and contested by the master of the town and him who blockades or besieges it. Hence the right of preventing even neutrals from having access to it.

The sovereignty and the independence of the flag are, like the sovereignty and the independence of the territory, the property of all neutrals. A State may give itself to another, may destroy the act of its independence, may change its sovereign; but the rights of sovereignty are indivisible and unalienable; none can give up any part of them.

England has placed France in a state of blockade. The Emperor, by his decree of Berlin, has declared the Britannic isles in a state of blockade. The first measure kept neutral vessels at a distance from France; the second has interdicted to them England.

By her orders in council of the 11th November, 1807, England has laid a toll on neutral vessels, and has obliged them to pass through her ports before they should go to the places of their destination. By a decree of the 17th of December of the same year, the Emperor has declared vessels, whose flag shall have been violated, degraded, trodden under foot, as no longer belonging to their nation, (*denationalisé.*)

To screen itself from the acts of violence with which this state of things threatened its commerce, America laid an embargo in her ports; and, although France, who had done nothing more than resort to reprisals, saw her interests and the interests of her colonies wounded by this measure, nevertheless, the Emperor applauded this generous determination of renouncing all commerce, rather than acknowledge the dominion (*domination*) of the tyrants of the seas. The embargo has been raised; a system of exclusion has been substituted for it. The continental Powers, leagued against England, make a common cause; they aim at the same object, they will reap the same advantages; they ought also to run the same risks. The ports of Holland, of the Elbe, of the Weser, of Italy, and of Spain, will not enjoy (*ne jouiront*) any advantages of which those of France may be deprived. They will both (*les uns et les autres*) be either open or shut at the same time, to the commerce of which they may be the object.

Thus, sir, France acknowledges in principle the liberty of the commerce of neutrals and the independence of maritime Powers. She has respected them until the moment when the maritime tyranny of England (which respected nothing) and the arbitrary acts of its Government have forced her to measures of reprisal, which she has adopted, but with reluctance.

Let England revoke her declarations of blockade against France; France will revoke her decree of blockade against England. Let England revoke her orders in council of the 11th November, 1807; the decree of Milan will fall of itself. American commerce will then have regained all its liberty, and it will be sure of finding favor and protection in the ports of France. But it is for the United States, by their firmness, to bring on these happy results. Can a nation that wishes to remain free and sovereign even balance between some temporary interests, and the great interests of its independence, and the maintenance of its honor, of its sovereignty, and of its dignity?

Please to accept, sir, the assurances of my high consideration,

CHAMPAGNY.

The Secretary of State to Mr. Armstrong.

SIR:

DEPARTMENT OF STATE, December 1, 1809.

Enclosed you have five copies of the President's message and of its accompanying documents. They will afford you a view of the existing state of things here, and particularly of the ground taken in the correspondence with the British minister. You will perceive that the deliberations of Congress at their present session cannot but be embarrassed by the painful consideration that the two principal belligerents have been, for some time, alike regardless of our neutral rights, and that they manifest no disposition to relinquish, in any degree, their unreasonable pretensions.

You will, also, herewith receive a copy of a letter to Mr. Pinkney, which will show the light in which M. Champagny's letter is viewed by the President, and, at the same time, the course of proceeding prescribed to our minister in London. You will, of course, understand it to be wished that you should ascertain the meaning of the French Government, as to the condition on which it has been proposed to revoke the Berlin decree. On the principle which seems to be assumed by M. Champagny, nothing more ought to be required than a recall, by Great Britain, of her proclamation or illegal blockades, which are of a date prior to that of the Berlin decree, or a formal declaration that they are not now in force. Should this be done, and be followed by an annulment of all the decrees and orders in chronological order, and Great Britain should afterwards put in force old or proclaim new blockades, contrary to the law of nations, it would produce questions between her and the United States, which the French Government is bound to leave to the United States, at least until it shall find it necessary to bring forward complaints of an acquiescence on our part, not consistent with the neutrality professed by us.

You will yourself, and, if necessary, you will let the French Government understand, that we do not consider ourselves bound to contest the legality of a blockade, which may be conformable to the definitions heretofore maintained by the United States, and particularly to the definition contained in the treaty of June and October, 1801, between Great Britain and Russia. However founded the definition of M. Champagny may be in reason and general utility, and, consequently, however desirable to be made the established law on the subject of blockades, a different practice has too long prevailed among all nations, France as well as others, and is too strongly authenticated by the writers of admitted authority, to be combated by the United States.

If you should receive from the French Government explanations proper to be communicated to Mr. Pinkney, you will not fail to transmit the same to him without delay. And should they be such as to make it important that Mr. Pinkney should immediately found thereon an application to the British Government, to prepare the way for a repeal of the Berlin decree, you will be pleased to hasten the communication to him by a special messenger. Whatever the explanations may be, you will, of course, transmit them to this Department, with such other information as may be interesting.

With great respect, &c.

General JOHN ARMSTRONG, &c.

R. SMITH.

Copy of a letter from General Armstrong to Mr. Pinkney.

SIR:

PARIS, January 25, 1810.

A letter from Mr. Secretary Smith, of the 1st of December last, made it my duty to inquire of his excellency the Duke of Cadore, what were the conditions on which His Majesty the Emperor would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades of a date anterior to that decree, His Majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger.

ANSWER.

The only condition required for the revocation, by His Majesty the Emperor, of the decree of Berlin, will be the previous revocation, by the British Government, of her blockades of France, or part of France, [such as that from the Elbe to Brest, &c.] of a date anterior to that of the aforesaid decree.

I have the honor to be, &c.

JOHN ARMSTRONG.

Extract of a letter from General Armstrong to the Secretary of State.

PARIS, January 28, 1810.

In conformity to the suggestions contained in your letter of the 1st of December, 1809, I inquired whether, if Great Britain revoked her blockades of a date anterior to the decree, commonly called the Berlin decree, His Majesty the Emperor would consent to revoke the said decree? To which the minister answered, that "the only condition required for the revocation, by His Majesty, of the decree of Berlin, will be a previous revocation by the British Government of her blockade of France, or part of France, [such as that from the Elbe to Brest, &c.] of a date anterior to that of the aforesaid decree; and that if the British Government would then recall the orders in council which had occasioned the decree of Milan, that decree should also be annulled."

11th CONGRESS.]

No. 226.

[2d SESSION.

RUSSIA, &c.—BLOCKADE OF THE BALTIC.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 12, 1810.

Gentlemen of the House of Representatives:

JANUARY 12, 1810.

I communicate to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 3d instant.

JAMES MADISON.

DEPARTMENT OF STATE, *January 11, 1810.*

The Secretary of State has the honor to report to the President, in conformity to the resolution of the House of Representatives of the 3d instant, that no information has been received at the Department of State relative to the blockade of the ports of the Baltic by France, and of the exclusion of neutral vessels by Russia, Sweden, and Denmark. As it is presumed, however, that the enclosed papers, the first a translation of a "Ukase" of the Russian Government, dated on the 14th of May, 1809, and the second a translation furnished to this Department on the 10th of January last, by the chargé des affaires of Denmark, of such parts of the instructions given to the privateers of that country on the 14th September, 1807, as were supposed to be most interesting to neutrals, may have some connexion with the object of the resolution, they are respectfully submitted.

R. SMITH.

ST. PETERSBURG, *May 14, 1809.*

It is known to the whole world with what firmness Russia has long protected the neutral trade during the wars of the European Powers. It is known with what courage she has defended the interests of the nations trading in peace from the flames of war. Following this invariable principle, also, during the present rupture with England, she fully relied that illicit practices would not be admitted in the trade with nations in amity with us. But, as we have learned by experience during the last year that the enemy found means, through the medium of neutral vessels, of obtaining the produce he required, and of exchanging his own, to his aggrandizement, whereby we were lately necessitated to order two ships to be confiscated; for these causes, finding it indispensable to take measures for the prevention of various frauds and artifices, we command,

1st. That ships arriving in our ports shall prove the neutrality of the property by the following documents, viz: *Of the ship*, by the pass, the ship's register, the muster-roll, and the log-book. *Of the cargo*, by the charter-party, the bills of lading, the declaration certificates of origin, if all the cargo or part thereof belongs to the captain; and by the invoices, if the ship comes from America or India, or if she be destined for those countries. If any of these documents cannot be produced by the captain, such ship shall be sent out of port without being permitted to unload.

2d. Ships loaded in part with goods which shall be proved to be the produce or manufacture of an enemy's country, shall be detained. The goods shall be confiscated and sold by public sale, for the benefit of the Crown. If more than half of the cargo consists of such goods, then not only the cargo but the ship also shall be confiscated.

3d. A pass granted by a neutral, friendly, or allied Power, shall not protect a captain if it be discovered that he has acted in opposition thereto; nor if the ship bear a name in the pass different from that designated in the other documents, unless proofs of the change of the name, certified by some established authority of the place from whence the ship comes, compose part of the documents of the said ship, and be presented to the custom-house. In such case, the captain is not to be criminated for the difference in the name of the ship.

4th. The pass shall not be considered as valid, should it be discovered that the ship receiving such pass was not, when the pass was given, in a port of the Power giving the pass.

5th. If there be found on board of any ship a supercargo, a captain, or more than one-third of the crew, subjects of an unfriendly Power, or if the ship have not a muster-roll certified by the supreme authority of such neutral place as the ship comes from, such ship and cargo shall be confiscated, and the crew set at liberty.

6th. If it be discovered that the ship's pass presented by the captain has been altered or forged, such ship and cargo shall be confiscated; the captain shall be prosecuted and proceeded with as directed by the laws regarding forgers of documents, and the crew set at liberty.

7th. If duplicate documents be discovered on board of a ship, with different destinations, such ship and cargo shall be confiscated. If the captain endeavor to justify himself by asserting the total loss of his papers, and should not procure them, such ship and cargo shall be detained, and a reasonable time, considering the distance of the place, shall be granted for the producing of them, if the captain desires it; on the contrary, should the captain be unable to wait, the ship, with the cargo, shall be immediately sent out of port. But should the captain, on the expiration of the time granted him, not produce the papers, the ship and cargo shall be confiscated.

8th. No enemies' built ships shall be acknowledged as neutral or friendly, unless there be among the documents of such ship an act, certified by some public court, proving that the sale or transfer was made before the declaration of war. In any other case, the ship and cargo shall be confiscated.

9th. If the proprietor or master of the ship, being born subjects of an unfriendly Power, should have a pass from a neutral or friendly Power, such pass shall not protect them until they prove that they became subjects of, and settled in the territories of, a neutral or friendly Power before the declaration of the war; otherwise, they shall be sent away with their ships, without being permitted to take return cargoes.

COUNT ROMANZOFF.

[TRANSLATION.]

Regulations for vessels commissioned as privateers, dated Rensburg, September 14, 1807.

Section 1. Defines the qualifications for privateers.

2. Form of commission.

3. Regulates the security to be given by the owner.

4. It is the duty of every one, thus lawfully commissioned, to take and bring in for adjudication all ships and vessels belonging to the British Crown or to British subjects; and he may also bring in for examination all such

ships and vessels as may render themselves suspicious by a deviation from some of those in section 9, given definitions, and in whose papers he finds a founded suspicion that they do not belong to subjects of friendly or neutral Powers; and he may further bring in for examination all such ships and vessels as at the commencement of hostilities were British property, notwithstanding they may have been, by later purchase or contract, made over to subjects of other nations; except by regular papers, passports, and sea-letters, it satisfactorily appears that they have been in some friendly or neutral port after they had ceased to be British property.

5. Orders respect to be paid to the territory of neutral or friendly Powers, and such territory is considered to extend to one sea league from the land.

6. As we recognise it to be a fundamental principle, never to be departed from, that a free ship makes the goods on board free also, so do we strictly forbid our cruisers, commissioned as privateers, to detain any vessel belonging to friendly or neutral Powers, be the cargo whose it will, provided the ship's papers are in proper order, and no part of the cargo contraband of war, bound to a port or place under the British dominion.

7. As free ships make free the goods on board, so do enemy's ships make the cargo hostile, unless it clearly appears that they are the property of neutrals, loaded before the commencement of the war, or before the war was known at the place at which it was taken on board, and before the papers of the vessel were expedited.

8. The papers which, according to the 6th article, ought to be on board in due form, are (a,) a sea-pass; (b,) the proof of the carpenter as to the building of the vessel; (c,) a register and certificate of measurement; (d,) a muster-roll; (e,) a clearance; (f,) a charter-party or bills of lading; (g,) and, for such vessels as have passed the Sound, a clearance from Elsinore. Every ship or vessel which has so passed, and is found without such clearance, will be condemned as lawful prize to the captor.—*Royal Plaiat dal. Copenhagen, 14th November, 1807.*

9. As good prize will be considered all vessels which belong to the Crown of Great Britain or to British subjects, in whatever part of the world they reside. Further, shall, after due investigation, according to the particular circumstances of the case, be condemned as good prize: (a,) all vessels which shall be found at sea without sea-pass; or, (b,) when the pass or other documents are found to be false; (c,) when they are found in a course different from that expressed in their pass, unless forced thereto by storms, bad weather, pursuit of an enemy, or other accidents or distress, which must be proved by the journal; (d,) when loaded wholly or in part with contraband of war, which, on investigation, shall be destined to a British port; (e,) when a vessel is detained, or about to be detained, by a privateer, offers resistance; (f,) such ships or vessels as shall approach a squadron blockading a Danish town, port, or province, in order to trade with it or to carry it provisions.

10. Enumerate the articles which constitutes contraband of war.

11. Directs the conduct to be observed at sea towards ships belonging to neutral or friendly Powers; the privateer, in case of suspicion only, to board such vessels.

12. The crews of privateers are forbidden to break open any drawer, trunk, or package, or any part of the cargo; but in case of suspicion of contraband of war, they may require of the master of the neutral ship to open himself, with the assistance of his own people, unless he should prefer to be carried into port for examination. Prescribes penalty for acting contrary.

13. Conduct to be observed towards vessels detained until they reach port.

14. All prizes to be sent into Danish or Norwegian ports, under the penalty of forfeiture of the commission; distress of weather, pursuit of an enemy, &c. excepted.

15. Regulates the examination and first proceedings in the case of a vessel carried in, and of the officer whose duty it is to attend thereto; the act of examination duly attested, and a lawful inventory of the cargo and ship to be sent to the prize court.

16. Regulates the duty of the prize court, &c. In giving judgment, all circumstances to be duly considered, but no other letter or papers to be produced as evidence against the vessel or cargo, except such as were actually found on board at the time of its detention.

17. Provides a prize court for every province in Denmark and Norway, and one for each of the duchies.

18. Respect appeals to the High Court of Admiralty.

19. When a privateer detains a vessel without any of those justifiable causes before mentioned, all reasonable expenses and damages arising therefrom must be made good by such privateers; but if the detained vessel shall not be furnished with regular papers, the capturing vessel shall be acquitted from all the consequences of such detention.

20. Provides for the sale at public auction of all prizes condemned, deducting from the proceeds of the sale one per cent, for the use of the marine hospital at Copenhagen; exempts from duty, tonnage, and all other charges, vessels and cargoes detained.

21. Directs the crews of vessels condemned as a prize, if British subjects, to be sent to the nearest fortress, there to be considered as prisoners of war; and such as are subjects of friendly or neutral Powers, to be delivered to the consuls of their respective nations.

22. Directs a copy of these regulations to be on board every privateer.

Given in our city and fortress of Rensburg the 14th September, 1807.

DENMARK.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 12, 1810.

To the House of Representatives of the United States:

JANUARY 12, 1810.

I communicate to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 6th of December last.

JAMES MADISON.

DEPARTMENT OF STATE, *January 12, 1810.*

The Secretary of State respectfully reports to the President of the United States, agreeably to a resolution of the House of Representatives of the 6th December, 1809, that the enclosed papers, from A to E, contain, in substance, the information which has been received at this office, respecting seizures, captures, and condemnations of ships and merchandise of the citizens of the United States, under the authority of the Government of Denmark.

A. A memorial of sundry Americans at Christiansand to the President of the United States.

B. Translation of an extract of a letter from Peter Isaacsen, lately appointed consul of the United States at Christiansand, to the President of the United States, dated August 11, 1809.

C. List of American vessels, which have been carried into the ports of Denmark and Norway, received from Mr. Saabye, consul of the United States at Copenhagen.

D. Extract from a letter of Mr. Saabye to the Secretary of State, dated August 1, 1809.

E. Resolutions and memorial of merchants of Philadelphia.

The Secretary also respectfully reports to the President, that information had been received at this office, within the period embraced by the resolution referred to, of the capture of American vessels by those of Great Britain, under various pretexts, viz: for dealing by bills of exchange, in an enemy's country, for colonial produce, violating the British orders in council of January and November, 1807; for infringing the blockade of Martinique; for being engaged in the Vera Cruz and colonial carrying trade, and of the seizure of some American vessels at Curaçoa, at Ceylon, and in China, for reasons not distinctly stated. It is to be observed, however, that the papers in this office afford but a very imperfect account of the British captures of American property, and it is for this reason that a detail is not attempted in this report, more particularly as no official accounts have been received on which to ground one.

The Secretary begs leave likewise to state to the President, that within the period embraced by the resolution, property to a considerable amount, belonging to citizens of the United States, has been captured and seized by the French, for violations of the Berlin and Milan decrees, and under other pretexts; that, in some instances, the merchant vessels of the United States have been burnt at sea by French cruisers, and, in others, the indemnity of the vessels and property has been purchased by the means of bills of exchange, drawn by the captains of the American vessels upon their owners, at a rate imposed by the captors. The accompanying statement of American vessels, condemned by the imperial council of prizes at Paris, from the 18th December, 1806, to the 26th May, 1809, received from Mr. Warden, acting as consul of the United States at Paris, more particularly explains the grounds of French captures.

It is to be observed, however, as to many of these acts, that they can no otherwise be considered as having been done under the authority of those Governments, than that the vessels committing them were under their flags.

Respectfully submitted.

R. SMITH.

A.

Memorial from sundry Americans at Christiansand, July 19, 1809.

CHRISTIANSAND, *July 19, 1809.*

To his excellency JAMES MADISON, Esq. President of the United States of North America: the memorial of the undersigned captains and supercargoes, citizens of the United States, respectfully sheweth:

That in the prosecution of our several voyages, undertaken with the sanction of our Government, and consequently, (as we are bound to believe) not only conformably to its laws, but also fair and legal, as they respect the treaties existing between the United States and the court of Denmark; and although we had severally attached to our ships all those official documents required by our laws, and were, at the time of our sailing from the United States, issued by the several collectors, and other equally constituted authorities, for the purpose of proving the national character of our vessels and cargoes; that, nevertheless, we have been (whilst alike unsuspecting of insult or injury, and unprepared to resist either,) forcibly intercepted in the prosecution of our voyages, and by the privateers of Norway, acting under commissions from His Majesty the King of Denmark, and brought into the several ports of this kingdom, to the great injury of the citizens of the United States, whose property we represent, and violation of those rights, due to neutrals in general, but more especially to us, whose Government uniformly has respected with the most sacred fidelity the rights of others.

Your memorialists beg leave to call your excellency's attention to the annexed list, by which you will observe, that ——— vessels, with cargoes to the amount of ——— dollars, exclusive of freight and charges, have been detained here, some nearly three months, the others less, as will appear from said list; and that several have been condemned under pretexts the most degrading to our national flag and character, and apparently the most destitute either of reason or justice. As individuals, we have experienced a degree of incivility the more distressing, as we have seen the captain of a vessel bearing the English flag, an avowed enemy of the country, when captured and brought in here, meet with treatment in every respect different, and even respectful. In some cases, where the most trifling inaccuracy could not be discovered in our ships' papers, we have found them, when out of our possession, mutilated and defaced. In some instances, our people have been tempted with bribes, and threatened with punishments, to induce their giving false testimony against our property. In those cases which have been adjudicated, all the proceedings are in the Danish language, (with which your memorialists are unacquainted,) and we have been invariably refused either a copy of those proceedings generally, or even of the particular charges against us, until what they call the trial was over, and the judgment passed, by which the property of citizens of the United States was condemned. It is not the least of our present misfortunes, that, in addition to the detention and condemnation of our property, our several crews are thrown upon us for support, without any other provision made for them by this Government than that of their entering into its service on board of their national gun-boats, or privateers, at the same time that our ships' provisions are in many cases almost, and in others altogether, exhausted, and the impoverished state of the country such, that a supply for the approaching winter is at least precarious, if not absolutely unobtainable.

Your memorialists beg leave to lament, that, in the kingdom of Norway, the United States have not either a consul or commercial agent to whom, in circumstances so novel, unprecedented, and distressing, we could apply, either for pecuniary aid, advice, or protection; and that our distance from Copenhagen is so great, and the communication, in consequence of the war with Sweden and England, so precarious and uncertain, that Mr. Saabye, our consul at that court, has it not in his power, even if he were disposed to render us that aid which we require under those circumstances; and because Mr. Saabye, although well apprized of our situation, has not taken those steps which were certainly in his power to alleviate them. We have thought it our duty, and for our interest to solicit the friendship and protection of Peter Isaacsen, Esq. of this place, and to which he has generously acce-

ed; in consequence of which, we have appointed him, by an instrument, (a copy of which is annexed,) agent for the United States in this place, until your excellency's pleasure is known; and we cannot omit this opportunity of recommending this gentleman as possessing that honor, talent, integrity, and independence, both of sentiment and fortune, which in a distinguished manner qualifies him for your excellency's appointment as consul for the United States in the kingdom of Norway.

Your memorialists have further to represent, that the apparent breach of hospitality and faith, on the part of the court of Denmark, of which we now complain, is assigned by those constituted powers, with whom they have had an opportunity of conversing, to circumstances which your memorialists are fearful are too true, namely, that many of our citizens have, especially during eighteen months last past, been engaged in a commerce, violating alike the laws of the United States and those of the belligerents, and which has been carried on under false papers procured in England, and under the mask of the American flag. Of the truth of which allegation, your memorialists have to their sorrow seen one proof in the case of the ship *Romulus* of Boston, which was brought into this port, and very properly condemned in last May. It is further alleged, and we think it not improbable, that latterly the English have built their ships as much as possible to resemble the Americans, and with them have been carrying on an extensive trade, especially to Archangel and the Baltic, under the American flag, and with American papers of English manufacture. How far these unwarrantable frauds may have been practised, and how they are in future to be prevented, will doubtless engross your excellency's attention, and the more especially as this is made a ground of suspicion, operating against all American vessels, and on the strength of which (we are led to believe) those condemnations which have taken place here are almost exclusively founded.

Your memorialists further represent, that all the ports from Bayonne to the Weser (as we understand) are in a state of the most rigorous blockade; from which your memorialists infer, that, as the activity of the privateers here evidently increases with the growing extent of their depredations on our unprotected property, a great proportion of those ships which were bound for, but cannot enter, the ports of Holland, while seeking for a place of security and a market in Sweden and the Baltic, will add alarmingly to our unfortunate number, and increase the amount of property here (already much too great for the faint hopes your memorialists entertain of its recovery) to a sum not merely affecting the interests of individuals, but such as will be alarmingly felt in the treasury of the United States.

Your memorialists would further represent, that in all the cases of condemnation which have taken place here, the captain, representing the property, has appealed to the High Court of Admiralty at Christiana, and as a strong demonstration of the expectation of the people of Norway, and the disposition of its Government, in all those cases where the court have declared the property neutral, the voyage fair, and the capture of course illegal; and although the injured American has nevertheless been adjudged to pay the captor from four to six hundred rix-dollars, for proving his innocence and neutrality, yet the captors have also appealed to the same high court, without being compelled by law to give us bonds for the consequences of such further detention.

Your memorialists doubt not, nor can your excellency doubt, after an examination of the accompanied document, that every American vessel in Norway, together with those who may be expected, will share in the same fate; but when the appeals will be ultimately tried, whether in one month, or in one year, or, peradventure, the next century, your memorialists have not, with all their anxiety to ascertain a fact so much involving their interests, been able to learn.

Finally, your memorialists beg leave to assure your excellency, that, unwilling to trouble or alarm our Government until every means in our power had been tried, which could tend to render this very unpleasant alternative unnecessary, we have applied repeatedly to our consul at Copenhagen, who answers that he feels for our situation, but could not render us any assistance, but observed that the higher courts of Norway would not fail to do us justice. To the laws of Norway we have appealed, but with the hopes already expressed in this memorial. Thus situated, we forbear to color a simple representation, of itself so gloomy and degrading, that, except in this single instance, will at all apply to the history of the civilized world, to the citizens of any free, brave, and powerful nation. Strangers, therefore, in a foreign country, dispossessed of our property, in the power of a people who have arrested our vessels and cargoes, who, if they know, do not appear to respect those salutary laws recognized for ages, and necessary for the safe and honorable intercourse of mankind, with upwards of four hundred of our seamen depending on us for protection and bread, without having the ability to extend to them the one, or procure for them the other—we supplicate most earnestly and respectfully your excellency's interposition in such a manner as your wisdom shall approve; and we do this with the fullest confidence that such measures as your excellency may adopt for the recovery of our property, the security of our rights, and the vindication of our national honor, will be as distinguished for their promptitude, firmness, and decision, as the treatment of which we complain is remarkable for its novelty, severity, and injustice.

We beg your excellency to accept the assurance of our respectful and high consideration.

Phineas Drinkwater,
George McLellan,
William Leech, jun.
John L. Lewis,
Robert Thompson,
William Fountain,
Henry Skinner,
Thomas Harding,
James Jacobs,
John Campbell,
Samuel C. Chamberlain,
Ebenezer James,
Ward Blackler,
James N. Martin,
Isaac Foster,

Jacob Spafford,
Reuben S. Randall,
J. Mun,
Jonathan Cook,
John Becket, jun.
Joseph Foster, jun.
John How, per order,
Robert Rogers,
William Adgate,
M. Hutchinson, jun.
Joseph Eck,
Francis Joseph,
Francis S. Coxé,
Benjamin H. Kintzing,

Samuel B. Ingersoll,
Isaac Stone,
Charles L. Smith, jun.
Abijah Nerihey, jun.
Miers Fisher, jun.
George Davis,
John Clemm,
Jeremy Robinson,
Royal Bond,
Dedrick Heydorn, per order,
George D. Thorndike,
Wm. F. Graham,
Nathaniel West, jun.
Walter Wilson.

B.

Translation of an extract of a letter from Peter Isaacsen to the President of the United States.

August 11, 1809.

At a time at which nearly all the European Powers are engaged in war, and not the colors of a single nation are respected; at which privateering, molestation, and capturing have become as customary as they, in times of

peace, were considered as against the laws of nations, and abhorred by all civilized States; at which commerce and navigation are everywhere interrupted, or, rather to say, destroyed; at such a time, it has happened, after the navigation of the United States of America was renewed, that several American merchant ships, bound from thence to the north of Europe, have been detained on their voyage by Norway privateers in the North Seas, and carried into the ports of Norway, where, at the present time, are already the number of twenty-six of such vessels, partly here at Christiansand, and partly in the neighboring harbors.

Under these circumstances, the captains of those vessels, as well as the supercargoes, have found it expedient to choose a general commissioner, who was able to direct their business here, give them advice and assistance during their stay here, and, in the whole, who was able to fulfil all the functions of a consul. I am unanimously elected by them, being a merchant and Danish citizen at this place.

Persuaded of the most perfect neutrality of the United States of America with all the belligerent Powers, and that its Government always has kept a friendly connexion and understanding with my sovereign, the King of Denmark, and his dominions; and under the supposition that American subjects neither can nor will permit themselves any actions contrary to the positive laws, and which are not consistent with the most perfect neutrality; in consequence of this, I found myself in duty bound not to deny them that assistance of which they stand so much in need, in a country where they were altogether strangers, and deprived of the disposal both of their vessels and cargoes.

These motives have determined myself, for the first, to annex the functions of a consul and commissioner, which has enabled me, to my great satisfaction, to find that my expectations, with regard to the lawful business of the American subjects and the justice of their cases have not been entirely unfounded, and, in behalf of this, I do myself the honor to give the following submissive account.

Twenty-six vessels have been brought in here, of which eighteen have already undergone trial. Of these, eight have been cleared, and ten have been condemned as lawful prizes, for reasons that, in the ship's papers, have been found suspicious circumstances, viz:

The erasing or altering of the date in the sea-letter, the want of the signature of the Secretary of State in the sea-letter, and that they not altogether have been conformable with each other, &c.

And further, it has been observed that, among the several ships' documents, has every where been wanting the charter-party, which, according to the regulations for privateers, are ordered to be found on board of every neutral vessel, which want has occasioned that the court of prizes has awarded the privateers to the expenses of the captures.

Those different sentences have produced the appeals to the High Court of Admiralty at Christiana, established there for the kingdom of Norway, either by the captains whose vessels have been condemned, or by the privateers against those vessels which have been liberated, which procedures will occasion further delay, expenses, and loss for the captured.

I hope that the most, if not all, the cases appealed to the High Court of Admiralty, will be decided in favor of the American captains; in consequence of this, I have proposed to the Government, if the privateers who have appealed, being mostly but poor pilots and fishermen, ought not to be ordered to give security for the unnecessary delay, and loss, and damages derived from it, and which the American captains further might have to suffer; or, if this security was not given, then it might be permitted them immediately to proceed on their voyages; but I have received neither answer nor resolution thereupon.

In the present situation of things exists, consequently, no remedy to lighten the burthen of the captains, or procure clearances for their ships and cargoes, but to wait for the success of the expected resolution upon my proposal, or for the event of the sentence of the High Court of Admiralty in appealed cases: in the mean time, I shall not fail to procure the cases of the captains pleaded, and in the whole observe their interest as well as possible.

Permit me further to make the following observations:

In the same manner as the treacherous behavior of England towards Denmark has occasioned the war between these two Powers, in the same manner has our Government considered privateering as one of the most useful means to hurt the enemy in his navigation and commerce. At the same time, it gives a material interest to the privateers themselves, especially in a period at which our own navigation and commerce lay at rest, and the mariners have no other means of getting their living; consequently, the privateers can in fact not be blamed to make use of their privileges and permission, by every opportunity, and I might dare to say that the capturing of neutral vessels, according to political principles, might be excused, having had several instances that vessels of such nations, which, conforming to the famous Berlin decree, ought not to sail for England, or to be in any commercial connexion with it, nevertheless have, by the help of fictitious and counterfeited papers, favored the commerce of that country, especially since the commencement of war between Denmark and England, and thus have made themselves the enemies of Denmark, by carrying those articles to England of which it stood in absolute want to keep up the war.

It is therefore nearly adopted as a common principle, not to respect the colors of any nation on the ocean, under the supposition that as well the colors as the documents might be fictitious and false, and that the cargoes might be, direct or indirect, destined for the enemies of Denmark. This principle has been the more justified by having found, at the examination of several captured vessels, that they were not only provided with a double set of papers, but sailed, besides, under British licenses.

C.

[Received in Mr. Saabye's letter of October 16, 1809.]

American ships, which have been carried in by privateers.

Names of vessels.	Masters' names.	To what port.	Remarks.
Ship Rebecca,	Capt. Nimmo,	In Copenhagen,	Condemned in the prize court; appealed.
" Commerce,	" Otis,	do.	Condemned in prize court; has not appealed.
" Harriet,	" Weeks,	do.	Cleared in both courts.
" Hebe,	" Ogle,	do.	Cleared in the prize court.
" Henry,	" Harris,	do.	do.
" Two Friends,	" Livingston,	do.	Condemned and appealed.
" Spencer,	" McCarthy,	do.	Cleared in the prize court.
" Ann Louisa,	" J. O. Roch,	do.	Condemned and appealed.
" Helvetius,	" Barcet,	do.	Cleared in the prize court; appealed.
" Aurora,	" Masters,	do.	do.
" Hesper,	" Cushing,	do.	Cleared in the prize court.
" Antelope,	" Hopkins,	do.	do.
" Ann,	" Donaldson,	do.	do.
" James,	" Coffin,	do.	Condemned and appealed.
" Concordia,	" Johnson,	do.	Not decided.
" Alexander,	" Hodge,	In Aulburg and Fladstraud,	Cleared and appealed.
" Mary Ann,	" Martin,	do.	do. do.
" Washington,	" Story,	do.	do. do.
" David Gelston,	" Swain,	do.	Condemned.
" Mary,	" Wm. Booth,	do.	Cleared and appealed.
" Hetty,	" M. Hale,	do.	Cleared and sailed.
" Susan,	" John Shore,	do.	Cleared, but appealed.
" North America	" Henly,	do.	Cleared without being brought before court.
" Jane,	" Drinkwater,	In Christiansand, in Norway,	Condemned, but appealed.
" Herschel,	" McLellan,	do.	do. do.
" Suwarrow,	" Lewis,	do.	Cleared.
" Raphael,	" Leach,	do.	Condemned and appealed.
" Endeavor,	" Joseph,	do.	Cleared.
" Pacific,	" Lovett,	do.	do.
" Doris,	" Beckett,	do.	Condemned and appealed.
" Industry,	" Chamberlain,	do.	Cleared.
" Packett,	" Cook,	do.	Condemned and appealed.
" Edward Henry	" Petrick,	do.	Cleared.
" Ann,	" Forster,	do.	Condemned and appealed.
" Washington,	" How,	do.	do. do.
" Good Friends,	" James,	do.	Cleared.
" Atlantic,	" Thompson,	do.	Condemned and appealed.
" Elizabeth,	" Fountain,	do.	do. do.
" Commerce,	" Campbell,	do.	Cleared.
" United States,	" Hanner,	do.	Condemned and appealed.
" Commerce,	" Harding,	do.	Cleared.
" Bellan,	" Ingersoll,	do.	do.
" Livia,	" Jacobs,	do.	Condemned and appealed.
" Chesapeake,	" Martin,	do.	Cleared.
" Wonolamot,	" Mann,	do.	do.
" Washington,	" Randall,	do.	Condemned and appealed.
" Byfield,	" Blackler,	do.	Cleared.
" James,	" Forster,	do.	do.
" Topaz,	" Shatford,	do.	Condemned and appealed.
" America,	" Herrick,	do.	do. do.
	" Stone,	do.	do. do.

D.

Extract of a letter from Mr. Saabye to the Secretary of State.

AUGUST 1, 1809.

I am fortunate enough to be able to inform you of a royal order given to-day, by which all privateers are ordered back into port, and all privateering prohibited, except about Heligoland.

E.

Resolutions of several merchants, &c. of Philadelphia, respecting Danish captures.

PHILADELPHIA, October 19, 1809.

At a meeting of the merchants and underwriters of this city, interested in the vessels and property captured in Europe by Danish cruisers, held this day at the Merchant's Coffee House, the following resolutions were unanimously agreed to:

Resolved, That a committee be appointed to prepare a representation to the President of the United States, of the facts and circumstances attending the late enormous and alarming depredations committed by Danish cruisers on the property of citizens of the United States lawfully navigating the high seas, and actually destined for ports in Denmark, Sweden, or Russia:

And of the vexatious proceedings and unjust condemnation of such property, in courts acting under the authority of Denmark, not only in violation of the law of nations, (in the maintenance and defence of which that Government has hitherto been distinguished,) but in contempt of those documents and evidences of neutrality, which have hitherto been deemed sufficient:

Respectfully requesting that such measures may be speedily adopted as the wisdom of the Executive may devise, and the magnitude and emergency of the case require.

Resolved, That the committee be instructed to collect all the testimony which the nature of the case may require, or the parties interested may furnish, together with satisfactory evidences of the neutrality of the property, and the other documents which accompanied it in each case, with the nature and amount of their several claims:

That the memorial be signed by the parties interested, and, together with a certified copy of the proceedings of this meeting, (signed by the chairman,) be forwarded without delay to the Secretary of State, to be laid before the President:

That the chairman, T. Fitzsimons, W. Jones, Henry Pratt, Stephen Girard, Charles Pleasants, be a committee.

THOMAS FITZSIMONS, *Chairman*.

To JAMES MADISON, *President of the United States; the memorial of the subscribers, merchants and underwriters of the city of Philadelphia, respectfully represents:*

That, during the present year, and since the expiration of the embargo laws, your memorialists have fitted out and loaded or insured several vessels with valuable cargoes, destined for the ports or countries in amity with the United States, and not known to be under blockade or any restriction that would render the admission of American vessels hazardous; that some of those vessels having departed from the United States previous to the proclamation which took off the restriction from the ports of the United Kingdoms and their dependences, took clearances for a permitted port in Europe, but were actually destined for a port in Russia, or some one in Denmark or Sweden.

That, notwithstanding their being furnished with all the documents and evidences of the neutral character of both vessels and cargoes, in every instance in which they have been met with by Danish cruisers they have been captured and sent into the ports, under the dominion of that nation, and, with their cargoes, have been condemned, (with very few exceptions;) and even when acquitted, the sentences have been appealed from, so as to prevent a restitution of the property, and at the last advices the whole was detained to abide the sentence of the superior tribunals. That, from the destruction or dilapidations of the papers by the captors, as well as from other circumstances, your memorialists have too much reason to apprehend an unfavorable issue of the cases; and that if the property should be distributed, no subsequent determination would enable them to recover its value, the captors being (as they understand) generally without property or responsibility.

That, besides the vessels and cargoes enumerated and specified in the schedule transmitted by your memorialists to the Department of State, there is certain information that a great number of vessels belonging to other ports of the United States have been captured, and are under like circumstances with those of your memorialists, and likely to share the same fate.

Under these circumstances, and considering the magnitude of the object, your memorialists presume to hope for the interference of Government in their behalf, by despatching a public vessel, and a person to represent the case to the Danish Government, or such other measures as the wisdom of the President may deem proper, which, with the proofs ready to be adduced by your memorialists, warrant the expectation that the property would be restored.

Pratt and Kentzing, Wm. Jones, Charles Pleasants, Godfrey Haga, John Evans, Edward Carrell, Murdoch and Duffield, James Tatem, Savage and Dugan, Charles Macalesters, William Bell, Howell and Pleasants, Wm. W. Smith, Simon Gratz and Co., John Claxton, James Smith and Co., James Oldden, jun., Thomas Fitzsimons, president of the Delaware Insurance Company, Samuel W. Fisher, president of the Philadelphia Insurance Company, David Lewis, president of the Phoenix Insurance Company of Philadelphia, John Inskeep, president of the Insurance Company North America, James S. Cox, president of the Insurance Company of the State of Pennsylvania, George Latimer, president of the Union Insurance Company of Philadelphia, John Leamy, president of the Marine Insurance Company of Philadelphia, Samuel Yorke, Israel Pleasants, president of the United States' Insurance Company, Stephen Girard, Joseph Carson, for Lancaster and Susquehannah Insurance Company, James Paul, Wm. and Jonathan Leedom, Eyre and Massey, James S. Ritchie, Samuel Israel, George Smith, Smith and Helmuth, John Bohley, Jacob Girard Koch, James Latimer, Daniel Man, Martin Dubs, Samuel Clarkson, J. Peterson, Thomas L. Moore, Samuel Keith, James C. Fisher, Gustavus and Hugh Colhoun, W. J. Miller, Thomas Ketland, Matthew H. Bevan, Daniel W. Coxe, Otto and Shawhidff, Andrew Bayard, John Coulter, Thomas Biddle and John Wharton, attorneys for James M'Murtrie, J. Bell, for himself, Wm. Bell and Jos. Watson, Ebenezer Large and Son, Wilson Hunt, Samuel S. Veacock, Thomas Wotherspoon, Wm. M'Faden, John R. Shubert, James Barclay, Stephen Dutilh, Joseph Smith, Samuel Clarke, John Bernard, Montgomery and Newbold, James Finnisk, Thomas Clifford.

Statement of American vessels condemned by the Imperial Council of Prizes at Paris, from the 18th of December, 1806, to the 26th of May, 1809.

Names of the vessels and captains.	Names of the ports to which they belonged.	Names of the proprietors, and their places of residence.	Date of the decision.	Motive for condemnation.
1. The Ranger, Captain Benjamin Hooper,	Boston,	Samuel Dulany, of Boston,	1806. Sept. 18,	Vessel restored; the cargo confiscated, being English property.
2. The Fame, Captain Zadock Crowell, seized at Bordeaux, by the custom-house officers, the 8th of August, 1807.	New York. This vessel wore the American flag; she was claimed by Mr. Constantine, of Bordeaux.	Henry Turner, of New York,	1808. Jan. 29,	This vessel carried brandies from Charente to Bordeaux after the decree of the 21st of November, 1806.
3. The Victory, Captain Caleb Hopkins, seized by the custom-house officers at Cherbourg.	Portsmouth,	Edmund Roberts, of Portsmouth.	April 27,	Came from England; condemned for a false declaration.
4. The Aurora, Captain William Bowen, taken the 24th of January, 1808, by the corsair the Incomparable.	Baltimore,	Peter Lavery and others,	June 8,	No certificate of origin; retaken from the English by the Incomparable.
5. The Rising Sun, Captain Laborn Burt, taken the 7th of December, 1807, by the French corsair the Jena, who conducted her to Amsterdam.	Plymouth,	- - - - -	June 8,	Conducted to Plymouth, in England, by an English corsair; retaken by the Jena; confiscated, one-twelfth to the profit of the State, the other to the owners of the corsair.
6. The America, Captain John Proctor, taken the 5th of February, 1808, by the corsair the Victoire.	Kennebunk,	- - - - -	June 8,	Conducted to Portsmouth, in England, the 27th of December, 1807. No certificate of origin.
7. The George, Captain Bray, taken the 13th of January, 1808, by the Precurseur, who carried her to Passage.	Newburyport,	- - - - -	June 8,	Visited the 23d of December, 1807, by an English frigate.
8. The Mars, Captain Charles Henry, taken the 4th of February, 1808, by the corsair L'Active.	New York,	William Henry, of New York,	June 15,	Opposition to the decrees of the 21st of November, 1806, and of December, 1807. Destination for London.
9. The Vengeance, Captain Ward Chipman, taken the 7th of January, 1808, by the corsair the Precurseur.	Salem,	William Gray, of Salem,	June 15,	No certificate of origin. Visited the 30th of December, 1807, by an English frigate.
10. The Grace, Captain Lingei, taken the 27th of January, 1808, by the corsair the Cosmopoli.	Boston,	William Stackpole and Moses Wheeler, of Boston.	July 6,	Visited on the 29th of December, 1807; her papers thrown overboard.
11. The Cados, Captain Bunker, taken the 2d of February, 1808, by the gun-boat Jalouse, who conducted her to Marseilles.	New York,	Joseph Seard, of New York,	July 6,	Visited by an English frigate before Toulon, the 16th of January, 1808, and taken the 2d of February following.
12. The Fame, Captain Nathaniel Small,	Boston,	Oliver Keating, of Boston,	July 6,	Visited by an English frigate the 19th of January, 1807, and taken the 20th January by the Jalouse gun-boat, who conducted her to Marseilles.
13. The Brothers, Captain Fisk, taken the 27th of December, 1807, by the Revenge, who conducted her to Calais.	Bath,	Abner Dingney, of Dunburg, and Nath. Ames, of Winslow.	July 6,	Destination for London.
14. The George, Captain Jonathan Eveleth, conducted to Conquet.	Newburyport,	John Woodwell and David Coffyn, of Newburyport.	July 6,	Visited the 28th of January, 1808; taken by an English frigate the 31st of said month; and taken the 20th of February, by the corsair the Speculation.
15. The Tarantula, Captain John Riley, Jun. taken the 2d of February, 1808, by the corsair the Feu de Formille, conducted to Boulogne.	Portsmouth,	Joseph Chase and Theodore Chase, of Portsmouth.	July 6,	Conducted to Gibraltar the 20th of December, 1807, by an English corsair, and left this port the 7th of January. Visited the 12th of same month, and also the 29th, by an English frigate.
16. The James Adams, Captain Elijah Barry, taken 31st of December, 1808, by the corsair Sauvage, conducted to Dunkirk.	This vessel had no register; she had a certificate, dated at Philadelphia, the 5th of November, 1807.	Messrs. Adams, Loughing, and Cooper, of Philadelphia.	July 13,	Visited the 24th of December, 1807. Touched at England. No certificate of origin.

STATEMENT—Continued.

Names of the vessels and captains.	Names of the ports to which they belonged.	Names of the proprietors, and their places of residence.	Date of the decision.	Motive for condemnation.
17 The Mercury, Captain Watson, taken the 28th of January, 1808, by the corsair the Rodeur, conducted to Dieppe.	New York, - - -	- - -	1808. July 13,	Visited the 8th of January, 1808. No certificate of origin. Touched at England in May, 1807.
18. The Pauline, Captain John Clarke, taken the 7th of January, 1808, by the corsair the Requir.	Baltimore; pretended to be American; claimed by Baireu, of Morlaix.	Charles Wingman, -	July 23,	Opposition to the decree of the 21st of November, 1806, and to that of the 17th of December, 1807; correspondence with England intercepted.
19. The Juno, Captain John Fisher, taken by the corsair the Beum of Martinique.	Charleston; a provisional register, dated the 4th of February, 1806, Captain William Malcolm.	William Malcolm sold the said ship to Captain Fisher before a notary at London, May 17, 1806.	August 3,	English property; cargo of slaves.
20. The Charlotte, Captain Jonathan Lowden, taken the 28th of January, 1808, by the corsair Revenge, conducted to Ostend.	Frenchman's Bay, -	John Peters, of Surry, county of Hancock.	August 18,	Left Plymouth the 23d of January, 1808, destined for Gotenburg.
21. The Mary, Captain Samuel Rice, taken the 12th of March, 1808, by the corsair L'Aigle, conducted to Malaga.	Portsmouth, State of Massachusetts.	William Dennech and William Badger.	August 31,	Opposition to the decrees of the 21st of November, 1806, and of the 23d of November and 17th of December, 1807; coming from England.
22. The Hope, Captain John Drady, taken the 18th of January, 1808, by the corsair La Mouche, conducted to La Spizzia.	Philadelphia; without register; certificate from the custom-house.	Edward Tilgham, of Philadelphia.	Sept. 7,	No certificate of origin.
23. The Mercury, Captain Bradford, taken the 3d of February, 1808, by the corsair the Josephine, and conducted to Alicante.	Plymouth, - - -	Robert Roberts, of Plymouth,	Sept. 21,	On leaving Gibraltar, visited by several English frigates.
24. The Hibernia, Captain Appleton, taken the 31st of January, 1808, by the corsair Josephine, conducted to Alicante.	Boston, - - -	- - -	Sept. 21,	Visited the 24th of January, 1808.
25. The Steward, Captain Thompson, conducted to Alicante.	- - -	Captain Thompson, -	Dec. 2,	Infringement of the imperial decrees of blockade.
26. The Mayflower, Captain John Buntin, taken by the corsair Prince Jerome, and conducted to Alicante.	- - -	George Rogers, Joseph Cutter, and John Wood, of Newburyport.	Dec. 2,	Came in ballast from London.
27. The Ranger, Captain Chestum, taken by the Prince Jerome, and conducted to Alicante.	- - -	Nicholas J. Ridgley, Alex. McDonnel, and Samuel Shelburne, of Baltimore.	Dec. 2,	Opposition to the imperial decrees of blockade.
28. The Anne, Captain Charles Bradford, conducted to Alicante by the Prince Jerome.	Alexandria, - - -	Capt. Bradford, Charles Bradford, Robert and Jas. Hooe, and John Muncaster, of Alexandria.	Dec. 2,	Came from England.
29. The Edward, Capt. Sam'l Lewis, seized at the Isle of Ré,	- - -	- - -	Dec. 15,	Opposition to the imperial decrees of blockade.
30. The Two Marys, Captain Riley, conducted to Belle isle,	- - -	- - -	Dec. 15,	Visited by English ships.
31. The Science, Captain Howard,	- - -	- - -	Nov.	
32. The Lanette, Captain Coffyn, of Boston,	- - -	R. Breed, of Boston; according to captain's declaration; register says Joseph Holmes, of Kingston, Massachusetts.	Nov. 2,	Came from England.

STATEMENT—Continued.

Names of the vessels and captains.	Names of the ports to which they belonged.	Names of the proprietors, and their places of residence.	Date of the decision.	Motive for condemnation.
33. The Susan, Captain Thomas Delens,	- - - - -	- - - - -	1809. Jan. 25,	Sailed from Ireland when taken.
34. The Delight, Captain Tinkham,	- - - - -	- - - - -	Feb. 15,	She had not a passport in four languages. It was proven by papers on board that the cargo was destined for London.
35. The President, Captain Owings,	- - - - -	- - - - -	Feb. 22,	She was destined for England; an English license found on board.
36. The Mary, Captain Lee,	- - - - -	- - - - -	March 1,	This vessel sailed from Malta for London; under convoy; English property.
37. The Holland Trader, Captain Sinclair,	- - - - -	- - - - -	March 1,	This vessel sailed from an English port.
38. The Amphion, Captain Josiah Wilson,	- - - - -	- - - - -	March 1,	This vessel sailed from an English port; British license; false declaration.
39. The Neptune, Captain Osgood,	- - - - -	- - - - -	March 1,	This vessel came directly from an English port.
40. The Betsey, Captain Bower,	- - - - -	- - - - -	March 15,	This vessel sailed from an English port; had a license from the King of England.
41. The Hopewell, Captain Sheppard, conducted to Dieppe,	Salem,	- - - - -	March 29,	Opposition to the imperial decree of blockade; property of English underwriters.
42. The William, Captain Tucker,	- - - - -	- - - - -	April 26,	This vessel came from England; confiscation of fine of 11,500 francs for false declaration.
43. The Juno, Captain William Edwards,	Norfolk,	- - - - -	April 26,	This vessel came from England; confiscation and fine.
44. The New Guide, Captain Creagh,	New Orleans,	- - - - -	May 3,	Sailed from Alicante to London; English property; English supercargo.
45. The William, Captain Collin. This vessel's name was Augusta, neutralized under the name of William, of Norfolk.	- - - - -	- - - - -	May 3,	Infringement of the imperial decrees of blockade.
46. The Wareham, Captain Richard Chadwig,	New York,	- - - - -	May 3,	Condemned for having touched at Plymouth; confiscation and fine 11,000 francs.
47. The Canton, Captain Henry Latham, conducted to Charente.	- - - - -	- - - - -	May 10,	False declaration; imprisonment, confiscation, and fine of 9,000 francs, to be paid before the captain and crew are enlarged.
48. The Minerva, Captain David Jenkins,	- - - - -	- - - - -	May 26,	False declaration; fine of 11,000 francs.

The *William*, Captain Tucker, arrived at Charente, in ballast, the 22d of October, 1808, with twelve sailors, the number of the crew; the captain and mariners being interrogated by the French authorities at Charente, declared that they came from Bergen, in Norway; that the vessel had not touched at any port or place during her voyage, nor was she visited by any English war vessel.

The passport of the President of the United States was wanting; the captain said it was lost at the custom-house of Saloo, in Spain. On two different places of the register, the writing was found to be so defaced as to be illegible; the captain being asked the reason of this, replied, that, at the custom-house of Saloo, it was written that the vessel was destined for Barcelona, and that, as he refused to go to that port, the writing was effaced from the register.

The director general of customs took measures to ascertain whether certain documents were actually delivered at Bergen, as was attested by the captain and crew; and transmitted them to the French consul at Copenhagen, who submitted them to the inspection of the quarantine officers of that town, who declared that the bill of health was forged, as was evident from certain faults of orthography; and that the other papers, said to be delivered there, were doubtless equally false, but that it belonged to the officers of the custom-house to verify this opinion.

Captain Tucker was again interrogated in January, and his answers were the same as before: eight of his seamen had been discharged; the three who remained persisted in the same declaration.

The ship was then put under seizure, and the captain committed to prison.

It was stated, in the defence of the vessel, that the interest of the sailors necessarily led them to declare that she came from England. If this had been the case, seeing that this declaration would have entitled them to one-third of the profits arising from the confiscation of the ship; that the want of the passport is sufficiently supplied by other papers; that the alleged typographical faults are contained in the printed form, which might not be of the same impression as the one sent as a model; that of five papers, one only was declared by the health officers to be forged; and how, it was asked, could this have been executed at England, seeing that the others were actually delivered by the custom-house officers at Bergen.

The council having heard the report of the imperial Attorney General, decided that the erasures were very suspicious; that the passport of the President of the United States was wanting; that the bill of health, said to be delivered at Denmark, is false, as well as other documents presented to them; that, consequently, the vessel did not come from Bergen, as was asserted by the captain and crew; and that, independently of confiscation, they have incurred the penalty imposed by the decree of the 23d of November, 1807, besides the prosecution to which the forged papers may give birth.

The captain is sentenced to pay the sum of 11,500 francs, for himself and eleven sailors, on account of their false declaration; and they are to remain in prison till this sum is paid. The false papers are to be sent to the Minister of Justice, to order such measures concerning them as he may think fit.

The *Juno*, of Norfolk, Captain William Edwards. This vessel arrived in 1808, at the isle of Ré; the captain declared, upon examination, that he came from Bergen, with the intention of sailing for Charente; that, during his voyage, he had not been visited by an English war vessel, nor had he touched at any port; that he had left Barcelona in August, 1809, with a cargo of wines, destined for Verrel; that he arrived there in October, where he unloaded, and then returned in ballast to Barcelona; that he left this port the 10th of February, 1808, and took a cargo of wines from a port on the coast of Catalonia for Bergen; that he left Bergen the 18th of June, and arrived the 22d at Charente; that, during this and the last voyage, he paid no contribution to the English Government; that he had proposed to take in brandies at Charente, which he would probably have carried to Bergen.

This declaration was confirmed by all the crew, except one named Stanfeldt, who said that the *Juno* had been visited by an officer of an English brig, who conversed with his captain.

Among the ship's papers was found a copy of a license from the King of England, dated the 14th May, 1808, which was to be good for six months; the endorsement proved that it was for the use of the *Juno* of Norfolk, coming from Charente, and going to London or Bristol.

Another of the sailors, William Summer, afterwards declared that she came from Portsmouth, and not from Bergen, and that the papers dated at Bergen were false. The court decided "that this vessel comes under the decrees of the 23d November and 17th December, 1807. The sailor who declared the truth is excepted from the fine and penalty; he who acknowledged the visit, but not her real voyage, is to have no gratification. The vessel is confiscated to the profit of the State, and the captain condemned to pay 10,500 francs for himself and crew, on account of their false declaration, and to remain in prison till the sum is paid. The false papers are to be sent to the Minister of Justice, to take such measures concerning them as he may think fit."

The ship *New Guide*, of New Orleans, Captain Creagh, had sailed to London from Alicante, with a cargo of soda, wine, and raisins.

The captain being interrogated, declared, that he is a native of Baltimore, in the United States; that his vessel belongs to Mr. Shippend of New Orleans; that the cargo is the property of Compté & Co. of Barcelona, or of Joseph Burns of London, to whom it was consigned; that he was destined to sail from New Orleans to Bordeaux, but, being taken by the English, he was obliged to sell his cargo in England, where his vessel was finally acquitted; that he left Alicante the 24th of October, 1808, with a cargo for London; that, on the 19th of November, the ship being damaged, he was obliged to stop at Lisbon, where he unloaded almost the whole of the cargo, for the purpose of having her repaired; that the 29th of December he stopped at Falmouth, where he had no other expenses to pay than those incurred by the pilots; that his vessel being at quarantine, he could have sailed when he pleased; that he quitted this port the 2d of January, with a convoy, but formed no part of it; that, after his departure from Falmouth, he had not been visited except by the corsair who took him.

Two officers, and two of the crew of the vessel, gave the same narrative of facts and circumstances.

The charges brought forward by the court were as follows: The register of the ship, dated at New Orleans, the 20th of January, 1808, proves that her captain was enjoined by the commanders of the English war vessels, the *Dryad* and the *Shannon*, on the 17th or 18th of March, 1808, to sail directly for England, and not to touch at a French port.

By an act, made at Barcelona, in September, the captain declares that he had been sent by the Spanish authorities to the French commandant, to obtain permission for the departure of his vessel, and that this could not be granted for less than \$25,000; and that the other vessels coming from Tangiers to Barcelona, since the period when the French occupied it, were, as he was informed, obliged to pay the same sum. In defence of the vessel and cargo, it was stated, that she was compelled to go to England; that it was impossible to prevent the visit of English war vessels; that the decree of the 17th of December could not possibly be known to him, the captain; that the French authorities knew well, that the destination for New Orleans was not the real one; that it could not be mentioned on the certificate, as the towns, that had submitted to French authority, were supposed to have no connexion with the rebels; that, by the bill of lading and charter-party, made at Tarragon, the 16th of September, 1808, the cargo is proven to be the property of Messrs. Compté & Co., merchants at Barcelona, who remained

firmly attached to His Majesty King Joseph; that the soda, forming the chief part of the cargo, was originally destined for Marseilles, but could not be sent there, as the insurgents prevented all communications between these towns.

The conclusions of the imperial Attorney General were as follows: that it was proven, from the ship's papers and other evidence, that she was bound from Alicante, a rebel port, to England, and that the cargo was consigned to Mr. Burns,* an Englishman; besides, the infringement is manifest of the imperial decrees of the 17th of December, and of the decree of blockade of the 21st of November, 1806; that, whatever be the attachment and fidelity of the house of Messrs. Compte & Co. to their new sovereign, they cannot be freed from the confiscation incurred by the terms of the decrees, by a permission of the French generals, (of which no evidence exists,) nor by any thing less than a special authorization of the French Government, which they do not pretend to have even solicited.

The council of course decides, that the prize of the New Guide and cargo is just, and are to be sold according to the prescribed forms, for the use of the owners of the privateer.

They invite the Minister of Marine to seek information concerning the charts and instruments of navigation, which, the captain of the New Guide says, were carried from his cabin, after he was put on board the privateer.

The William, of Norfolk, formerly named the Augusta, was a French vessel, and, by some means or other, became neutralized; she was sequestered at Trequier; the captain declared, upon examination, that he came from Bergen, where he had unloaded grain, which he brought from St. Maloes. The French consul at Bremen certified that this vessel had not been at this port.

The vessel was confiscated. She was considered by the court as French property.

The Wareham, Captain Chadwig. This vessel arrived at Charente the 8th of October, 1808; the captain declared that he came from Teneriffe, and that, during his voyage, he had touched at no port, nor had he been visited by an English vessel. This declaration was confirmed by the testimony of eight mariners.

Information was afterwards received from the isle of Ré, that she had unloaded at Plymouth; a certificate was received from the consul of the United States, and from the French maritime agent at Bremen, that the ship did not leave that port at the period mentioned by the captain.

Two sailors of the Amphion declared that they saw her in Plymouth in August or September, 1808, where she was undergoing certain repairs.

Independently of the confiscation of the vessel, the penalty incurred by false declaration is put in force. As the seamen, who gave this evidence, did not belong to the vessel, it belongs to the Government to decide what recompense they merit.

The sum to be paid is 11,000 francs, for the captain and his crew, ten in number, who are to remain in prison till it is paid. The forged papers are to be sent to the Minister of Justice, who will employ such measures concerning them as he may think fit.

The Kitty, Captain Matthews, was acquitted, because there was no evidence that she had been in England, or visited by an English vessel; the captain declared that he came from the coast of Holland, from which he departed on the 19th of June, 1808. On leaving Rotterdam, she had two bottles of brandy on board; but the court decided that this did not constitute a cargo, and might have been consumed by the crew, as the captain asserts. The captain is obliged to pay all the expenses relating to seizure. We know from the consignee that this vessel came from England, and, of course, the declaration made by the captain was false.

The Minerva, Captain Jenkins, was despatched from New York to Rotterdam the 9th of October, 1807, where she arrived the 4th of January, 1808. The captain declared, that, on the 21st of June, she proceeded from this port to Bergen, where she arrived the 3d of July; that, on the 8th of the same month, she left the latter place, in ballast, for Charente, where she arrived the 6th of August following; that, on the 28th of the same month, she was freighted to a house at Charente, to take a cargo of brandies for Bremen, who put four hundred and fifty pipes on board; that she had received her passport, and paid duties, amounting to 1,527 francs, when the officers of the customs, suspecting the truth of the declaration of the crew, proceeded to a new examination; the answers were the same as before, and nevertheless the vessel was seized the 7th of January, 1809, and the captain and crew confined in prison, with the exception of two, who had escaped. This measure was taken in consequence of some marks of forgery, which the certificate of health and passport of quarantine presented.

The members of the court found the papers to differ from those which were issued from the same press, and this they considered as a proof that she did not come from Bergen, but from some prohibited port. The captain is sentenced to pay the sum of 11,000 francs for himself and ten mariners. The false papers are to be sent to the Minister of Justice.

The Canton, Captain Henry Latham, according to the captain's declaration, was at Amsterdam the 13th of August, 1808; this fact was attested by his crew. The French consul in Holland certified that this vessel was not at Amsterdam at that period of time. The desertion of some of the crew, and the want of the usual passport of the King of Holland, were considered as proofs that the vessel had been at Britain; she was accordingly confiscated, and a fine of 9,000 francs imposed, which must be paid before the captain and six men of the crew are enlarged.

This vessel had taken brandies aboard, which, by a decision of the court, are given up to the proprietors at Charente, on the supposition that the fraud was not known at the time they were shipped.

MARITIME JURISDICTION.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 1, 1810.

FEBRUARY 1, 1810.

To the House of Representatives of the United States:

I lay before the House a report of the Secretary of the Treasury, conformably to their resolution of January, 18, 1810.

JAMES MADISON.

* Mr. Burns is a partner of the house of Compte & Co., Barcelona.

SIR:

TREASURY DEPARTMENT, *January 30, 1810.*

I have the honor, in conformity with the resolution of the House of Representatives of the 18th instant, to transmit copies of the instructions issued at several times by this Department, with respect to foreign armed ships or vessels within the waters of the United States.

I have the honor to be, with the highest respect, sir, your obedient servant,

ALBERT GALLATIN.

The PRESIDENT of the *United States.*

INSTRUCTIONS.

No. 1.

SIR:

TREASURY DEPARTMENT, *April 23, 1793.*

You will find enclosed the copy of a proclamation lately issued by the President of the United States, respecting the war at present existing between certain Powers of Europe therein named.

The preservation of the peace of the country is so very important to its interests, and that must depend so materially upon the conformity of the conduct of our citizens to the spirit which is manifested by the proclamation, that it is deemed particularly interesting to receive the earliest and most exact advice of every appearance in any quarter which may seem to contravene the intention of the Government in this respect.

I therefore request that you will keep an observant eye upon whatever passes in your district having reference to the object of the proclamation; and if any thing comes under your notice inconsistent with it, that you will immediately communicate it to the Attorney of the United States for the judicial district comprehending your district, and to me.

The building of vessels calculated and fitted for war is a circumstance which will merit particular attention, as much danger may be apprehended from that quarter.

I am, sir, &c.

ALEXANDER HAMILTON.

The COLLECTORS of the *Customs.*

No. 2.

SIR:

TREASURY DEPARTMENT, *May 30, 1793.*

It being the opinion of the Executive that there is no general law of the land prohibiting the entry and sale of goods captured by foreign Powers at war, and, consequently, that such entry and sale are lawful, except in cases where a prohibition is to be found in the treaties of the United States, it becomes the duty of this Department to make known to you that the entry of vessels captured and brought into our ports by the ships of war and privateers of France and of their cargoes, is to be received in the same manner, under the same regulations, and upon the same conditions, as that of vessels and their cargoes which are not prizes. One of these conditions is, of course, the payment or securing the payments of the duties imposed by law on goods, wares, and merchandise imported, and on the tonnage of ships and vessels. But the same privilege will not extend to any of the other belligerent Powers, being contrary to the seventeenth and twenty-second articles of our treaty with France.

I am, &c.

ALEXANDER HAMILTON.

To COLLECTORS of the *Customs.*[For the letter No. 3, here originally inserted, and the rules therein referred to, see *Foreign Relations* vol. 1, page 140.]

No. 4.

SIR:

TREASURY DEPARTMENT, *August 22, 1793.*

Though it was not expressly said, yet I presume it would have been understood as clearly implied in the instruction contained in my circular of the 4th instant:

That the liberty to enter vessels and their cargoes brought in as prizes by the armed vessels of France, was not, after the receipt of that letter, to include vessels and cargoes taken and brought or sent in by armed vessels originally fitted out in the ports of the United States while remaining in possession of their captors, it will follow that if an attempt shall be made to land goods from on board such vessels, they are to be seized and proceeded against as directed by the twenty-sixth section of collection law. Lest the implication above mentioned should not have been obvious to all, I have concluded to give this further explanation.

I am, with consideration, sir, your humble servant,

ALEXANDER HAMILTON.

To the COLLECTORS of the *Customs.*

No. 5.

SIR:

TREASURY DEPARTMENT, *October 6, 1794.*

It appears, from communications to this Department, that the expressions "equipments which are of a doubtful nature, as being applicable either to commerce or war," which occur in the fourth and fifth rules adopted by the President of the United States, which were communicated to you by the Secretary of the Treasury on the 4th of August, 1793, have been in some instances understood to tolerate the *fitting* and *arming* of vessels for *defence*, or for *merchandise and war*.

As this construction is manifestly irreconcilable with the first of the rules referred to, and with the plain tenor of the supplementary act of Congress passed on the 5th of June, 1794, for defining and punishing certain crimes against the United States, it is of importance immediately to correct an error, the operation of which is to defeat the intentions of the Government, and contravene the neutrality of the United States.

You will therefore be pleased to understand that the *arming* and *equipping* of vessels in the ports of the United States for *military service*, whether *offensive* or *defensive*, by any of the belligerent parties, is unlawful; and that the prohibition as effectually extends to *military equipments* destined for the *protection* and *defence* of a vessel and her *merchandise*, as to those equipments the object of which is *combat* or *offensive hostility*.

The equipments of a "doubtful nature, as being applicable either to commerce or war," which were intended by the rules of the President, and which were deemed lawful, will be best exemplified by stating certain cases which have occurred.

1st. The *waste boards* of vessels had been raised considerably higher than usual, and strengthened with additional timber and plank, which was understood to be preparatory to the opening of *port-holes*.

In this case it was determined that the equipment was of a "doubtful nature;" for until *port-holes* were actually opened, it could not be pronounced that there existed a military object. *Port-holes* have, however, been determined to be a *military equipment*, their use being foreign to *navigation*, and being merely applicable to *combat* or *war*.

2d. A French privateer procured an *extra* number of *oars*, and it was suggested that they must have been for *military service*, as it was entirely unusual to have so great a number for mere navigation.

It was, however, decided that this equipment was also of a "doubtful nature," an *oar* being merely an instrument of navigation, and there being no criterion by which to determine what extra number should change the nature of the equipment.

It is an established principle that we cannot, without a contravention of our neutrality, permit either of the belligerent parties to increase their force or means of *annoyance* or *military defence* within the ports of the United States, and it is essential that this principle be maintained with good faith, and according to the dictates of impartiality and reason.

A temporary absence of the Secretary of the Treasury on public business is the cause of my addressing you on this subject. It is proper that I should add, that the principles of this communication are conformable to his opinion.

I am, &c.

OLIVER WOLCOTT, JUN.

To the COLLECTORS of the *Customs*.

No. 6.

SIR:

TREASURY DEPARTMENT, *June 30, 1796.*

By an instruction from this Department, dated the 30th of May, 1793, the collectors were informed that the "entry of vessels captured and brought into our ports by ships of war and privateers of France and of their cargoes, was to be received in the same manner, under the same regulations, and upon the same conditions, as the entry of vessels which were not prizes;" but that this privilege was not to extend to the belligerent Powers at war with France, being contrary to the seventeenth and twenty-second articles of our treaty with that nation.

The entry and sale in our ports of prizes to privateers commissioned by France, not being stipulated in our treaty as a right to be enjoyed by that nation, and there being an express stipulation in the twenty-fourth article of the late treaty with Great Britain, "that it shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any other Prince or State in enmity with either nation, to arm their ships in the ports of either of the said parties, or to sell what they have taken, nor in any other manner to exchange the same," it has become necessary to vary the former instructions accordingly.

You will therefore observe, that hereafter vessels and property captured from the subjects of Great Britain by privateers commissioned against that nation are not to be admitted to an entry in the ports of the United States; of course, any goods or property landed therefrom will be subject to seizure as being imported contrary to law.

The collectors will recollect that the security of the revenue and the faith of the United States are highly concerned in preventing the introduction for consumption or sale of any goods or property by prizes to privateers; when such vessels appear in our ports, they will, therefore, cause extraordinary care and vigilance to be observed.

The twenty-second article of our treaty with France, and the twenty-fourth article of our treaty with Great Britain contain stipulations that privateers commissioned against either of the parties shall not be allowed to purchase more provisions than shall be necessary to their going to the nearest port of that Prince or State from whom they obtained commissions; if, therefore, the privateers of either nation exceed what is permitted in this respect, immediate reports are to be made to the Governor of the State and Attorney of the district.

I am, &c.

OLIVER WOLCOTT, JUN.

To COLLECTORS of the *Customs*.

No. 7.

SIR:

TREASURY DEPARTMENT, *May 25, 1805.*

I have to request your attention to the fourth section of the annexed act of Congress, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction," passed on the 3d of March, 1805.

As the commanders of public armed vessels are thereby directed in every instance to report their vessels to the collector, a duty from which they were heretofore exempted by the thirty-first section of the collection law, the President directs that whenever such a vessel shall arrive, you will inform the commander, either in person, or in writing, or by message delivered by the surveyor, or by the captain of the revenue cutter, of this new provision, and request him to make report. This report will be only a statement of the name of the vessel, country, and commander, of the force of the vessel, of the port from which arrived, and, in the words of the act, of the object of his entering the harbor. It may be made either verbally to yourself, or other revenue officer notifying the commander of the vessel, or in writing; and the provision being a new one, you will be careful, whilst you carry the same into effect, that the officers and flags of all nations shall be treated with respect.

You will continue to enforce the regulations made by the state, health, or quarantine laws; and if, by the laws of the State or port regulations, already in force, a certain position in the harbor has been assigned to armed vessels, you will conform therewith. You may also, if you shall think it of urgent necessity, make temporary regulations for that object, if none yet exist; but it will be more eligible that you should in the first instance report your opinion thereon to this office for the President's consideration and decision. General instructions cannot be given on that point, as, if necessary, they must vary according to the situation of the harbor; and you will be pleased to state whether any, and, if any, what restrictions appear to you proper to be established both on that subject and in relation to the intercourse between such ships and the shore.

The President has not thought it proper to lay for the present any new restrictions on the admission, stay, or departure of armed vessels. But all the instructions heretofore given on that subject, and particularly to those which relate to equipments, to privateers, and to prizes, must be considered as being still in force.

In case of refusal or neglect to conform with the regulations prescribed, you will be pleased to make an immediate report thereof to this office.

I have, &c.

ALBERT GALLATIN.

To the COLLECTORS of the *Customs*.

11th CONGRESS.]

No. 229.

[2d SESSION.

SPAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 9, 1810.

FEBRUARY 9, 1810.

To the House of Representatives of the United States:

I transmit to the House a report of the Secretary of State, complying with their resolution of the twenty-second of January.

JAMES MADISON.

DEPARTMENT OF STATE, February 8, 1810.

The Secretary of State, to whom the President has been pleased to refer the resolution of the House of Representatives of the 22d of last month, has the honor to state, that it appears from the records in this Department, that in the years 1801 and 1802, the Executive had endeavored to obtain for the citizens of the United States, residing on the waters of Tombigbee and Alabama rivers, the free navigation of the Mobile river to its confluence with the ocean. 1st, By claiming this navigation as a natural right, sanctioned by the general principles of the law of nations, applicable to rivers similarly situated; and 2d, By endeavoring to purchase the country held by Spain on the Mobile.

These efforts were made, before it was known that Spain had ceded Louisiana to France, and consequently before the purchase of that province by the United States. Since that purchase, the country held by Spain on the Mobile has been claimed as being included therein.

The Spanish Government having objected to this claim in a manner which justified a belief that the question would not be soon decided, our minister at Madrid was instructed again to claim the free navigation of the Mobile, under the general principles of the law of nations, and to represent to His Catholic Majesty the propriety and necessity of giving orders to his officers not to interrupt the free communication with our territories through the waters of the Mobile.

In addition to what has been done through this Department, it appears that the Governor of the Orleans Territory, and other officers of the United States, have endeavored to induce the Spanish authorities on the Mobile to abstain from exacting duties on the passage of our merchandise or produce up or down that river. Notwithstanding, however, every thing which has been done, it is understood that these authorities have continued to exact (with some occasional relaxations) a duty of twelve per cent. "on all articles of the growth or manufacture of the United States, which are conveyed through said river to and from the city of New Orleans."

All which is respectfully submitted.

R. SMITH.

11th CONGRESS.]

No. 230.

[2d SESSION.

FRANCE AND GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1810.

FEBRUARY 17, 1810.

To the House of Representatives of the United States:

I transmit reports of the Secretaries of State and of the Treasury, complying with their resolution of the 5th instant.

JAMES MADISON.

DEPARTMENT OF STATE, February 14, 1810.

Agreeably to a resolution of the House of Representatives of the 5th instant, requesting the President of the United States to cause to be laid before that House copies of the several communications made to the Governments of France and Great Britain, in pursuance to the authorities vested by Congress in the Executive, with respect to the several orders and decrees of either, violating the lawful commerce and neutral rights of the United States, except such parts as may, in his judgment, require secrecy; and also to communicate to the same House such information as he may have received touching the forgery of papers purporting to be those of American vessels; the Secretary of State has the honor of laying before the President the following papers, viz:

1. Extract of a letter from Mr. Smith, Secretary of State, to General Armstrong, minister plenipotentiary of the United States, at Paris, dated March 15, 1809.

2. Copy of a note from General Armstrong to Count Champagny, Minister of Exterior Relations at Paris, dated 29th April, 1809.

3. Extract of a letter from Mr. Smith to Mr. Pinkney, minister plenipotentiary of the United States at London, dated March 25, 1809.

4. Extracts of a letter from Mr. Pinkney to Mr. Smith, dated May 1, 1809.

A. Extracts of a letter from John M. Forbes, consul of the United States at Hamburg, to Mr. Madison, Secretary of State, dated 13 November, 1807.

B. Extracts of a letter from Mr. Lee, commercial agent of the United States at Bordeaux, to the same, dated November 1, 1808.

C. Copy of a letter from Mr. Hackley, consul of the United States at St. Lucar, to Mr. Smith, dated Cadiz, 23d March, 1809.

D. Sundry original documents belonging to and concerning the ship *Aurora* of New York.

E. Extract of a letter from Mr. Harris, consul of the United States at St. Petersburg, to Mr. Smith, dated 13th [25th] October, 1809, covering certain papers belonging to the ship called the *Georgia*, of New York.

F. Extracts of a letter from John M. Forbes, dated November 7, 1809, to Mr. Smith, covering the forged sea-letter of the ship *Arno*, of Boston, dated August 21, 1809; also a letter of the same date, signed Stephen Higginson and Co. to Captain William Kempton.

G. Extract of a letter from William Kirkpatrick, consul of the United States at Malaga, to Mr. Smith, dated November 25, 1809.

It may be proper, moreover, to state, that various other communications have been received at this Department from the agents of the United States in foreign countries, which mention that the practice prevails of forging American ships' papers and documents; but as they do not afford any details, they are not included in this report, which is respectfully submitted.

R. SMITH.

[For the correspondence between the Secretary of State and the ministers of the United States in Paris and in London, communicated by this message, see Nos. 225 and 226.]

A.

Extracts of a letter from John M. Forbes, consul of the United States at Hamburg, to Mr. Madison, Secretary of State, dated

NOVEMBER 13, 1807.

Two days ago, the chief of the French douaniers, M. Eudel, having, from the circulating rumors of the town, reason to suspect that an American ship, the *Lucy*, Captain Jesse Englee, entered as coming from Norfolk, had come from England, proceeded to examine the crew; notice of this was given to me by the captain, who had also consigned his ship and freight to me, the cargo being addressed to Messrs. Osgand & Co. of this city; but having always refused to acknowledge the authority of the French douaniers, I declined being present in any official character, and, as the commercial correspondent of the captain, sent my chief clerk on board to render such assistance as might be proper. The examination did not take place on board at the time appointed, but at a later hour, at the house of M. Eudel. My clerk was not present, but I afterwards learned that the mate and crew had all sworn that the ship came from London. As soon as I learned this, I wrote the captain a letter disclaiming all further individual agency in this business.

I examined more closely the papers of the ship *Lucy*, and convinced myself, by comparison of hands, that the signatures both of the President and your excellency to the sea-letter, were both evidently forged.

B.

Extracts of a letter from Mr. Lee, consul of the United States at Bordeaux, to the Secretary of State, dated

NOVEMBER 1, 1808.

I have been long in expectation that the President would have instructed the consuls to detain in their hands the papers of all American vessels found in their district after the embargo, unless they were bound directly to the United States. A determination of this nature would have done but little or no injury to our merchants, and put a stop to the practice of the English, who send shoals of American vessels from their ports, whose owners never saw America, and whose papers are manufactured in London.

Ten vessels, suspected of having been expedited in this way from London, lately arrived in the river Charente, as coming from Norway, and were admitted by the custom-house. I sent an agent over to Charente, to examine into the state of these vessels, whose report confirmed my suspicions. I immediately wrote General Armstrong on the subject; but fearing delays might be injurious, I set out for La Rochelle, and, on my arrival at Blaize, learned that some of the crews of these vessels had betrayed their captains, and that the whole of them were seized by this Government, and the crews imprisoned.

It is proper to state to you, sir, that our vessels' papers, with all their private marks, are so completely copied in London, that it is almost impossible to detect them.

C.

Richard S. Hackley, consul of the United States at St. Lucar, to the Secretary of State.

SIR:

CADIZ, March 23, 1809.

Your Department has no doubt been informed that the practice prevails in London of forging all kinds of papers that appertain to shipping of the United States, to which may be added passports from the Department of State, certificates of naturalization, &c. &c., some of which are well executed, so much so, that the fraud very generally passes without being detected. By this means, a considerable trade has been carried on last year *under our flag*, by British shipping, particularly to Russia and South America, and British subjects have passed wherever their business called them. Protected by these papers, our countrymen have but in too many instances found similar frauds answer their own purposes under the state of things as they now are, and have for some time been in Europe.

The name of the person in London, who is the great dealer in this species of speculation, is Van Sander, and with this note, I cover you a sample of his execution in a set of papers received from an American citizen here, from whom I demanded them upon being informed that he had them. To you the propriety will occur of taking some immediate step to correct this evil, which, from its increasing practice, is becoming of serious importance in many points of view.

With much respect, &c. your obedient servant,

RICHARD S. HACKLEY.

Papers enclosed in the first.

[NOTE.—The original never received at the Department of State.]

D.

Statement of the collector of Boston respecting ship Arno.

The ship Arno, of Duxbury, burthen 197 $\frac{7}{35}$, owned by Jacob Weston, of Duxbury, in the district of Plymouth, State of Massachusetts, and William Kempton, and John Perry, of Boston, State aforesaid, William Kempton, master; cleared from the district of Boston and Charlestown, on the 17th day of June, 1809, for Bremen, loaded with eight hundred and four barrels pearl ashes, weighing 3,350 cwt., and three hundred and forty-nine barrels of pot ashes, weighing 1,219 cwt., being the whole of her cargo. A bond was taken that the said vessel should not proceed to a port in France or its dependencies, in the penalty of eighty thousand dollars. A certificate has been returned of the landing of the cargo aforesaid, at London, signed by Samuel Williams, merchant, and William Lyman, consul at London. Her register was granted at Plymouth, on the 17th day of May, 1809, No. 27; and she had from this office a Mediterranean pass, dated 17th June, 1809, No. 87; and all other papers requisite.

The ship Arno is now in this port, and Kempton, her late master.

H. D.

E.

Extract from a letter of Levett Harris, consul of the United States at St. Petersburg, to Mr. Smith, dated

ST. PETERSBURG, October 13, [25] 1809.

I transmit you herewith the papers of a vessel called the Georgia, of New York, arrived at Archangel from New York, the register whereof proving false, all the other papers I judge alike to be the same, and she has, therefore, been condemned by this Government. Another vessel called the Intercourse has shared the same fate; but the ministry have not yet sent me the papers.

F.

Extracts of a letter from John M. Forbes, consul of the United States at Hamburg, dated

TONNINGEN, November 7, 1809.

I have lately met with a circumstance which has embarrassed me much. The ship "Arno," Captain Kempton, of Boston, known to have left that port on the 18th (7th) of June, with a cargo of pot and pearl ashes, lately arrived here with a cargo of gum.

I herewith enclose the sea-letter which Captain Kempton confessed to me he knew to have been forged, and which he said he had reason to believe was executed by one Van Sander, a Jew, near Whitehall, in London, who is known in the traffic of false American documents. I also enclose the original letter of instructions of Messrs. Stephen Higginson and Co., owners of the cargo.

DEAR SIR:

BOSTON, August 21, 1809.

You being master of the ship Arno, loaded by us, and now ready for sea, we have to request that you will proceed to the port of Tonningen as soon as possible, where you will inquire for the agents of Messrs. Parish and Co. of Hamburg, to whom your cargo is consigned. You will, of course, receive instructions from those gentlemen how to proceed as to landing your cargo, &c., and you will please to follow them. It is important to yourself, as well as us, that you do nothing to violate the laws of any of the belligerents; in which case you will not be likely to meet with any interruption in your voyage. Wishing you a pleasant passage and safe return,

We are, sir, with esteem, your friends and servants,

STEPHEN HIGGINSON & Co.

Captain WILLIAM KEMPTON.

G.

Extract of a letter from Mr. Kirkpatrick, consul of the United States at Malaga, to Mr. Smith, Secretary of State, dated

NOVEMBER 25, 1809.

A few days ago the brig Uforsight, Christian Bodon, master, arrived here from Poole, with a cargo of bale goods and fish. Although her papers appear to be in perfect order, some doubts exist in my mind of their legality. I have consulted with some citizens of the United States actually here, and they agree with me in opinion, that the signatures of the President, yours, collector of New York, and of Joseph Nourse, are so well done, that it is impossible to discover any difference. Under this impression, I have determined to pass you a note of the ship's papers, that if they are really false, you may take such measures as you consider proper for having them seized on by the consuls in Europe where the vessel may be found.

NOTE.—The ship's papers alluded to are found to have been forged.

11th CONGRESS.]

No. 231.

[2d SESSION.

DENMARK.

COMMUNICATED TO THE SENATE, APRIL 2, 1810.

MARCH 30, 1810.

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 22d inst.
 JAMES MADISON.

SIR:

DEPARTMENT OF STATE, *March 29, 1810.*

I have the honor to transmit herewith copies of all the letters on file or record in this Department, which relate to the subject of the resolution of the Senate of the 22d instant.

It may be proper to observe, that the papers referred to in the letter of the Secretary of State of the 26th of November, 1800, are not now to be found in this Department.

I have the honor to be, with the highest respect, your most obedient and humble servant,

R. SMITH.

The PRESIDENT of the *United States.**Extract of a letter from J. Marshall, Secretary of State, to Richard Soderstrom, Esq.*

SIR:

NOVEMBER 26, 1800.

I have received your letters of the 24th and 25th instant, accompanying one from the Governor General of the Danish West India islands, bearing date of the 6th of August last.

Be assured, sir, that the Government of the United States respects, as it ought to do, the friendship and flag of His Danish Majesty, and will not intentionally commit an act which may insult the one, or diminish the other. If, in any instance, our cruisers have violated a really neutral flag, they have, in doing so, departed from the instructions under which they sail.

It is not, however, to be disguised, that means have been devised by which the Danish flag has been used in the West Indies for purposes which we believe His Danish Majesty would not countenance.

I have communicated the letters from yourself and the Governor General of the Danish West India islands, to the Secretary of the Navy. He informs me that Lieutenant Maley has been dismissed the service principally on account of the improper manner in which he has conducted himself towards neutrals.

With respect to the particular case of the *Mercator*, it is certainly advisable to prosecute an appeal. If she was really a neutral bottom, she will not, it is presumed, be condemned. Without deciding absolutely that the United States will or will not consent, when the case shall be ultimately decided, to pay for the vessel and cargo if confiscated, we are certainly not sufficiently informed at present to take any responsibility on ourselves, in the event of an unfavorable issue of that affair.

*Extract of a letter from Mr. Richard Soderstrom to the Secretary of State.*WASHINGTON, *June 10, 1801.*

I had the honor of laying before the late administration of the Government of the United States my respectful complaints of certain irregularities and violations of the Danish flag, which had been committed by some officers of the American navy, while this country was engaged in maritime hostilities with France. My representations were listened to with the attention which the subject required, and I had every reason to expect that justice, such as becomes this respectable nation, would be done to the parties aggrieved. The changes which have lately taken place in the Executive Department have suspended for a while the effects of my application, but have not diminished my prospect of success. I have a sure pledge of it, in the virtues of the great character who now fills the presidential chair, and in the talents and integrity of those in whom he has placed his confidence. I flatter myself that the adjustment of the past will suffer so much the less difficulty, that the possibility of any future ground for similar complaints is now entirely removed by the restoration of amity between the United States and the French republic. With full confidence, therefore, in the magnanimity and justice of the American Government, I shall now beg leave to draw your attention to three cases of capture of Danish vessels, in which, I conceive, that the sufferers have a right to claim a just indemnity from the Government of the United States.

The first case is that of the schooner *Mercator*, Captain Toussaint Lucas, the property of Mr. Jared Shattuck, an old established burgher of the island of St. Thomas, and subject of His Danish Majesty. This vessel being on her way from St. Thomas to St. Domingo, duly documented as a Danish vessel, was captured on the high seas by Captain Maley, of the armed schooner of the United States, *Experiment*, under the real or pretended suspicion of her being an American vessel, covered by Danish papers; a suspicion, sir, which nothing could warrant, unless it were the English sounding name of the vessel and her owner—a circumstance common to most vessels of the Danish islands. Two days after she had been so captured, she was met with by a British armed ship, who took and carried her into Jamaica, where she was condemned as prize, without any reasons whatever being assigned for her condemnation.

I had the honor of writing at large to the late Secretary of State, respecting that particular case, on the 24th November last. I beg leave to refer you to that letter, and those which followed it, copies of which go herewith. In those letters I urged the claim of Mr. Shattuck to an indemnification on the following grounds:

1st. Because, by the law of nations, no country has a right to violate a friendly flag, or to arrest the vessels of other nations on the high seas, on suspicion of their having infringed a purely municipal law, such as the late act for suspending the intercourse between the United States and France. There is but one instance in history of a claim to such a right having been set up by any Power. It was when Spain, in the year 1739, searched the vessels of other nations, particularly those of England, on suspicion of their being engaged in a contraband trade with her colonies; nay, she only assumed to search them within a certain distance from her coasts, where she might have claimed a kind of jurisdiction.

Nevertheless, this pretension was the cause of a long and bloody war between the two countries, and Spain was at last obliged to give up the point. The speeches of the great Lord Carteret, in the British House of Peers, on that occasion, contain the most convincing argument in favor of the doctrine which England succeeded in establishing for the benefit of the world.

2d. Because the act of Congress, on which the seizure was pretended to be founded, did not in any manner authorize it, as it only authorized the seizure *on the high seas of vessels of the United States*; a technical expression, clearly excluding vessels sailing under the flag and authority of other Powers.

3d. Because the vessel being unarmed, there was no pretension for seizing her as an enemy vessel; nor, indeed, could the cruisers of the United States seize a neutral vessel under any suspicion, by the *jus belli*, as no war between the United States and any country had been declared and notified to the neutral Powers, nor did the limited kind of *undeclared* warfare in which the United States were then engaged authorize any such seizure.

4th. Because if the vessels of the United States had a right to seize Danish vessels, and carry them into port for legal adjudication, they were bound to protect them until they reached the port to which they were carrying, and not to suffer them to be wrested from them by the vessels of any Power.

5th. Because it is a doctrine fully established, that the captors of neutral vessels proceed at their peril, and are responsible for *all consequent injury and loss*; and so it was determined by the Supreme Court of the United States, in the case of Delcole Arnold, 3d Dallas' Reports, 334.

These and other arguments, (and amongst them was this, that no appeal had or could be made by Mr. Shattuck, and if the same was not made within a certain time all would be lost,) which I urged partly by letters and partly in the course of conversation with General Marshall, appeared to him so convincing, that, before he retired from office, he had given me reason to expect that Mr. Shattuck would receive from the Government of the United States the indemnity to which he is so justly entitled. I have no doubt that the same principles of justice will be found to animate his successor. The war which has lately broken out between England and Denmark leaves no hopes whatever of obtaining any satisfaction from that quarter.

Copy of a letter from the Secretary of State to Richard Soderstrom, Esq.

SIR:

JULY 23, 1801.

I have been honored with your letter of the 20th, requesting to know the determination of the Executive on the cases of three Danish vessels explained in your letter of the 10th ult.

Should the Executive, on an investigation of those claims, be satisfied that compensation is due to the Danish subjects, on whose behalf they are made, it must be sanctioned by an appropriation of the Legislature. But the general usage requires that redress should be first prosecuted judicially, and, if not thus obtained, and the obligations of the United States should be found nevertheless to demand that compensation should be made, the circumstances of each case will be so clearly ascertained in the judicial process, as to enable the Government to do justice both to itself and to others. I have reason to conclude that this course will be the more satisfactory to you, as your observation will have convinced you of the scrupulous regard to the rights of foreigners by which our courts of justice are distinguished.

I have the honor to be, &c. &c.

JAMES MADISON.

From Mr. Soderstrom to the Secretary of State.

SIR:

PHILADELPHIA, August 10, 1801.

I have received the letter you have honored me with, dated the 23d ult. I was well aware that the Executive of the United States could not pay the indemnities claimed by the Danish subjects, until appropriations were made by the Legislature for that purpose.

I thought, however, that in the mean time the principles applying to each particular case might have been agreed upon, and the damages liquidated in some amicable mode, as is frequently done in Europe, and has been practised by the American Government, while the present President was Secretary of State, particularly in the case of the William. No one can feel a higher respect than I do for the universally acknowledged learning and integrity of the judges of the United States; at the same time, I cannot help considering it as a peculiar hardship for His Danish Majesty's subjects to be compelled to have recourse to tedious and expensive judicial proceedings, when the United States have in their power a more easy method of doing justice; and I hope you will forgive me, sir, if I presume to differ with you as to the point of general usage in this particular.

At the same time, I am fully sensible that it is my duty to submit to the determination which the Government of the United States has made upon this subject, although my doing so will be attended with considerable hardship and difficulty, particularly in the case of Captain Maley, who, I understand, is not only insolvent, but absent from the United States.

I presume, however, that the Government of the United States will have no objection to facilitate my obtaining justice in the mode which they have chosen, by instructing Mr. Attorney for the Pennsylvania district, or, if they think proper, Mr. Attorney for the District of Columbia, to appear for the United States, and defend the suits I may think proper to institute for the several claimants. Should they accede to this proposal, I am sure that they will not lengthen the proceedings by unnecessary appeals; but that the matters in variance will be settled in as short a time as the judicial mode of investigation will admit of.

I beg you will honor me with an answer to this part of my letter, that I may determine, without loss of time, on the course which I shall have to pursue.

I have the honor to be, with great respect and high consideration, sir, your most obedient servant,

RICHD. SODERSTROM.

Copy of a letter from the Secretary of State to Richard Soderstrom, Esq.

SIR:

OCTOBER 27, 1801.

In relation to the complaints you have preferred in several instances of capture and recapture of property alleged to be Danish, against the commanders of American public ships of war, it is my duty to inform you, that with the sincerest desire to avoid any thing which may procrastinate a decision, and under a just impression of the

candor and liberality which your manner of acting would bring into the discussion, we are, nevertheless, restrained by the necessity of adhering to useful and established forms, to consider the minister resident of Denmark as the only proper organ of the Danish subjects in making their reclamations. Whatsoever regards the solicitation of their business, in a judicial form, after principles are established with the Government, may, however, be confided to your management, by Mr. Olsen, with great propriety, in the usual legal methods. In the mean time, I beg you to be assured of the high respect with which

I have the honor to be, &c.

JAMES MADISON.

Mr. Olsen to the Secretary of State.

SIR:

PHILADELPHIA, *January 16, 1802.*

Mr. Soderstrom has had the honor of writing to you on the subject of the Danish schooner Mercator, which was unlawfully captured on the high seas by Captain Maley of the United States' armed schooner Experiment, and afterwards lost by capture from a British armed vessel while under the protection of the American flag. He represented to you, that Captain Maley being out of the United States, and in a state of insolvency, it was impossible for the owner of the captured property to seek his redress against him, and requested that this Government would point out some mode by which satisfaction might be obtained.

In this state of things, sir, it becomes my duty to interfere on behalf of one of His Majesty's subjects, who appears to have greatly suffered in consequence of such conduct of a commissioned officer of the United States. The American Government cannot but be sensible that the capture of that vessel was an unjustifiable violation of the flag of a friendly nation, and that a reparation is due to the party injured; permit me, therefore, sir, to urge Mr. Soderstrom's request, that some mode may be pointed out, by which the amount of this loss may be ascertained, so that the party may receive full and complete reparation for the injury which he has sustained.

I am, with great respect, &c.

BLICHER OLSEN.

Hon. JAMES MADISON, Esq. *Secretary of State.*

Extract:—Mr. Olsen to the Secretary of State.

SIR:

APRIL 12, 1802.

In a letter I had the honor to write you on the 16th January last, I took the liberty to lay before you an official note, stating the particulars concerning the claims of one of the King's my master's subjects, against Captain Maley, commander of the United States' armed schooner Experiment, for having unlawfully captured and afterwards allowed to be recaptured by a British armed vessel from under his protection, the Danish schooner Mercator; and further, as the said Captain Maley was found to have left the United States, requesting that this Government would point out some mode by which the owner of the captured property might obtain justice and reparation for the loss and injury he has sustained.

Though deeply lamenting the necessity of pressing on the precious moments of your time, devoted to so vast a number of other pressing occupations and duties, I feel it nevertheless indispensably incumbent upon me to torment you once more on this subject, and to repeat my demand to be favored with an answer acquainting me with the means to be employed in order to secure to an injured countryman of mine such indemnification as the impartial laws of this country may deem him entitled to.

Being yourself, sir, placed in a station which gives you a right to prescribe and to expect similar exertions in similar cases, from agents appointed under your directions, so far from apprehending any displeasure on your part by this my repeated zeal, I rather flatter myself to meet your generous approbation; and beg leave to assure you, sir, that a true sentiment of personal esteem for your generally acknowledged principles has been on this occasion, and shall henceforth constantly be, an additional and powerful inducement to me for the most vigilant performance of my duties, &c.

I am, with great respect, &c.

BLICHER OLSEN.

Hon. JAMES MADISON, Esq. *Secretary of State.*

Extract:—Secretary of State to Mr. Olsen.

SIR:

DEPARTMENT OF STATE, *April 23, 1802.*

Your letter of the 12th instant, preceded by that of January 16th, has been duly received. The case of the Mercator, which is the subject of both, having been referred, with many other subjects, to the Attorney General, some time elapsed before I could avail myself of the benefit of his observations; and as an apology for the subsequent delay, I must ask you to accept the pressure of business incident to the present season, with some adventitious circumstances, which have contributed to the same effect.

According to the usual course, injuries committed on aliens as well as citizens ought to be carried, in the first instance at least, before the tribunals to which the aggressors are responsible. In these, the facts can be best investigated, and the points on which the question depends be most fully brought into view. In the case of the Mercator, it is the more proper that this course should be pursued, as the circumstances stated in the documents give so imperfect a view of it. Notwithstanding the absence of Captain Maley, a resort of this kind can be effected by proper instructions to an Attorney of the United States, which will be given as soon as you shall be pleased to signify the district in which you wish the judicial proceeding to be instituted.

In the mean time, as it may be made an eventual question, distinct from the conduct of Captain Maley, how far the capture of the Mercator, whilst in the custody of the American prize-master and flag, by a British armed ship, the General Simcoe, ought to make the United States rather than Great Britain liable to the Danish claimants, the most candid consideration will be given to whatever observations you may please to make with a view to show that, under such circumstances, the law and usage of nations justify the pursuit of redress against the United States, instead of the positive authors of the injury. By that law and the usage authorized by it, the decisions of the President will be scrupulously guided, &c. &c.

Accept, sir, the sincere esteem and consideration with which I have the honor to be, &c.

JAMES MADISON.

PETER BLICHER OLSEN, Esq.

Mr. Olsen to the Secretary of State.

Sir:

PHILADELPHIA, June 6, 1802.

In your letter of the 22d of April, you have been pleased to observe, sir, in answer to mine of the 12th of same month, concerning the capture of the Danish ship *Mercator*, by Captain Maley of the United States, that proper instructions should be given to an attorney, as soon as I had signified the district in which I wished the judicial proceeding to be instituted.

As for the present moment I reside in the city of Philadelphia, where I shall be at hand to give instructions to counsel, I take the liberty to propose, that the case may be investigated in the District Court of Pennsylvania, which I suppose will be so much more eligible in point of locality, as it is the State where Captain Maley resided at the time of the capture, and in which he may in his absence, perhaps, be most legally sued.

I have the honor to be, with the greatest esteem and consideration, sir, &c. &c.

BLICHER OLSEN.

Hon. JAMES MADISON, Esq. *Secretary of State.*

From the Secretary of State to A. J. Dallas, Esq. Attorney for the district of Pennsylvania, dated

Sir:

JUNE 15, 1802.

Mr. Olsen, the Danish minister resident, has complained of Captain Maley in capturing a Danish vessel, the *Mercator*, which was afterwards lost by capture, whilst under the American flag, by a British armed vessel, and condemnation in a British Court of Admiralty. He has represented, also, in behalf of the Danish owner, that Captain Maley is both absent from the United States and in a state of insolvency, and requests that the proper mode of redress may be pointed out.

He was informed that, notwithstanding the absence of Captain Maley, a judicial investigation of the case could be effected through an Attorney of the United States, and that the necessary steps would be taken as soon as he should signify the district preferred by him.

I have just received an answer from him, requiring that the judicial proceedings may be had in Philadelphia.

You will please, therefore, sir, to concur in instituting the proper proceedings, by appearing in behalf of Captain Maley, in whose defence the United States are interested.

I enclose, for your information on the subject, the protest of the second lieutenant, under Captain Maley, who was prize-master of the *Mercator*, and of another person belonging to the *Experiment*; and also the decree of the British Court of Vice-Admiralty which condemned the *Mercator*. These are the only documents which I am able to forward for the purpose.

I am, very respectfully, &c.

JAMES MADISON.

Mr. Pedersen to the Secretary of State.

Sir:

PHILADELPHIA, December 11, 1806.

In consequence of a letter received from the Governor General of His Danish Majesty's West Indian islands, respecting the case of Jared Shattuck, a Danish subject and burgher of the island of St. Thomas, owner of the schooner *Mercator* and cargo, requiring me to represent the same, in order to obtain from the American Government that compensation for his losses which the Supreme Court of the United States, during its last session, awarded in the sum of thirty-three thousand eight hundred and sixty-four dollars and thirty-five cents, I have now the honor, sir, to recommend this case to your special support and protection, and I cannot but flatter myself that my application to you on this occasion will be attended with the fullest success, when it is considered that the case in question has gone through a legal investigation, and that the highest tribunal of justice in the United States has decreed the above sum for damages and restitution; but I abstain from making any other observation on this subject, since it appears, from your report to the House of Representatives of 9th April last, that, taking in consideration all the circumstances attending this case, as well as what the Legislature has done in similar cases, it is your own opinion that provision ought to be made for the payment of that sum and the costs of the petitioner. Congress being now in session, I hope it will adopt a resolution founded on this representation of the case, and that the result will afford a convincing proof to my court that the friendly disposition of the Government of the United States perfectly corresponds with that which the King my master always has manifested towards them.

I avail myself with pleasure of this opportunity, for presenting to you assurances of the very distinguished consideration and respect, with which I have the honor to be, sir, your most obedient, humble servant,

PETER PEDERSEN.

11th CONGRESS.]

No. 232.

[2d SESSION.

GREAT BRITAIN.—AMERICAN SEAMEN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 5, 1810.

APRIL 4, 1810.

To the House of Representatives of the United States:

I transmit to the House a report of the Secretary of State, complying with their resolution of the 26th of March.

JAMES MADISON.

DEPARTMENT OF STATE, April 4, 1810.

Agreeably to a resolution of the House of Representatives of the 26th March, requesting the President of the United States to cause to be laid before that House such information as he may have received, touching the impressment of American seamen, which has been communicated to the Department of State since the last report made to the Senate, in virtue of a resolution of that body, bearing date the 30th November, 1807, the Secretary of State has the honor to report to the President, that accounts have been received at this Department, exclusively of those reported by the agents of the United States, of the impressment of four hundred and sixty-two seamen, from vessels under the American flag, into armed vessels under the British flag, since the period referred to; that, of this number, two hundred and thirty-five are proved, by documents in this office, to be citizens of the United States, and that most of the rest claim also to be American citizens. The Secretary has likewise the honor to submit the abstract marked A, of all the returns received at this Department from General Lyman, the agent of the United States in London, exhibiting a statement of all the applications made by him to the British Government, for the discharge of American seamen, from the 1st of October, 1807, to the 31st March, 1809, and showing the result of these applications. The returns from the agents of the United States in the West Indies are very incomplete; those actually received from them, since the report to the Senate, containing an account of forty-two impressments only from American into British vessels. The Secretary submits herewith an extract of a letter from G. T. Ladico, (marked B,) acting as consular agent of the United States at Port Mahon, on the subject embraced by the resolution of the House.

Respectfully submitted.

R. SMITH.

A.

An abstract of the returns or lists, received from General Lyman, of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from the 1st October, 1807, to the 31st March, 1809, showing the result of his applications to the Admiralty for their discharge.

Discharged and ordered to be discharged,	-	-	-	-	-	-	-	287
Duplicate applications,	-	-	-	-	-	-	-	30
Refused to be discharged:	-	-	-	-	-	-	-	
Having no documents,	-	-	-	-	-	-	-	11
Said to be born in England or Ireland,	-	-	-	-	-	-	-	91
Having voluntarily entered,	-	-	-	-	-	-	-	34
Married in England or Ireland,	-	-	-	-	-	-	-	7
Exchanged as a prisoner of war,	-	-	-	-	-	-	-	1
Being totally ignorant of the United States,	-	-	-	-	-	-	-	5
Being deserters,	-	-	-	-	-	-	-	4
Being taken in privateers,	-	-	-	-	-	-	-	5
Not being Americans,	-	-	-	-	-	-	-	2
Being impostors, with fraudulent protections,	-	-	-	-	-	-	-	11
There being no ground to believe them American citizens,	-	-	-	-	-	-	-	2
Being taken when defrauding the revenue,	-	-	-	-	-	-	-	2
Having erased protections,	-	-	-	-	-	-	-	2
Having been sent into His Majesty's service by the masters of the vessels to which they belong, for mutiny,	-	-	-	-	-	-	-	2
Protections taken from them,	-	-	-	-	-	-	-	4
Being Irishmen, and having been sent into His Majesty's service by the civil power, for misdemeanors,	-	-	-	-	-	-	-	2
Not answering descriptions given in their protections,	-	-	-	-	-	-	-	44
Being a prisoner of war,	-	-	-	-	-	-	-	1
Being born in the West Indies,	-	-	-	-	-	-	-	3
Being a native of Canada,	-	-	-	-	-	-	-	1
Being a native of Hanover,	-	-	-	-	-	-	-	1
Documents insufficient, refused to be discharged:	-	-	-	-	-	-	-	
Protections from consuls and vice consuls,	-	-	-	-	-	-	-	64
Notarial and other affidavits made in the United States,	-	-	-	-	-	-	-	29
Discharges from King's ships,	-	-	-	-	-	-	-	4
Collectors' protections,	-	-	-	-	-	-	-	8
Documents from the Department of State,	-	-	-	-	-	-	-	15
Certificate of birth,	-	-	-	-	-	-	-	1
Not on board the ships as stated,	-	-	-	-	-	-	-	23
Deserted,	-	-	-	-	-	-	-	32
Drowned,	-	-	-	-	-	-	-	1
Stated to be on board ships not in commission,	-	-	-	-	-	-	-	1
Stated to be on board ships on foreign stations,	-	-	-	-	-	-	-	48
Referred to the Transport Board,	-	-	-	-	-	-	-	1
Applications unanswered,	-	-	-	-	-	-	-	103
Invalided,	-	-	-	-	-	-	-	21
Total,	-	-	-	-	-	-	-	<u>903</u>

B.

Extract of a letter from G. T. Ladico, Consular Agent of the United States at Port Mahon, to the Secretary of State, dated

DECEMBER 10, 1809.

I find myself under the necessity to inform you, that several American seamen, impressed and detained in some English men of war, have applied to me in order to obtain from their respective commanders their liberty, that they might return to the United States. The want of a consul general in the Balear islands, since the departure of John Martin Baker, Esq. late consul, who did me the honor to appoint me vice-consul in this island, and my zeal for whatever concerns the advantage of the citizens of the United States in every regard, have induced me to officiate with Admiral Lord Collingwood on account of said claims, to which he answers, dated Port Mahon, 4th December, 1809:

"All applications relative to subjects of the United States, who may be serving in the fleet under my command, should pass through the American minister in London before I take cognizance of them."

11th Congress.]

No. 233.

[3d Session.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, DECEMBER 5, 1810; AND JANUARY 12, AND FEBRUARY 19, 1811.

To the Senate and House of Representatives of the United States:

JANUARY 12, 1811.

I transmit to Congress copies of a letter from the minister plenipotentiary of the United States at London, to the Secretary of State; and of another from the same to the British Secretary of State for Foreign Affairs.

JAMES MADISON.

To the House of Representatives of the United States:

FEBRUARY 19, 1811.

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 18th instant.

JAMES MADISON.

[The following documents were communicated to Congress at the commencement of the third session of the eleventh Congress, and by messages of the 12th January and 19th February, 1811; see Foreign Relations, vol. 1, page 76.]

Extract:—Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, January 20, 1810.

In my letter to you of the 11th November, 1809, you were authorized to assure the British Government that the United States sincerely retained the desire, which they have constantly professed, to facilitate a friendly accommodation of all the existing differences between the two countries; and that nothing would be more agreeable to them, than to find the successor of Mr. Jackson invested with all the authorities necessary for the accomplishing of so desirable an event; and, moreover, that if the attainment of this object, through your agency, should be considered more expeditious or otherwise preferable, it would be a course entirely satisfactory to the United States.

I am now charged, by the President, to transmit to you the enclosed letter, authorizing you to resume the negotiations with the British Government, under the full power that had been given severally and jointly to you and Mr. Monroe. And in your discussions therein, you will be regulated by the instructions heretofore given to Mr. Monroe and yourself. It is, however, not intended that you should commence this negotiation until the requisite satisfaction shall have been made in the affair of the Chesapeake. And, in the adjustment of this case, you will be guided by the instructions which you have heretofore received from this Department in relation to it.

It is, moreover, desirable, that, preparatory to a treaty upon all the points of difference between the two countries, an arrangement should be made for the revocation of the orders in council. As it is uncertain what may be the ultimate measures of Congress, at the present session, it cannot be expected that the President can, at this time, state the precise condition to be annexed to a repeal of the orders in council. But, in general, you may assure the British Government of his cordial disposition to exercise any power with which he may be invested, to put an end to acts of Congress which would not be resorted to but for the orders in council, and, at the same time, of his determination to keep them in force against France, in case her decrees should not also be repealed.

[Enclosed in the foregoing letter.]

SIR:

DEPARTMENT OF STATE, January 20, 1810.

The President, anxious to adjust the existing differences between the United States and Great Britain, and deeming it expedient to make another effort for that purpose, has given it in charge to me to instruct you to renew negotiations in London, under the commission dated 12th May, 1806, authorizing Mr. Monroe and yourself, severally as well as jointly, "to treat with the British Government, relative to wrongs committed between the parties on the high seas or other waters, and for establishing the principles of navigation and commerce between them."

I have the honor to be, &c.

R. SMITH.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, February 19, 1810.

I received on the 12th instant, by Mr. Powell, whom I had sent some time before to France, a letter from General Armstrong, of which a copy is enclosed; and, keeping in view the instructions contained in your letter to me of the 11th of November last, I have written to Lord Wellesley to inquire whether any, and, if any, what blockades of France, instituted by Great Britain during the present war, before the 1st of January, 1807, are understood here to be in force. A copy of my letter to Lord Wellesley is enclosed.

It is not improbable that this official inquiry will produce a declaration, in answer to it, that none of those blockades are in force; and I should presume that such a declaration will be received in France as substantially satisfying the condition announced to me by General Armstrong.

I am not aware that this subject could have been brought before the British Government in any other form than that which I have chosen. It would not, I think, have been proper to have applied for a revocation of the blockades in question, (at least before it is ascertained that they are in existence,) or to have professed, in my letter to Lord Wellesley, to found, upon General Armstrong's communication, my inquiry as to their actual state. I have, however, supposed it to be indispensable (and have acted accordingly) that I should explain to Lord Wellesley in conversation the probability afforded, by General Armstrong's letter, that a declaration by this Government, to the effect above mentioned, would be followed by the recall of the Berlin decree.

I cannot, perhaps, expect to receive from Lord Wellesley an answer to my letter in time to send a copy by the John Adams, now in the Downs or at Portsmouth; but I will send it by an early opportunity, and will take care that General Armstrong shall be made acquainted with it without delay.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,
WM. PINKNEY.

MARCH 23, 1810.

P. S. Since the writing of this letter, Lord Wellesley has sent me the answer, (of the 2d instant,) of which a copy is now enclosed. It was not satisfactory, and I pointed out its deficiencies to Lord Wellesley in conversation, and proposed to him that I should write him another letter requesting explanations. He assented to this course, and I have written him the letter of the 7th instant, of which also a copy is enclosed. His reply has been promised very frequently, but has not yet been received. I have reason to expect that it will be sufficient, but I cannot think of detaining the corvette any longer. The British packet will furnish me with an opportunity of forwarding it to you, and I will send Mr. Lee with it to Paris, by the way of Morlaix.

I have the honor to be, &c.

WM. PINKNEY.

The Honorable ROBERT SMITH, &c.

[Enclosed in the preceding despatch.]

From General Armstrong to Mr. Pinkney.

SIR:

PARIS, January 25, 1810.

A letter from Mr. Secretary Smith, of the 1st of December last, made it my duty to inquire of his excellency the Duke of Cadore what were the conditions on which His Majesty the Emperor would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades of a date anterior to that decree, His Majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger:

ANSWER.

"The only condition required for the revocation, by His Majesty the Emperor, of the decree of Berlin will be, a previous revocation by the British Government of her blockades of France, or part of France, (such as that from the Elbe to Brest, &c.) of a date anterior to that of the aforesaid decree."

I have the honor to be, with very high respect, &c.

JOHN ARMSTRONG.

WM. PINKNEY, Esq. &c.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, February 15, 1810.

In pursuance of the intimation which I had the honor to give to your lordship a few days ago, I beg to trouble your lordship with an inquiry whether any, and, if any, what blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I am not able at present to specify more than one of the blockades to which this inquiry applies, namely, that from the Elbe to Brest, declared in May, 1806, and afterwards limited and modified; but I shall be much obliged to your lordship for precise information as to the whole.

I have the honor to be, with the highest consideration, my lord,
your lordship's most obedient, humble servant,

WM. PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY, &c.

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, March 2, 1810.

I have the honor to acknowledge the receipt of your note of the 15th ultimo, wherein you request to be informed whether any, and, if any, what blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I have now the honor to acquaint you that the coast, rivers, and ports, from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the order of council of the 7th of January, 1807; which order is still in force.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WELLESLEY.

WM. PINKNEY, Esq.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, March 7, 1810.

I had the honor to receive your lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great Britain, during the present war, before the 1st day of January, 1807.

I infer, from that answer, that the blockade, notified by Great Britain in May, 1806, from the Elbe to Brest, is not itself in force, and that the restrictions which it established rest altogether, so far as such restrictions exist at this time, upon an order or orders in council issued since the 1st day of January, 1807.

I infer, also, either that no other blockade of France was instituted by Great Britain during the period above mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your lordship to do me the honor to inform me whether these inferences are correct, and, if incorrect, in what respects they are so?

I have the honor to be, with the highest consideration, my lord,
your lordship's most obedient, humble servant,

WM. PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *February 23, 1810.*

I have the honor to transmit, enclosed, a copy of a notification of the blockade of the "coast and ports of Spain, from Gijon to the French territory," received from Lord Wellesley two days ago. I have not yet given any answer to this communication.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WM. PINKNEY.

Honorable ROBERT SMITH, &c.

[Referred to in Mr. Pinkney's letter of February 23.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, *February 20, 1810.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to inform Mr. Pinkney, envoy extraordinary and minister plenipotentiary from the United States of America, that the King has judged it expedient to signify his commands to the Lords Commissioners of the Admiralty to establish a strict blockade of the coast and ports of Spain, from Gijon to the French territory, which will be maintained and enforced, according to the usages of war acknowledged and observed in similar cases.

Mr. Pinkney is, therefore, requested to apprise the American consuls and merchants residing in England, that the whole of the Spanish coast above mentioned is, and must be considered as, in a state of blockade; and that, from this time, all the measures, authorized by the law of nations and the respective treaties between His Majesty and the different neutral Powers, will be adopted and executed with respect to vessels attempting to violate the said blockade after this notice.

The undersigned requests Mr. Pinkney to accept the assurances of his high consideration.

WELLESLEY.

WM. PINKNEY, Esq., &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *March 21, 1810.*

On the 27th of November, Mr. Brunell delivered to me your letters of the 11th, 14th, and 23d of the preceding month, and on the Saturday following I had a conference with the Marquis of Wellesley, in the course of which I explained to him fully the grounds upon which I was instructed to request Mr. Jackson's immediate recall, and upon which the official intercourse between that minister and the American Government had been suspended.

Lord Wellesley's reception of what I said to him was frank and friendly, and I left him with a persuasion that we should have no cause to be dissatisfied with the final course of his Government on the subject of our conference.

We agreed in opinion that this interview could only be introductory to a more formal proceeding on my part; and it was accordingly settled between us that I should present an official letter, to the effect of my verbal communication.

Having prepared such a letter, I carried it myself to Downing street a few days afterwards, and accompanied the delivery of it to Lord Wellesley, with some explanatory observations, with which it is not, I presume, necessary to trouble you. You will find a copy of this letter enclosed, and will be able to collect from it the substance of the greater part of the statements and remarks which I thought it my duty to make in the conversation above mentioned.

Although I was aware that the answer to my letter would not be very hastily given, I certainly was not prepared to expect the delay which has actually occurred. The President will do me the justice to believe, that I have used every exertion, consistent with discretion and the nature of the occasion, to shorten that delay, which, though not ascribable, as I persuade myself, to any motive unfriendly or disrespectful to the United States, may, I am sensible, have been productive of some disadvantage. A copy of the answer, received on the day of its date, is enclosed.

Between the delivery of my letter and the receipt of the reply, I had frequent conversations with Lord Wellesley, some of which were at his own request, and related altogether to the subject of my letter. The rest were on other subjects; but Mr. Jackson's affair was incidentally mentioned in all. A particular account of what was said on these several occasions would scarcely be useful, and could not fail to be tedious. It will, perhaps, be sufficient to observe, that, although these conversations were less satisfactory to me than the first, there was always an apparent anxiety on the part of Lord Wellesley to do what was conciliatory; and that, in the share which I took in them, I was governed by an opinion that, although it might become my duty to avoid, with more than ordinary care, all appearance of my being a party to the ultimate proceeding of the British Government upon my official representation, it could not be otherwise than proper, in any turn which the affair could take, that I should avail myself of every opportunity of bringing to Lord Wellesley's mind such considerations as were calculated to produce a beneficial influence upon the form and character of that proceeding. In what light the President will view the course which, after so much deliberation, this Government has adopted, it would not become me even to conjecture. If, either in manner or effect, it should not fulfil his expectations, I shall have to regret that the success of my humble endeavors to make it what it ought to be, has not been proportioned to my zeal and diligence.

Of my letter to Lord Wellesley of the 2d of January, I have very little to say. I trust it will be found faithful to my instructions; and that, while it maintains the honor of my Government, it does not neglect what is due to conciliation.

I am not sure that I ought to have quoted in it your letter to me of the 11th of November, of which the substance is undoubtedly given in the quotation from your subsequent letter of the 23d of the same month. But I saw no objection to a repetition of the just and amicable sentiments expressed in these quotations; and, as I had been induced, at my first interview with Lord Wellesley, to read to his lordship each of the passages, I felt that I was in some sort bound to the introduction of both into my written communication.

My letter avoids all discussion, and all invitation to discussion, on the business of the Chesapeake, on the orders in council, and on other topics which circumstances have connected with both. It does not, however, entirely pass them by; but contains such references to them as, I supposed, were likely to be useful. I feel assured that, in this respect, I have acted in conformity with the President's intentions. Indeed, if I had acted otherwise, I should have complicated and embarrassed a question which I was ordered to simplify, and forced into combination the peculiar difficulties of several subjects, to counteract the wishes of my Government upon each. I should have done so, too, without inducement; for I had no authority to make any demand or proposal in the cases of the Chesapeake and orders in council, or to act upon any proposal which Lord Wellesley might be inclined to make to me; and it was perfectly clear that these subjects were not susceptible of any very material written illustrations which they had not already received. I did not, however, imagine that I was to make no use of the reflections upon these which you had furnished in your letter of the 23d of November. I was, on the contrary, convinced that it would be proper to suggest them occasionally in conversation, with a view to dispose Lord Wellesley, and, through him, the British Government, to seek such fair and liberal adjustments with us as would once more make us friends. Accordingly, in my first conference, I spoke of the affair of the Chesapeake and the orders in council, and concluded my explanations, which did not lose sight of your letter of the 23d of November, by expressing a wish that Lord Wellesley would allow me an early opportunity of a free communication with him on these heads. From the disposition evinced by Lord Wellesley, in the notice which he took of these suggestions and of that wish, I was inclined to hope that it might be in my power to announce to you, by the return of the corvette, that a new envoy would be charged, as the successor of Mr. Jackson, with instructions adapted to the purpose of honorable accommodation. My letter to his lordship was written under the influence of this hope, and concludes, as you will perceive, with as strong an appeal to the disposition on which it rested, as could with propriety be made.

I recurred, in subsequent conversations, as often as occasion presented itself, to the attack on the Chesapeake and to the orders in council. It soon appeared, however, that a new envoy would not, in the first instance, be sent out to replace Mr. Jackson, and, consequently, that an arrangement of these subjects was not, in that mode, to be expected. A special mission would still less be resorted to; and it was not likely that approaches to negotiation would be made through a *chargé d'affaires*. It was still barely possible that, though I had no powers to negotiate and conclude, the British Government might not be disinclined to make advances through me, or that Lord Wellesley would suffer me so far to understand the views of his Government, as that I might enable you to judge upon what conditions and in what mode arrangement was practicable. This was possible, though not very probable; but it finally became certain that no definite proposal would, for the present at least, be made to us through any channel, and that Lord Wellesley would not commit himself upon the details to which I wished him to speak, but upon which, of course, I did not press him.

It only remains to refer you, for the actual sentiments of this Government, with regard to future negotiation, to the concluding paragraph of Lord Wellesley's letter to me; which is substantially the same with his recent verbal explanations; and to add that, in a short conversation since the receipt of his letter, he told me that, if I thought myself empowered to enter upon and adjust the case of the Chesapeake, he would proceed without delay to consider it with me.

I have not supposed that Lord Wellesley's letter requires any other than the common answer; and I have, accordingly, given the reply of which a copy is now transmitted.

I have the honor to be, with great consideration, sir, your most obedient humble servant,
WILLIAM PINKNEY.

The Hon. ROBERT SMITH, &c. &c. &c.

[Referred to in Mr. Pinkney's despatch of March 21, 1810.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, January 2, 1810.

In the course of the official correspondence which has lately taken place between the Secretary of State of the United States, and Mr. Jackson, His Majesty's envoy extraordinary and minister plenipotentiary at Washington, it has unfortunately happened that Mr. Jackson has made it necessary that I should receive the commands of the President to request his recall, and that, in the mean time, the intercourse between that minister and the American Government should be suspended.

I am quite sure, my lord, that I shall best consult your lordship's wishes, and the respect which I owe to His Majesty's Government, by executing my duty on this occasion with perfect simplicity and frankness. My instructions, too, point to that course as required by the honor of the two Governments, and as suited to the confidence which the President entertains in the disposition of His Majesty's Government to view in its true light the subject to which they relate. With such inducements to exclude from this communication every thing which is not intimately connected with its purpose, and, on the other hand, to set forth, with candor and explicitness, the facts and considerations which really belong to the case, I should be unpardonable if I fatigued your lordship with unnecessary details, or affected any reserve.

It is known to your lordship that Mr. Jackson arrived in America, as the successor of Mr. Erskine, while the disappointment, produced by the disavowal of the arrangement of the 19th of April, was yet recent, and while some other causes of dissatisfaction, which had been made to associate themselves with that disappointment, were in operation; but your lordship also knows that his reception by the American Government was marked by all that kindness and respect which were due to the representative of a sovereign, with whom the United States were sincerely desirous of maintaining the most friendly relations.

Whatever were the hopes which Mr. Jackson's mission had inspired of satisfactory explanations and adjustments upon the prominent points of difference between the two countries, they certainly were not much encouraged by the conferences in which, as far as he thought proper, he opened to Mr. Smith, soon after his arrival, the nature and extent of his powers and the views of his Government. After an experiment, deemed by the Government of the United States to be sufficient, it appeared that these conferences, necessarily liable to misconception and want of precision, were not likely to lead to any practical conclusion.

Accordingly, on the 9th of October, Mr. Smith addressed a letter to Mr. Jackson, in which, after stating the course of proceeding which the American Government had supposed itself entitled to expect from him with regard to the rejected arrangement and the matters embraced by it, and after recapitulating what Mr. Smith believed to have passed in their recent interviews relative to those subjects, he intimated that it was thought expedient that their further discussions, on that particular occasion, should be in writing.

It is evident, my lord, from Mr. Jackson's reply of the 11th of the same month, that he received this intimation (which, carefully restricted as it was, he seems to have been willing to understand in a general sense) with considerable sensibility. He speaks of it in that reply as being without example in the annals of diplomacy; as a step against which it was fit to enter his protest; as a violation, in his person, of the most essential rights of a public minister; as a new difficulty thrown in the way of a restoration of a thorough good understanding between the two countries.

I need not remark to your lordship that nothing of all this could, with propriety, be said of a proceeding, in itself entirely regular and usual, required by the state of the discussions to which only it was to be applied, and proposed in a manner perfectly decorous and unexceptionable. The Government of the United States had expected from Mr. Jackson an explanation of the grounds of the refusal, on the part of his Government, to abide by Mr. Erskine's arrangement, accompanied by a substitution of other propositions. It had been collected from Mr. Jackson's conversations, that he had no power whatsoever to give any such explanation; or, in the business of the orders in council, to offer any substitute for the rejected agreement; or, in the affair of the Chesapeake, to offer any substitute that could be accepted; and it had been inferred, from the same conversations, that, even if the American Government should propose a substitute for that part of the disavowed adjustment which regarded the orders in council, the substitute could not be agreed to, (if, indeed, Mr. Jackson had power to do more than discuss it,) unless it should distinctly recognise conditions which had already been declared to be wholly inadmissible.

To what valuable end, my lord, loose conversations, having in view either no definite result, or none that was attainable, could, under such circumstances and upon such topics, be continued, it would not be easy to discover; and I think I may venture to assume that the subsequent written correspondence has completely shown that they could not have been otherwise than fruitless, and that they were not too soon abandoned for that more formal course to which, from the beginning, they could only be considered as preparatory.

After remonstrating against the wish of the American Government to give to the further discussions a written form, Mr. Jackson disposes himself to conform to it; and, speaking in the same letter of the disavowal of the arrangement of April, he declares that he was not provided with instructions to explain the motives of it; and he seems to intimate that explanation, through him, was unnecessary, not only because it had already been made through other channels, but because the Government of the United States had entered into the arrangement with a knowledge "that it could only lead to the consequences that actually followed." In the conclusion of the fourth paragraph of the letter, he informs Mr. Smith that the despatch of Mr. Canning to Mr. Erskine, "which Mr. Smith had made the basis of an official correspondence with the latter minister, and which had been read to the American minister in London," was the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with the United States on the matter to which it related.

Mr. Smith's answer to this letter bears date the 19th of October; and I beg your lordship's permission to introduce from it the following quotation: "The stress you have laid upon what you have been pleased to state as the substitution of the terms finally agreed on [in the arrangement of April on the orders in council] for the terms first proposed, [by Mr. Erskine,] has excited no small degree of surprise. Certain it is, that your predecessor did present for my consideration the same conditions which now appear in the present document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit; and that, on finding his first proposal unsuccessful, the more reasonable terms, comprised in the arrangement respecting the orders in council, were adopted. And what is there in this to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is any thing more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and is confirmed by universal experience.

"What are the real and entire instructions given to your predecessor, is a question essentially between him and his Government. That he had, or, at least, that he believed he had, sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter, of the 15th of June, renewing his assurances to me, 'that the terms of the agreement so happily concluded by the recent negotiation will be strictly fulfilled on the part of His Majesty,' is an evident indication of what his persuasion then was as to his instructions. And, with a view to show what his impressions have been, even since the disavowal, I must take the liberty of referring you to the annexed extracts [see C] from his official letters of the 31st of July and of the 14th of August."

"The declaration, 'that the despatch from Mr. Canning to Mr. Erskine, of the 23d of January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates,' is now for the first time made to this Government. And I need hardly add, that, if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made."

I suppose, my lord, that it was impossible to disclaim for the American Government, in more precise and intelligible language than is found in this quotation, all knowledge of Mr. Erskine's instructions, incompatible with a sincere, honorable, and justifiable belief that he was, as he professed to be, fully authorized to make the agreement in which he undertook to pledge the faith of His Majesty's Government. Yet, in Mr. Jackson's next letter (of the 23d of October) to Mr. Smith, he says, "I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand from your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement."

Your lordship will allow me to take for granted, that this passage cannot be misunderstood. Its direct and evident tendency is to fasten upon the Government of the United States an imputation most injurious to its honor and veracity. The charge, that it had all along been substantially apprized, however it might affect to be ignorant, of the instructions which Mr. Erskine's arrangement were said to have violated, had before been insinuated; but it is here openly made, in reply, too, to a paper in which the contrary is formally declared by the official organ of the American Government.

This harsh accusation, enhanced by the tone of the letter in which it appeared, was in all respects as extraordinary as it was offensive. It took the shape of an inference from facts and asseverations, which necessarily led to the opposite conclusion. It was preferred as an answer to a claim of explanation, which Mr. Jackson professed not to be authorized by his Government to offer at all, but which he chose so to offer from himself as to convert explanation into insult. It was advanced, not only without proof, and against proof, but against all color of probability. It could scarcely have been advanced, under any conviction, that it was necessary to the case which Mr. Jackson was to maintain; for His Majesty's Government had disavowed Mr. Erskine's arrangement, according to Mr. Jackson's own representations, without any reference to the knowledge which this accusation imputed to the Government of the United States; and it need not be stated, that no allusion whatsoever was made to it by Mr. Secretary Canning, in those informal communications to me which Mr. Jackson has mentioned. It was not, moreover, to have been expected that, in the apparent state of Mr. Jackson's powers, and in the actual posture of his negotiation, he would seek to irritate where he could not arrange, and sharpen disappointment by studied and unprovoked indignity.

The course which the Government of the United States adopted on this painful occasion was such as at once demonstrated a sincere respect for the public character with which Mr. Jackson was invested, and a due sense of its own dignity. Mr. Jackson's conduct had left a feeble hope that further intercourse with him, unproductive of good as it must be, might still be reconcilable with the honor of the American Government. A fair opportunity was accordingly presented to him of making it so, by Mr. Smith's letter of the 1st of November, of which I beg leave to insert the concluding paragraph:

"I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without adverting to your repetition of a language implying a knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that, with such knowledge, no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign minister with a Government that understands what it owes to itself."

Whatever was the sense in which Mr. Jackson had used the expressions to which the American Government took exception, he was now aware of the sense in which they were understood; and, consequently, was called upon, if he had been misapprehended, to say so. His expressions conveyed an injurious meaning, supported, moreover, by the context, and the notice taken of them had not exceeded the bounds of just admonition. To have explained away even an imaginary affront would have been no degradation; but, when an occasion was thus offered, to qualify real and severe imputations upon the Government to which he was accredited, it could scarcely be otherwise than a duty to take immediate advantage of it.

Such, however, was not Mr. Jackson's opinion. He preferred answering the appeal, which had been made to him, by reiterating with aggravations the offensive insinuation. He says, in the last paragraph of his letter of the 4th of November, to Mr. Smith, "You will find that, in my correspondence with you, I have carefully avoided drawing conclusions *that did not necessarily follow from the premises advanced by me*; and least of all should I think of uttering an insinuation where I was unable to *substantiate a fact*. To facts, such as I have become acquainted with them, I have scrupulously adhered. *In so doing, I must continue*, whenever the good faith of His Majesty's Government is called in question, to vindicate his honor and dignity, in the manner that appears to me best calculated for that purpose."

To this, my lord, there could be but one reply. Official intercourse with Mr. Jackson could no longer be productive of any effects that were not rather to be avoided than desired; and it was plainly impossible that it should continue. He was, therefore, informed by Mr. Smith, in a letter of the 8th of November, which recapitulated the inducements to this unavoidable step, that no further communications would be received from him; that the necessity of this determination would, without delay, be made known to his Government; and that, in the mean time, a ready attention would be given to any communications, affecting the interests of the two nations, through any other channel that might be substituted.

The President has been pleased to direct that I should make known this necessity to His Majesty's Government, and, at the same time, request that Mr. Jackson be recalled. And I am particularly instructed to do this in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my lord, to make His Majesty's Government sensible, that, in requiring the recall of Mr. Jackson, the United States wish not to be understood as in any degree obstructing communications, which may lead to a friendly accommodation; but that, on the contrary, they sincerely retain the desire, which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the minister, who has rendered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions requisite for the complete success of his mission; or, if the attainment of this object, through my agency, should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.

These instructions, which I lay before your lordship without disguise, require no comment.

Before I conclude this letter, it may be proper very shortly to advert to two communications, received by Mr. Secretary Smith from Mr. Oakley, after the correspondence with Mr. Jackson had ceased.

The first of these communications (of which I am not able to ascertain the date) requested a document, having the effect of a special passport or safeguard, for Mr. Jackson and his family, during their further stay in the United States. This application was regarded as somewhat singular; but the document, of which the necessity was not perceived, was nevertheless furnished. The reasons assigned for the application excited some surprise. I have troubled your lordship, in conversation, with a few remarks from my instructions, upon one of those reasons, which I will take the liberty to repeat. The paper in question states that Mr. Jackson "had already been once most grossly insulted by the inhabitants of Hampton, in the unprovoked language of abuse held by them to several officers bearing the King's uniform, when those officers were themselves violently assaulted and put in imminent danger."

I am given to understand, my lord, that the insult here alluded to was for the first time brought under the notice of the American Government by this paper; that it had, indeed, been among the rumors of the day, that some unbecoming scene had taken place at Hampton or Norfolk, between some officers belonging to the *Africaine* frigate and some of the inhabitants, and that it took its rise in the indiscretion of the former; that, no attention to the circumstance having been called for, and no inquiry having been made, the truth of the case is unknown; but that it never was supposed that Mr. Jackson himself, who was on board the frigate, had been personally insulted, nor is it yet understood in what way he supposes that he was so. I am authorized to add, that any complaint or representation on the subject would instantly have received every proper attention.

The other communication (of which the substance was soon afterwards published to the American people in the form of a circular letter from Mr. Jackson to the British consuls in the United States) seems to have been intended as a justification of his conduct, in that part of his correspondence which had given umbrage to the American Government. This paper, bearing date the 13th of November, is not very explicit; but it would appear to be calculated to give rather a new form to the statements, which Mr. Jackson had suffered the Government of the United States to view in another light, until it had no choice but to act upon the obvious and natural interpretation of them sanctioned by himself.

It was never objected to Mr. Jackson, (as this paper seems to suggest,) that he had stated that the three propositions in Mr. Erskine's original instructions were submitted to Mr. Smith by that gentleman; or that he had stated it as made known to him by Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one from which his authority was derived, for the conclusion of an arrangement on the matter to which it related.

The objection was, that he had ascribed to the American Government a knowledge that the propositions submitted to its consideration by Mr. Erskine were indispensable conditions, and that he did so even after that knowledge had been distinctly disclaimed, and he had been made to perceive that a repetition of the allegation could not be suffered.

I willingly leave your lordship to judge whether Mr. Jackson's correspondence will bear any other construction than it in fact received; and whether, supposing it to have been erroneously construed, his letter of the 4th of November should not have corrected the mistake, instead of confirming and establishing it.

As an *explanation*, this paper was even worse than nothing. It had not the appearance of an attempt to rectify misapprehension. It sought to put the American Government in the wrong, by assuming that what had given so much umbrage ought not to have given any. It imported reproach rather than explanation. It kept out of sight the real offence, and, introducing a new and insufficient one in its place, seemed to disclose no other wish than to withdraw from the Government of the United States the ground upon which it had proceeded. Its apparent purpose, in a word, was to fix a charge of injustice upon the past, not to produce a beneficial effect upon the future. In this view, and in this only, it was perfectly consistent that it should announce Mr. Jackson's determination to retire to New York.

The time when this paper was presented will not have escaped your lordship's observation. It followed the demand, already mentioned, of a safeguard for "Mr. Jackson, his family, and the gentlemen attached to his mission;" a demand which cannot be regarded, especially if we look to the inducements to which it was referred, as either conciliatory or respectful. It followed, too, the letter of the 4th of November, which, had explanation been intended, ought undoubtedly to have contained it, but which, in lieu of it, contained fresh matter of provocation. It was itself followed by the publication of its own substance in another garb. On the very day of its date, when Mr. Jackson, if he meant it as an explanation, could not be justified in concluding that it would not be satisfactory, it was moulded by him into the circular address to which I have before alluded; and immediate steps appear to have been taken to give to it, in that shape, the utmost publicity. I have no wish, my lord, to make any strong remarks upon that proceeding. It will be admitted that it was a great irregularity; and that, if Mr. Jackson had been particularly anxious to close every avenue to reconciliation between the American Government and himself, he could not have fallen upon a better expedient.

I have now only to add, my lord, the expression of my own most ardent wish, that out of the incident which has produced this letter, an occasion may be made to arise, which, improved as it ought to be, and I trust will be, by our respective Governments, may conduct them to cordial and lasting friendship. Thus to endeavor to bring good out of evil, would be worthy of the rulers of two nations that are only in their natural position when they are engaged in offices of mutual kindness, and largely contributing to the prosperity and happiness of each other.

I have the honor to be, with the highest consideration, my lord, your lordship's most obedient, humble servant,

WM. PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY.

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, *March 14, 1810.*

The letter which I had the honor to receive from you under date of 2d January, together with the additional paragraph received on the 24th January, has been laid before the King.

The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you, that it is the sincere desire of His Majesty's Government, on the present occasion, to avoid any discussion which might obstruct the renewal of amicable intercourse between the two countries.

The correspondence between Mr. Jackson and Mr. Smith has been submitted to His Majesty's consideration. His Majesty has commanded me to express his concern that the official communication between His Majesty's minister in America and the Government of the United States should have been interrupted before it was possible for His Majesty, by any interposition of his authority, to manifest his invariable disposition to maintain the relations of amity with the United States.

I am commanded by His Majesty to inform you, that I have received from Mr. Jackson the most positive assurances that it was not his purpose to give offence to the Government of the United States by any expression contained in his letters, or by any part of his conduct.

The expressions and conduct of His Majesty's minister in America having, however, appeared to the Government of the United States to be exceptionable, the usual course in such cases would have been to convey, in the first instance, to His Majesty, a formal complaint against his minister, and to desire such redress as might be deemed suitable to the nature of the alleged offence.

This course of proceeding would have enabled His Majesty to have made such arrangements, or to have offered such seasonable explanations, as might have precluded the inconvenience which must always arise from the suspension of official communication between friendly Powers.

His Majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of States in amity with him, and he has, therefore, been pleased to direct the return of Mr. Jackson to England.

But His Majesty has not marked, with any expression of his displeasure, the conduct of Mr. Jackson, whose integrity, zeal, and ability have long been distinguished in His Majesty's service, and who does not appear, on the present occasion, to have committed any intentional offence against the Government of the United States.

I am commanded to inform you that Mr. Jackson is ordered to deliver over the charge of His Majesty's affairs in America to a person properly qualified to carry on the ordinary intercourse between the two Governments, which His Majesty is sincerely desirous of cultivating on the most friendly terms.

As an additional testimony of this disposition, I am authorized to assure you that His Majesty is ready to receive, with sentiments of undiminished amity and good-will, any communication which the Government of the United States may deem beneficial to the mutual interests of both countries, through any channel of negotiation which may appear advantageous to that Government.

I request you will accept the assurances of the high consideration with which I have the honor to be, sir, your most obedient and humble servant,

WELLESLEY.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, *March 17, 1810.*

I have had the honor to receive your lordship's letter of the 14th instant, in reply to mine of the 2d of January, and will lose no time in transmitting it to my Government.

I have the honor to be, &c.

LORD WELLESLEY, &c. &c.

WM. PINKNEY.

Extract:—Mr. Pinkney to Mr. Smith.

LONDON, *March 27, 1810.*

I have the honor to enclose a copy of Lord Wellesley's reply to my letter of the 7th instant, respecting the British blockades of France before the Berlin decree.

I do not think it of such a nature as to justify an expectation that General Armstrong will be able to make any use of it at Paris, but I shall nevertheless convey to him the substance of it without delay.

[Referred to in Mr. Pinkney's letter of March 27.]

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, *March 26, 1810.*

I have the honor to acknowledge the receipt of your letter of the 7th instant, requesting a further explanation of my letter of the 2d, concerning the blockades of France instituted by Great Britain during the present war, before the 1st day of January, 1807.

The blockade notified by Great Britain in May, 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated that the restrictions which it established rest altogether on the order of council of the 7th of January, 1807; they are comprehended under the more extensive restrictions of that order. No other blockade of the ports of France was instituted by Great Britain between the 16th of May, 1806, and the 7th of January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I beg you to accept the assurances of high consideration, with which I have the honor to be, sir, your most obedient humble servant,

WELLESLEY.

Mr. Pinkney to General Armstrong.

DEAR SIR:

LONDON, *April 6, 1810.*

I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain the recall of the Berlin decree. Certainly, the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an order in council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, and of that of Venice, or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon, *if, indeed, they can be obtained at all*, I will not detain Mr. Lee, but will send you another messenger (Mr. Craig, of Philadelphia,) in the course of three or four weeks, with the result of my endeavors. In the mean time, such use can be made of my communication of the 27th ult. as you may deem advisable.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *April 8, 1810.*

In a short letter of the 2d instant, by Mr. John Wallace, in the British packet, I had the honor to acknowledge the receipt, on the 31st of last month, by Doctor Logan, of your letters of the 20th of January and the 16th February, and to inform you that I had, in consequence, an appointment to meet Lord Wellesley on the 3d.

At the interview which took place in pursuance of that appointment, I explained to Lord Wellesley the nature of the powers now confided to me, and, as far as was necessary, the subjects to which they related. The result of the conversation which ensued was an understanding that we should begin with an attempt to settle the affair of the Chesapeake, and, that attempt being successful, that we should proceed to consider next the subject of the orders in council, and lastly, in the commercial and other concerns embraced by the commission of 1806, to Mr. Monroe and myself.

In conformity with this understanding, it was agreed that I should immediately follow up the conference with a note, stating my authority to adjust with the British Government the case of the Chesapeake; and I have accordingly prepared and sent to Lord Wellesley the letter of which a copy is enclosed. I have not since heard from his lordship, to whom, of course, it now belongs to make proposals.

It will not, I trust, be thought that my letter, which is simply an official notification, in civil terms, of my power to receive and act upon such overtures as this Government may choose to make, goes too far.

I have the honor to be, &c.

WM. PINKNEY.

P. S. April 9th. I have just received from Lord Wellesley a note, of which a copy is enclosed, inviting me to a conference on Thursday next, (the 12th,) doubtless on the affair of the Chesapeake.

I have the honor to be, &c.

WM. PINKNEY.

[Referred to in Mr. Smith's letter of April 8, 1810.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, (without date.)

I have the honor to state to your lordship, in conformity with my verbal explanations in a recent conference, that I am authorized to adjust with His Majesty's Government the case of the attack on the American frigate Chesapeake, in the month of June, 1807, by the British ship the Leopard.

It will give me sincere pleasure to communicate with your lordship, on this interesting subject, in such manner as shall be thought best calculated to lead to a fair and honorable arrangement of it, preparatory to the restoration of kindness and beneficial intercourse between the two countries.

I have the honor to be, &c.

WILLIAM PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, April 9, 1810.

The Marquis Wellesley presents his compliments to Mr. Pinkney, and will be happy to have the honor of seeing him at the Foreign Office on Thursday next, at 2, P. M., if that hour should suit his convenience.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, April 9, 1810.

I have, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French minister's official statement to General Armstrong of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British Government to a revocation (or to a precise declaration that they are no longer in force) of the blockade of May, 1806, and of that of Venice, especially the former. As the answer to this letter (upon which I wish to converse with Lord Wellesley before I deliver it) will not probably be very prompt, I have in the mean time sent Mr. Lee to Paris, with two letters to General Armstrong, of which copies are enclosed.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to General Armstrong.

DEAR SIR:

LONDON, April 6, 1810.

I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain the recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an order in council, issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, and of that of Venice, or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other very soon (*if, indeed, they can be obtained at all*) I will not detain Mr. Lee, but will send you another messenger (Mr. Craig of Philadelphia,) in the course of three or four weeks, with the result of my endeavors.

In the mean time such use can be made of my communication of the 27th ultimo as you may deem advisable.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, May 2, 1810.

I had the honor to inform you, in my letter of the 9th of last month, that I had, upon full reflection, thought it necessary to prepare a letter to Lord Wellesley, reciting the French minister's official statement to General Armstrong of the conditions on which the Berlin decree would be recalled, and inquiring whether there exists any objection on the part of the British Government to a revocation, or to a precise declaration that they are no longer in force, of the blockade of May, 1806, and that of Venice, especially the former.

I have now the honor to transmit a copy of the letter which, in pursuance of that determination, I have just sent to Lord Wellesley. I am not able to say what will be the nature of the answer to it; but if it should be satisfactory, I will lose no time in communicating it to General Armstrong.

I have the honor to be, &c.

WILLIAM PINKNEY.

[Referred to in Mr. Pinkney's letter of May 2, 1810.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, April 30, 1810.

The French Minister for Foreign Affairs has stated, in an official note to General Armstrong, the minister plenipotentiary of the United States at Paris, that "the only condition required for the revocation by the French Government of the decree of Berlin, will be the previous revocation by the British Government of her blockades of France, or part of France (such as that from the Elbe to Brest, &c.) of a date anterior to the date of the aforesaid decree."

I had supposed that the blockades of France, instituted by Great Britain before the date of the Berlin decree, were already withdrawn, virtually, though not formally, by reason of the restrictions which they established having been provided for and comprehended in certain orders in council issued after the date of that decree; and your lordship's letter to me of the 26th of last month certainly seems to confirm that supposition with regard to the blockade of May, 1806, although it proves it to be erroneous with regard to the only other blockade which falls within the description of the French minister's communication, namely, the blockade of Venice established in July of the same year.

As I am anxious to neglect nothing which may have a tendency to produce the repeal of the Berlin decree, and of such other decrees and orders as the Government of the United States has from time to time complained of, I beg to inquire of your lordship, with a view to the terms of the above-mentioned note to General Armstrong, whether there exists any objection on the part of His Majesty's Government to a revocation, or to a declaration that they are no longer in force, of the blockades in question, especially that of May, 1806.

I have the honor to be, &c.

WILLIAM PINKNEY.

The Most Noble the MARQUIS WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, May 3, 1810.

I enclose a copy of a letter which I am about to send to Lord Wellesley, concerning the forgery in England of American ships' papers, for the purpose of giving to English vessels the character of American bottoms.

In conformity with your letter of the 3d of November last, which came to hand on the 10th of January, I mentioned the subject to Lord Wellesley as soon as I thought it expedient to do so. He gave no opinion upon it; but when I observed that it would perhaps be better to lay the matter before him at once in writing, he expressed his approbation of that course. As there is nothing in the subject itself, or in your letter, to forbid it, I shall send him my paper to-day or to-morrow.

I have the honor to be, &c.

WM. PINKNEY.

[Enclosed in Mr. Pinkney's letter of May 3, 1810.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, May 3, 1810.

I have the honor to call your lordship's attention, in pursuance of the instructions of my Government, to a practice which has for some time past prevailed in this country of forging American ships' papers, for the purpose of giving to English vessels the character of American bottoms.

It appears, from various sources of information, that these fabrications are carried to a great extent, particularly in London, and that the fraudulent papers are purchased as a regular article of traffic, and used in numerous instances, so as to bring into suspicion the genuine documents on which the safety of American commerce depends, and to subject that commerce to serious vexation and loss.

I am confident, my lord, that it is only necessary to suggest to His Majesty's Government the existence of these abuses, so injurious to the United States, and so pernicious in their general tendency, to induce it to cause immediate inquiry to be made, with a view to an efficacious remedy. I have, therefore, only to add, that I am in possession of some papers which throw considerable light on the subject, and which (with such other information as I have obtained or may obtain) I shall be happy to communicate to your lordship whenever your lordship thinks proper.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, May 18, 1810.

I have the honor to enclose a copy of a communication, made to me on the 14th instant by Lord Wellesley, concerning a partial relaxation of the blockade, notified some time ago, of the coast and ports of Spain, between Gijon and the French territory.

I have the honor to be, &c.

WM. PINKNEY.

[Referred to in Mr. Pinkney's letter of May 18.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, May 14, 1810.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, has received His Majesty's commands to inform Mr. Pinkney, that the King has judged it expedient to signify his orders to the Lords Commissioners of the Admiralty to give the necessary directions to the officers employed in the blockade of the coast and ports of Spain from Gijon to the French territory, that they permit, notwithstanding the said blockade, Spanish or neutral vessels laden with cargoes, the produce of Spain only, to sail from any port included in the limits of said blockade, subject, nevertheless, (as to the ports to which they trade,) to the restrictions of His Majesty's orders in council of the 26th of April, 1809, and of the 7th of January, 1807.

The undersigned requests Mr. Pinkney to accept assurances of his high consideration.

WELLESLEY.

Mr. Smith, Secretary of State, to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, May 22, 1810.

Your despatch of the 27th of March, by the British packet, was received on the 17th of this month.

The President has read with surprise and regret the answer of Lord Wellesley to your letter of the 2d January, and also his reply to your note requiring explanations with respect to the blockade of France. The one indicates an apparent indifference as to the character of the diplomatic intercourse between the two countries, and the other evinces an inflexible determination to persevere in their system of blockade.

The provision made for the diplomatic agency which is to succeed that of Mr. Jackson, manifests a dissatisfaction at the step necessarily taken here with regard to that minister, and at the same time a diminution of the respect heretofore attached to the diplomatic relations between the two countries. However persevering the President

may be in the conciliatory disposition which has constantly governed him, he cannot be inattentive to such an apparent departure from it on the other side, nor to the duty imposed on him by the rules of equality and reciprocity applicable in such cases. It will be very agreeable to him to find that the provision in question is intended merely to afford time for a satisfactory choice of a plenipotentiary, successor to Mr. Jackson, and that the mode of carrying it into effect may be equally unexceptionable. But whilst, from the language of the Marquis Wellesley with respect to the designation of a chargé d'affaires, and from the silence as to any other successor to the recalled minister, it is left to be inferred that the former alone is in contemplation, it becomes proper to ascertain what are the real views of the British Government on the occasion; and, should they be such as they are inferred to be, to meet them by a correspondent change in the diplomatic establishment of the United States at London. The President relies on your discretion for obtaining the requisite knowledge of this subject in a manner that will do justice to the friendly policy which the United States wish to be reciprocal in every instance between the two nations. But in the event of its appearing that the substitution of a chargé d'affaires for a minister plenipotentiary is to be of a continuance not required or explained by the occasion, and consequently justifying the inference drawn from the letter of Lord Wellesley, the respect which the United States owe to themselves will require that you return to the United States, according to the permission hereby given by the President, leaving charged with the business of the legation such person as you may deem most fit for the trust. With this view, a commission, as required by a statute of the last session, is herewith enclosed, with a blank for a secretary of legation. But this step you will not consider yourself as instructed to take in case you should have commenced, with a prospect of a satisfactory result, the negotiation authorized by my letter of the 20th January.

In a letter of the 4th of this month I transmitted to you a copy of the act of Congress at their last session concerning the commercial intercourse between the United States, and Great Britain and France. You will herewith receive another copy of the same act. In the fourth section of this statute you will perceive a new modification of the policy of the United States, and you will let it be understood by the British Government that this provision will be duly carried into effect on the part of the United States.

A satisfactory adjustment of the affair of the Chesapeake is very desirable. The views of the President upon this delicate subject, you may collect, not only from the instructions heretofore given to you, but from the sentiments that had been manifested on the part of this Government in the discussion with Mr. Rose, and from the terms and conditions contained in the arrangement made with Mr. Erskine. And conformably with these views, thus to be collected, you will consider yourself hereby instructed to negotiate and conclude an arrangement with the British Government in relation to the attack on the frigate Chesapeake.

I have the honor to be, &c.

R. SMITH.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, June 13, 1810.

I have not yet obtained from Lord Wellesley an answer to my letter of the 30th of April, concerning the British blockades of France before the date of the Berlin decree. In a short conference on Sunday last, (the 10th instant,) I pressed for a prompt and favorable reply, and shall perhaps receive it in the course of a few days. I had requested an interview on this subject on the 18th of last month, in consequence of a letter brought by Mr. Lee from General Armstrong, dated the 2d of May; but the state of Lord Wellesley's health prevented its taking place sooner than the 10th instant.

I have sent Mr. Craig (a young gentleman from Philadelphia) as a messenger to General Armstrong. He carries a newspaper copy of the late act of Congress respecting commercial intercourse.

I have prepared an official letter to you on the affair of the Chesapeake; but, as Mr. Erving leaves town for Liverpool in the morning, there is not time to copy it. It shall be forwarded, however, by Mr. Morier, who is about to sail in the British frigate Venus for New York; or sent to Liverpool to the care of Mr. Maury. In the mean time, it will be sufficient to state to you that I am expecting every day Lord Wellesley's written overture in that affair, and that, in our conferences, which resulted in an understanding that he would make such an overture, no objection was made by him to an engagement to restore the men to the ship from which they were forcibly taken, without the offensive reservation prescribed to Mr. Rose and Mr. Erskine, and contained in Mr. Jackson's project; to offer a suitable provision, without any reservation, for the families of the sufferers, as a part of the terms of satisfaction; to forbear all reference, in the papers leading to or containing the arrangement, to the President's proclamation, or to any thing connected with it; to adopt in those papers a style and manner not only respectful but kind to our Government; to recite in them (as in Mr. Erskine's letter to you in April, 1809,) that Admiral Berkeley had been promptly disavowed, and, as a mark of His Britannic Majesty's displeasure, recalled from an important command. I have met, on this occasion, with nothing of a discouraging nature, except on the impracticable point of the trial and punishment of the offending officer. On that point it is impossible to prevail; but there will be no objection to my declaring, in a reply to the overture, the expectation of the American Government, that the officer shall be tried and punished, or to a rejoinder, (if I wish it) on the part of Lord Wellesley, suggesting in a friendly way the reasons for not fulfilling that expectation.

Mr. Pinkney to Mr. Smith.

LONDON, June 26, 1810.

SIR:

Lord Wellesley's answer to my letter of the 30th of April, concerning the British blockades of France anterior to the Berlin decree being still delayed, I have sent him the letter of the 23d instant, of which a copy is now transmitted.

I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's letter of June 26, 1810.]

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE, June 23, 1810.

MY LORD:

I beg to recall your lordship's attention to the subject of the letter which I had the honor to address to you on the 30th of April last, concerning the British blockades of France anterior to the Berlin decree.

My Government expects from me a communication on that subject; and your lordship will, I am sure, take pleasure in enabling me, with as little delay as possible, to fulfil that expectation in a satisfactory manner.

I feel confident, that, after the declaration of France, which I had the honor to state to your lordship in that letter, and to mention in conference before and since its date, there will be no difficulty on the part of His Majesty's Government in revoking these blockades, or declaring that they are no longer in existence.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, July 1, 1810.

SIR:

I have this day had the honor to receive your letter of the 23d [22d] of May, by Mr. Parish, and have sent a note to Lord Wellesley, requesting an interview; he is out of town, but will return to-night or in the morning. The instructions contained in your letter concerning the inequality, supposed to be intended by this Government in the state of our diplomatic relations, shall be executed with the discretion which undoubtedly they require; and I am persuaded that the result will be perfectly satisfactory to the President. In the mean time, I think I can undertake to assure you that no change has taken place in the opinion of Lord Wellesley, as announced in my private letter to you of the 4th of January, that a minister plenipotentiary of rank should be sent to the United States. Certainly, no idea has been entertained here of a permanent or long-continued chargé d'affaires. It could only be intended to send one in the first instance; and I have reason to be confident that for some time past it has been in agitation to appoint a minister plenipotentiary without delay; that Lord Wellesley has, in fact, thought of and mentioned a person; and that Mr. Morier's departure has been put off in consequence.

In the case of the Chesapeake I have already stated to you that I think there will be no difficulty, if the further punishment of Berkeley is not made on our part a *sine qua non*. Your instructions are very clear, that this is not to be peremptorily insisted on.

I have nothing to add to my communication of the 26th ultimo, concerning the British blockades of France before the Berlin decree, except that I mean to press Lord Wellesley on that subject at our next interview as I did at our last. I shall not fail, at the same time, to draw his attention to the orders in council and the intercourse act.

I need scarcely say that, if events should make it proper for me, in obedience to the President's commands, to return to America, (leaving a chargé d'affaires) I shall lose no time in doing so.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

ROBERT SMITH, Esq. &c. &c.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE, July 2, 1810.

SIR:

Your several letters of the 8th and 9th April, and 2d and 3d of May, have been received.

Whilst it was not known, on the one hand, how far the French Government would adhere to the apparent import of the condition, as first communicated, on which the Berlin decree would be revoked, and, on the other hand, what explanations would be given by the British Government with respect to its blockades prior to that decree, the course deemed proper to be taken was that pointed out in my letter to you of the 11th of November, and in that to General Armstrong of the 1st of December. The precise and formal declaration since made by the French Government, that the condition was limited to the blockades of France, or parts of France, of a date prior to the date of the Berlin decree, and the acknowledgment by the British Government of the existence of such blockades, particularly that of May, 1806, with a failure to revoke it, or even to admit the constructive extinguishment of it, held out in your letter to the Marquis Wellesley, give to the subject a new aspect and a decided character.

As the British Government had constantly alleged that the Berlin decree was the original aggression on our neutral commerce, that her orders in council were but a retaliation on that decree, and had, moreover, on that ground, asserted an obligation on the United States to take effectual measures against the decree as a preliminary to a repeal of the orders, nothing could be more reasonable than to expect that the condition, in the shape last presented, would be readily accepted. The President is therefore equally disappointed and dissatisfied at the abrogation of your correspondence with Lord Wellesley on this important subject. He entirely approves the determination you took to resume it with a view to the special and immediate obligation lying on the British Government to cancel the illegal blockades; and you are instructed, in case the answer to your letter of the 30th April should not be satisfactory, to represent to the British Government in terms, temperate but explicit, that the United States consider themselves authorized by strict and unquestionable right, as well as supported by the principles heretofore applied by Great Britain to the case, in claiming and expecting a revocation of the illegal blockades of France of a date prior to that of the Berlin decree, as preparatory to a further demand of the revocation of that decree.

It ought not to be presumed that the British Government, in reply to such a representation, will contend that a blockade like that of May, 1806, from the Elbe to Brest, a coast of not less than one thousand miles, proclaimed four years since, without having been at any time attempted to be duly executed by the application of a naval force, is a blockade conformable to the law of nations, and consistent with neutral rights. Such a pretext is completely barred not only by the unanimous authorities both of writers and of treaties on this point, not excepting even British treaties; but by the rule of blockade communicated by that Government to this in the year 1804, in which it is laid down, that orders had been given not to consider any blockade of those islands (Martinique and Guadeloupe,) as existing, unless in respect of particular ports which may be actually invested, and then not to capture vessels bound to such ports unless they shall previously have been warned not to enter them, and that they (the Lords of the Admiralty) had also sent the necessary directions on the subject to the Judges of the Vice-Admiralty Courts in the West Indies and America. In this communication it is expressly stated that the rule to the British courts and cruisers was furnished in consequence of the representations made by the Government of the United States against blockades, not unlike that now in question, and with the express view of redressing the grievance complained of. Nor ought it to be presumed that the British Government will finally resort to the plea that her naval force, although unapplied, is adequate to the enforcement of the blockade of May, 1806; and that this forms

a legal distinction between that and the Berlin decree of November following. Were it admitted that an adequate force existed, and was applicable to such a purpose, the absurdity of confounding the power to do a thing with the actually doing of it speaks for itself. In the present case the absurdity is peculiarly striking. A port blockaded by sea, without a ship near it, being a contradiction in terms as well as a perversion of law and of common sense.

From the language of Lord Wellesley's two letters it is possible he may endeavor to evade the measure required by subtle comments on the posture given to the blockade of May, 1806, by the succeeding orders of 1807. But even here he is met by the case of the blockade of Copenhagen and the other ports of Zealand in the year 1808; at a time when these, with all Danish ports, were embraced by those very orders of 1807; a proof that, however the orders and blockades may be regarded as in some respects the same, they are regarded in others as having a distinct operation, and may, consequently, co-exist without being absolutely merged in or superseded the one by the other.

In the difficulty which the British Government must feel in finding a gloss for the extravagant principle of her paper blockades, it may perhaps wish to infer an acquiescence on the part of this Government from the silence under which they have, in some instances, passed. Should a disposition to draw such an inference show itself, you will be able to meet it by an appeal, not only to the successful remonstrance in the letter to Mr. Thornton above cited, but to the answer given to Mr. Merry of June, 1806, to the notification of a blockade in the year 1806, as a precise and authentic record of the light in which such blockades and the notification of them were viewed by the United States. Copies of the answer have been heretofore forwarded, and another is now enclosed as an additional precaution against miscarriage.

Whatever may be the answer to the representation and requisition which you are instructed to make, you will transmit it without delay to this Department. Should it be of a satisfactory nature, you will hasten to forward it also to the diplomatic functionary of the United States at Paris, who will be instructed to make a proper use of it for obtaining a repeal of the French decree of Berlin, and to proceed concurrently with you in bringing about successive removals by the two Governments of all their predatory edicts. I avail myself of this occasion to state to you, that it is deemed of great importance that our ministers at foreign courts, and especially at Paris and London, should be kept, the one by the other informed of the state of our affairs at each.

I have the honor to be, &c.

R. SMITH.

WILLIAM PINKNEY, Esq. &c.

[Referred to in the letter of Mr. Pinkney of September 21, 1810.]

Mr. Madison to Mr. Thornton, Chargé des Affaires of His Britannic Majesty.

SIR:

DEPARTMENT OF STATE, October 27, 1803.

The letters, of which copies are enclosed, were received last evening. One of them is from the British Consul General at New York; the other, a copy enclosed therein, of a letter to him from Commodore Hood, Commander-in-chief of His Britannic Majesty's ships of war on a West India station. The letter bears date of the 25th of July last, and requests that the American Government, and agents of neutral nations, might be made acquainted that the islands of Martinique and Guadeloupe are, and have been, blockaded from the 17th of June preceding, by detachments from the squadron under his command, in order that there may be no plea for attempting to enter the ports of the islands.

It will, without doubt, occur to you, sir, that such a communication would have been more properly made through another channel, than directly from the consulate at New York. The importance and urgency of the subject, however, supersede the consideration of forms, and I lose no time in communicating to you the observations which the President deems it to require.

It will not escape your attention, that Commodore Hood's letter is dated no less than three months before it could have the effect of a notification; and that, besides this remarkable delay, the alleged blockade is computed from a date more than one month prior to that of the letter itself. But those circumstances, however important they may be, do not constitute the main objection to the proceeding of the British commander. His letter, instead of stating that a particular port or ports were blockaded by a force actually before them, declares, generally, two entire and considerable islands to be in a state of blockade. It can never be admitted that the trade of a neutral nation, in articles not contraband, can be legally obstructed to any place not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is, perhaps, more clear on no other point than that of a siege or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term used in defining the case, imports the presence and position of a force rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation who treats with precision this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force, so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the fourth article of the convention of June, 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "of setting an invariable determination of their principles, upon the rights of neutrality," must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following: "That in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the dispositions of the Power which attacks it with ships stationary or sufficiently near, an evident danger of entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade declared by Commodore Hood, with the principle laid down concerning the rights of neutrality, or on the consequences of the principle on which a blockade of whole islands, by a few ships, is founded, to the commerce and interests of neutral nations. If the islands of Martinique and Guadeloupe, the latter not less than two hundred and fifty, and the former nearly one hundred and fifty miles in circumference, and each containing a variety of ports, can be blockaded by detachments from a commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word, such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by officers, at a distance from the control of their Government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, sir, from these observations, the

serious light in which the President regards the proceeding, which is the subject of them, and will perceive the grounds on which the injuries accruing from it to our commerce, will constitute just claims of indemnification from the British Government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort, which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motives with you to employ the interpositions with Commodore Hood which you may judge best adapted to the nature of the case.

I have the honor to be, &c.

EDWARD THORNTON, Esq.

JAMES MADISON.

Mr. Smith to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, July 5, 1810.

Your last communications having afforded so little ground for expecting that the British Government will have yielded to the call on it to originate the annulment of the belligerent edicts against our lawful commerce, by cancelling the spurious blockade of May, 1806, (the first in the series,) it became a duty particularly incumbent upon us to press the other experiment held out in the late act of Congress, another copy of which is herewith sent. You will accordingly make that act, and the disposition of the President to give it effect, the subject of a formal communication.

The British Government ought not to be insensible of the tendency of superadding to a refusal of the course proposed by France for mutually abolishing the predatory edicts, a refusal of the invitation held out by Congress; and it ought to find, in that consideration, a sufficient inducement to a prompt and cordial concurrence. The British Government must be conscious, also, of its having repeatedly stated that the acquiescence by the United States in the decrees of France was the only justification of its orders against our neutral commerce. The sincerity and consistency of Great Britain being now brought to the test, an opportunity is afforded to evince the existence of both. It may be added, that the form in which it is prescribed is as conciliatory as the proposal itself is unexceptionable.

As the act of Congress repealing the late restrictions on the commerce of the United States with the two belligerents must be unequal in its operation, in case Great Britain should continue to interrupt it with France, inasmuch as France is unable to interrupt it materially with her, the British Government may feel a temptation to decline a course which might put an end to this advantage. But if the unworthiness and unfriendliness of such a purpose should not divert her from it, she ought not to overlook either the opportunity afforded her enemy of retorting the inequality, by a previous compliance with the act of Congress, or the necessity to which the United States may be driven by such an abuse of their amicable advances, to resume, under new impressions, the subject of their foreign relations.

If the British Government should be disposed to meet, in a favorable manner, the arrangement tendered, and should ask for explanations as to the extent of the repeal of the French decrees, which will be required, your answer will be as obvious as it must be satisfactory. The repeal must embrace every part of the French decrees which violate the neutral rights guaranteed to us by the law of nations. Whatever parts of the decrees may not have this effect, as we have no right as a neutral nation to demand a recall of them, Great Britain can have no pretext, as a belligerent nation, to urge the demand. If there be parts of the decrees liable to objections of another kind, it lies with the United States alone to decide on the mode of proceeding with respect to them.

In explaining the extent of the repeal which, on the British side, is required, you will be guided by the same principle. You will accordingly let it be distinctly understood, that it must necessarily include an annulment of the blockade of May, 1806, which has been avowed to be comprehended in, and identified with, the orders in council, and which is palpably at variance with the law of nations. This is the explanation which will be given to the French Government on this point by our minister at Paris, in case it should there be required.

But there are plain and powerful reasons why the British Government ought to revoke every other blockade resting on proclamations, or diplomatic notifications, and not on the actual application of a naval force adequate to a real blockade.

1st. This comprehensive redress is equally due from the British Government to its professed respect for the law of nations, and to the just claims of a friendly Power.

2d. Without this enlightened precaution, it is probable, and may indeed be inferred from the letter of the Duke of Cadore to General Armstrong, that the French Government will draw Great Britain and the United States to issue on the legality of such blockades, by acceding to the act of Congress, with a condition that a repeal of the blockades shall accompany a repeal of the orders in council, alleging that the orders and blockades, differing little, if at all, otherwise than in name, a repeal of the former, leaving in operation the latter, would be a mere illusion.

3d. If it were even to happen that a mutual repeal of the orders and decrees could be brought about without involving the subject of blockades, and with a continuance of the blockades in operation, how could the United States be expected to forbear an immediate call for their annulment? or how long would it probably be before an appeal by France to the neutral law of impartiality would bring up the same question between the United States and Great Britain? And from whatever circumstances the issue on it may arise, the impossibility of maintaining the British side, with even a color of right or consistency, may be seen in the view taken of the subject in the correspondence with Mr. Thornton and Mr. Merry, already in your hands.

If the British Government should accede to the overture contained in the act of Congress, by repealing or so modifying its edicts as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to General Armstrong, and, if necessary, by a special messenger, and you will hasten to transmit it also to this Department.

With great respect, &c.

WILLIAM PINKNEY, Esq.

R. SMITH.

Mr. Smith to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, July 17, 1810.

You will herewith receive duplicates of my letters to you of the 13th, 16th, and 30th June, and 2d and 5th of July.

This despatch you will receive from Lieutenant Spence of the navy, who is to proceed from New York in the sloop of war the Hornet. This public vessel has been ordered to England and to France, not only for the purpose of transmitting despatches to you, and to our functionary at Paris, but for the further purpose of affording you,

as well as him, a safe opportunity of conveying to this Department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the Governments of England and France. And with a view to ensure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the 1st day of October next. With respect, therefore, to the time you will detain Mr. Spence in London, you will be influenced by the information which you may receive from him as to the orders he may have from the commanding officer of the Hornet.

I have the honor to be, &c.

R. SMITH.

WILLIAM PINKNEY, Esq.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, July 23, 1810.

I followed up the conversation with Lord Wellesley, mentioned in my letter of the 6th instant, with a short note, of which a copy is enclosed, requesting information concerning the intention of this Government, to send a minister plenipotentiary, without delay, to the United States, as the successor of Mr. Jackson.

Reflection seems to have suggested to Lord Wellesley some objections, which did not occur in the course of our conference, to giving this information in an official manner.

I was aware of this on Saturday last, but was not willing to forego a written communication on a matter which had taken a character of some delicacy and importance.

Lord Wellesley has endeavored to avoid his own difficulty and mine, by sending me the letter (marked "private") of which I have now the honor to transmit a copy.

As this letter is in conformity with his verbal assurances in conference, and appears to leave no reasonable doubt upon the point to which it relates, I do not suppose that I can properly undertake to question its sufficiency, either by pressing for a more formal communication, or by taking the step which your instructions of the 23d of May, in certain circumstances, prescribe to me.

I still believe that the affair of the Chesapeake will very soon be brought to a conclusion.

I have the honor to acknowledge the receipt (on the 21st instant, by Mr. Henry Izard,) of your letters of 18th and 16th of last month; and I take this opportunity to thank you for the private letter of the 5th ultimo, received at the same time.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

The Hon. ROBERT SMITH, &c.

[Enclosed in Mr. Pinkney's despatch of July 23.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, July 7, 1810.

In pursuance of the conversation which I had the honor to hold with your lordship on the 6th instant, I take the liberty to request information, which I am sure will be readily given, concerning the intention of His Majesty's Government to send a minister plenipotentiary to the United States, as the successor of Mr. Jackson.

I have no doubt that it is intended to send such a successor without delay, as one of the means of restoring and maintaining the friendly relation of the two countries; but I shall, nevertheless, be glad to be authorized by your lordship to make a communication to that effect to my Government.

I have the honor to be, with high consideration, my lord, your lordship's most obedient, humble servant,

WILLIAM PINKNEY.

The Most Noble the MARQUIS WELLESLEY, &c.

[Referred to in Mr. Pinkney's despatch of July 23.]

(Private.)

Lord Wellesley to Mr. Pinkney.

SIR:

APSLEY HOUSE, July 22, 1810.

I think it may be difficult to enter upon the subject of your last note, (respecting the diplomatic rank of our minister in America,) in any official form.

But I have no difficulty in assuring you, that it is my intention immediately to recommend the appointment of an envoy extraordinary and minister plenipotentiary from the King to the United States.

I have the honor to be, with great respect and esteem, sir, your most obedient, humble servant,

WELLESLEY.

WILLIAM PINKNEY, Esq. &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, August 14, 1810.

As Lord Wellesley still withheld his long expected answer to my note of the 30th of April, respecting the British blockades anterior to the Berlin decree, and his written overture in the case of the Chesapeake, I sent him on the 8th instant a letter, of which a copy is enclosed. No importunity had before been spared which it became me to use.

I need not trouble you with comments on the obvious unwillingness of this Government to touch the first mentioned subject, or any thing connected with its principles and practice respecting blockades, or with the system of the orders in council. Justice and policy both invite it to give the declaration which I have required; and certainly nothing has been omitted on my part to induce it to take that course. I fear, however, that the declaration will be declined, unless, indeed, Lord Wellesley should continue to evade my application, by returning no answer to it—a new practice, I think, which, little to be commended as it is, must, I presume, if persisted in here, be reciprocated in America.

It is truly surprising that, in the case of the Chesapeake, there should be the same backwardness. I can conjecture no motive for this hesitation to propose, in writing, terms arranged in conference between Lord Wellesley

and my self, in an affair which it is the manifest interest of England to settle as soon as possible. It is now almost six weeks since Lord Wellesley last assured me (as he had before more than once assured me) that he would put me in possession of his formal overture in this case *immediately*. He knows that you have been made officially acquainted with that assurance; for I thought it advisable to submit to his perusal before it was transmitted (for the purpose principally of avoiding misunderstandings) my short letter to you of the 6th of last month, which states, that "in the business of the Chesapeake, he will write to me in a few days;" and further, that in that business "I do not expect any difficulty."

There can be no misconception as to the *terms* to be offered; for, besides that they were stated with great precision in the conference alluded to in my letter to you of the 6th ultimo, as well as in several antecedent interviews, I wrote Lord Wellesley, the day after that conference, a *private* note, of which a copy is now transmitted, enclosing a memorandum in pencil of the terms which (exclusive of any further mark of displeasure to Admiral Berkeley, very decidedly discouraged by Lord Wellesley) "had been spoken of in our different conversations as fit to be proposed." I do not find that I retained any copy of the memorandum in pencil; but the terms (agreeing in substance with those to which I informed you, in my letter of the 13th of June last, Lord Wellesley had no objection,) were to this effect:

1st. The overture to contain such a recital, or statement, as is found in Mr. Erskine's letter to you of the 17th April, 1809, of the prompt disavowal, by His Britannic Majesty, of the unauthorized act of his naval officer, whose recall, as a mark of the King's displeasure, from a highly important and honorable command, immediately ensued.

2d. To offer *without any reservation* the restoration of the men *to the ships from which they were forcibly taken*.

3d. To offer *without any reservation, and as a part of the terms of the international adjustment*, a suitable pecuniary provision for the families of the persons slain in the attack, and for the wounded survivors.

It was moreover understood, that the paper proffering these terms would not contain the allusions which have heretofore occasioned embarrassment; that the whole affair would be made to take the most friendly character; and that I should be at liberty to express in my reply to the overture, if I thought fit, the expectation of my Government as to the further punishment of Admiral Berkeley.

I ought to add that, in all my conversations with Lord Wellesley on the case of the Chesapeake, he has shown not only a disposition but a wish to accommodate it, and that I am, therefore, the more astonished at the delay which has taken place.

In a few days I intend to renew my efforts to bring this matter to a conclusion, and to obtain an answer of some sort to my letter of the 30th of April. I am sufficiently inclined to present a strong paper upon both subjects; but in the actual posture of affairs, and in the absence of such instructions from you as would countenance such a step, I think it my duty to forbear a little longer.

It is not impossible that Lord Wellesley's backwardness to close the case of the Chesapeake with me, may arise from a desire that it should be adjusted in America through the new minister. If this were so, however, he could have no inducement to conceal it from me, since he is aware that I have always entertained the same desire.

When I see him I will advert to this. I am not yet able to say positively who the new minister will be. Lord _____ and some others are spoken of. Lord Wellesley has given me no other written information on the subject than is contained in his letter of the 22d ultimo, already communicated to you. His verbal information has been of the same effect, with this addition, that he retained his opinion (mentioned in my unofficial letter to you of the 4th of January last,) that the minister to America ought to be a man of rank. As far as may be prudent, I shall not fail to do all that is in my power to expedite the appointment.

The letter from General Armstrong, to which my letter of the 8th instant Lord Wellesley alludes, is dated the 24th of July; and expresses his wish that the declaration of the British Government concerning the blockades may be obtained and forwarded without delay.

I have the honor, &c.

WILLIAM PINKNEY.

The Hon. ROBERT SMITH, &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, August 18, 1810.

I enclose the Times newspaper of this morning, containing a copy of a French decree of the 5th instant, and of a letter of the same date from the French Minister for Foreign Affairs to General Armstrong. The last is a most important paper, of which I hope to receive, without delay, an official communication.

I have the honor to be, &c.

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, August 21, 1810.

I have just received a communication from General Armstrong, dated the 6th instant, announcing the absolute revocation of the Berlin and Milan decrees, and have, in consequence, sent a note to Lord Wellesley, requesting to see him. Lord Wellesley is out of town, but will, it is said, return to-night or to-morrow morning.

General Armstrong has not transmitted any copy of the official notice mentioned in his letter; but, I presume, it is the same with that published in the *Moniteur* of the 9th, of which I am in possession, and with which the quotation in General Armstrong's letter agrees.

I do not know whether his construction of that document will be thought here to be liable to any objections. I think it impossible, however, that, upon any interpretation of it, this Government can hesitate to repeal its orders in council.

A copy of General Armstrong's letter to me is enclosed.

I have the honor to be, &c.

WILLIAM PINKNEY.

[Enclosed in the preceding letter.]

Copy of General Armstrong's letter to Mr. Pinkney.

SIR:

PARIS, August 6, 1810.

I have the honor to inform you that His Majesty, the Emperor and King, has been pleased to revoke his decrees of Berlin and Milan. Of this interesting fact I had this morning a written and official notice in the fol-

lowing words, viz: "Je suis autorisé à vous déclarer, monsieur, que les décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre ils cesseront d'avoir leur effet."*

Sincerely hoping that you may be able to turn this circumstance to some useful account, I forward it per triplicate.

I am, sir, with very great respect, your most obedient and very humble servant,

JOHN ARMSTRONG.

His Excellency WILLIAM PINKNEY, *London*.

[* TRANSLATION.]

I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect.

[This note was received at the Department of State on the 11th November.]

[Referred to in Mr. Pinkney's despatch of 21st August, 1810.]

General Armstrong to Mr. Pinkney.

SIR:

PARIS, August 7, 1810.

I hazarded a line or two yesterday, by the way of Morlaix, merely to inform you that the imperial decrees of Berlin and Milan were at last given up. I now send you, by a more direct conveyance, a copy of the Duke of Cadore's letter to me of the 5th instant.

And am, sir, with very great respect, &c.

JOHN ARMSTRONG.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, Friday, August 24, 1810.

I transmit a copy of my answer, formed upon your recent instructions to Lord Wellesley's notification of the blockade of Corfu. Is it not worthy of reflection, whether an attempt to blockade an entire sea like the Adriatic should not be protested against, whatever may be the force employed in closing the passage to it?

[Referred to in Mr. Pinkney's despatch of August 24.]

From Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, August 21, 1810.

I have had the honor to receive your official note of the 18th instant, communicating the resolution of the British Government to establish a blockade of the canal of Corfu, and shall not fail to transmit a copy of it, with as little delay as possible, to the Secretary of State of the United States.

In the mean time I take the liberty, in pursuance of the sentiments of the President heretofore signified to me, to observe to your lordship that, as a blockade essentially implies a force on the spot for the purpose, and as the notification required in the case must be a warning to neutral traders of the fact that a blockade exists, the communication which your lordship has made to me derives its title to the acknowledgments of the United States from the supposition that it was meant as a friendly premonition, which, though imposing of itself no legal restraint on neutrals, nor inducing any penal consequences, might usefully influence the course of their mercantile expeditions. In this sense the communication will be received by the President, as a mark of that friendly attention which ought, in all cases, to be reciprocally maintained; and in this sense the President will be the more disposed to regard the communication, as a different one would contradict the definition of a blockade, and of the requisite notification thereof, contained in the orders of the British Government to Commodore Hood and the Judges of the Vice-Admiralty Courts, as communicated to the American Government by Mr. Merry, on the 12th of April, 1804.

I have the honor to be, &c.

WM. PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY, &c. &c.

[Referred to in Mr. Pinkney's letter of September 3, 1810.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, August 25, 1810.

I have the honor to state to your lordship that I have received from General Armstrong, minister plenipotentiary of the United States at Paris, a letter, bearing date the 6th instant, in which he informs me that the Government of France has revoked the decrees of Berlin and Milan, and that he has received a written and official notice of that fact in the following words: "Je suis autorisé à vous déclarer, monsieur, que les décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre ils cesseront d'avoir leur effet."

I take for granted that the revocation of the British orders in council of January and November, 1807, and April, 1809, and of all other orders dependent upon, analogous to, or in execution of them, will follow of course; and I shall hope to be enabled by your lordship, with as little delay as possible, to announce to my Government that such revocation has taken place.

I have the honor to be, &c.

WM. PINKNEY.

The Most Noble the MARQUIS WELLESLEY, &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, August 29, 1810.

I dined yesterday with Lord Wellesley, and found that he had only returned to town in the morning. He still complained of indisposition, but it certainly could not be considered as unfitting him for business. In a short conversation before dinner, he told me that my note respecting the Berlin and Milan decrees should be mentioned to his colleagues to-day, and that I should have an immediate answer; that the affair of the Chesapeake "would be settled to my satisfaction;" that he believed he should recommend to the King the appointment of a minister plenipotentiary to the United States either this week or the next; that he had two persons in his eye, (both men of high rank,) but that he could not with propriety name them to me at present. As far as the opportunity permitted, I urged promptitude on all these subjects as indispensable, and expressed my confidence that they would be disposed of in season for the approaching meeting of Congress.

You perceive that, notwithstanding past promises, nothing has yet been done, and that there is no security that we shall have any thing but promises. I am truly disgusted with this; and would, if I followed my own inclination, put a speedy end to it. It is better, however, to do nothing of an irritating nature, until this Government has had full time to act upon my note of the 25th. Even if it should decline to repeal the orders in council (which I am told is quite possible) a moderate course on my part will have the recommendation of putting it more clearly in the wrong.

If it *should* decline to repeal, the President may be assured that I will not fail to present such a paper as conduct so extraordinary will demand; and, if further delays are effected, that I shall remonstrate in very decided terms.

I have the honor to be, &c.

WM. PINKNEY.

HON. ROBERT SMITH.

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, August 31, 1810.

I have the honor to acknowledge the receipt of your letter under date the 25th inst.

On the 23d of February, 1808, His Majesty's minister in America declared to the Government of the United States "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary."

I am commanded by His Majesty to repeat that declaration, and to assure you that whenever the repeal of the French decrees shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, September 3, 1810.

Lord Wellesley sent me his answer yesterday to my note of the 25th ultimo, respecting the Berlin and Milan decrees. I hasten to transmit a copy of it. A copy shall be sent without delay to General Armstrong.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Armstrong.

SIR:

LONDON, September 3, 1810.

I received yesterday from Lord Wellesley, an answer, dated the 31st of last month, to my note of the 25th, in which I communicated to him the purport of your letter to me of the 6th, respecting the Berlin and Milan decrees; and I hasten to put you in possession (by a special messenger) of a copy of each of those papers, to be used according to your discretion.

It is extremely desirable that I should have, without loss of time, the benefit of such reflections upon this answer as you may be disposed to favor me with, and of such information, calculated to regulate my course with regard to it, as your local position may enable you to furnish.

Your letters of the 6th and 7th ultimo concur in representing (with perfect propriety, I think,) that the revocation of the Berlin and Milan decrees is to take effect *absolutely* after the 1st of November, and I have so put it to the British Government. You will let me know if any error (which I do not in the least suspect) has been discovered in this representation, or if it is necessary that the subject should be brought before this Government in any other form than that which, looking to your representation, I have chosen.

You will perceive that the pledge contained in Lord Wellesley's answer is referred to the period when the repeal of the French edicts shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which those edicts found it. In case there is nothing equivocal in these last expressions, the pledge is, I presume, sufficient for the present, if the recall of the French decrees does not depend on a condition precedent, as some have supposed. If, on the other hand, it is understood that, before the French repeal is to take effect, namely, before the 1st or 2d of November, Great Britain must revoke her orders in council, so that the orders shall cease to operate at the same moment with the decrees; or, if it is understood that the British blockades, to which France objects, (that of May, 1806, for example) must be recalled, or declared not to be in force, before the same period; then, undoubtedly, the pledge is nothing. If the pledge is sufficient, we have only to let the matter rest until November. If it is insufficient, I cannot be too soon employed in taking a new course.

I ought to mention, however, that I am now preparing a note to Lord Wellesley, to be presented in a few days, concerning the blockades. This step is proper, and, I think, indispensable, whether the revocation of the decrees of France depends upon those blockades being put out of the way or not.

Begging you to let me hear from you as soon as convenient,

I am, sir, with great respect and consideration, your most obedient, humble servant,

WILLIAM PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *September 4, 1810.*

I have just received your letters by Lieutenant Spence. Their dates are as follows; 17th July, 1810; 5th July, (original and duplicate); 2d July, (original and duplicate); 30th June, (original and duplicate); 16th June, (duplicate; the original had been received before); 13th June, (duplicate, the original had already been received.)

I have only time to add, that the repeal of the French decrees (as communicated to me by General Armstrong,) and the reply of Lord Wellesley of the 31st ult., to my communication on that subject, do not appear to me to take away the necessity of executing the instructions contained in your letters of the 2d and 5th of July, relative to the British blockades, although they may affect the manner of executing those instructions. The note which I intend to present on this occasion will be ready in a day or two, and shall be sent in immediately.

I have the honor to be, &c.

WM. PINKNEY.

P. S. Lord Wellesley sent me a message yesterday, through Mr. Hamilton, that, if I still wished to see him on the subject of my late communication, he would receive me to-day. I replied that I had no wish to see him on that subject, but that it might be necessary to write him a note upon it hereafter. I mean to confine myself as much as possible to written intercourse with Lord Wellesley.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *September 7, 1810.*

It has been supposed here, that the notification of a blockade of the "canal of Corfu," on the 18th of last month, was intended to close the Adriatic; and the English newspapers, as you will have perceived, so represented it. In my letter to you of the 20th ult., communicating a copy of that notification, I have adopted this construction, which now appears to be erroneous. The "canal," to which the notification is now understood to apply, is the narrow passage to the eastward of Corfu.

I have the honor to be, with great consideration, sir, your most obedient humble servant,

ROBERT SMITH, Esq. &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *September 15, 1810.*

I send, enclosed, a copy of a second letter which I have written to Lord Wellesley, respecting the stoppage of American vessels attempting to pass the Sound, together with a copy of the protest of the master of the American ship Alert, mentioned in that letter, which is well entitled to your attention.

I have the honor to be, &c.

WM. PINKNEY.

[Referred to in Mr. Pinkney's letter of September 15, 1810.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, *September 15, 1810.*

In my note of the 1st instant, I had the honor to inform your lordship, that it had been stated to me, in a letter from Gottenburg, that, in consequence of some misconception of the effect of the order for establishing a blockade of Elsinore in May last, American vessels had recently been prevented from passing the Sound by the English naval force in that quarter; and I requested, that, if this statement was correct, such explanations might be transmitted to the British commander as might, at least, confine the blockade in question to the port against which it had been professedly instituted.

As I have not received any answer to that note, and, consequently, do not know whether any order has been given to remove the interruption which it mentions, I feel it to be necessary to lay before your lordship the enclosed original protest of the master of the American ship Alert, which appears to establish the existence of that interruption in a form as exceptionable as it could possibly assume.

Whatever may be the ground upon which Sir James Saumarez has thought fit to issue his orders to close the passage of the Sound to American vessels, returning in the prosecution of a lawful trade to the United States, or proceeding in a contrary direction, your lordship will, I am persuaded, think with me, that my Government has a fair claim to be made acquainted, either through me, or through such other channel as your lordship may deem more proper, with the intentions of the British Government on the subject.

Before I conclude this letter, I must call your lordship's attention to the particular circumstances of the case which has mainly produced it, and to the redress which those circumstances plainly require.

The Alert has been seized and sent to England by the Africa for *salvage*. The peril from which she was saved, if she was saved from any peril, was created by the injustice of the capturing vessel, in turning her from the regular course of her homeward voyage.

That the commander of the Africa, or those under whom he acted, should be responsible to the utmost for the loss occasioned by that injustice, seems to be perfectly reasonable; but it is difficult to imagine in what way he can expect to derive from it a right to inflame the loss for his own advantage. I trust that the attempt will be repressed in a suitable manner, and that, in place of salvage to be paid by the injured neutral, compensation will, in some mode or other, be awarded to him for the damages he has been made to sustain.

The impressment on board the Alert of four American seamen by the Africa, cannot be passed unnoticed. This abuse could not fail to be interesting under any circumstances; but, on this occasion, (supposing the enclosed narrative to be true,) it is not only characterized by an utter disregard of the rights of the American Government, and by the oppression of its citizens, but is practised under a show of friendly protection, and aggravated by every practical wrong which could well be associated with it.

I have the honor to be, &c.

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, September 21, 1810.

On the 30th of April last, I had the honor to address a note to your lordship, in which, upon the inducements which it stated, I took the liberty to inquire whether there was any objection, on the part of His Majesty's Government, to a revocation, or to a declaration that they were no longer in force, of the British blockades of France, of a date anterior to the Berlin decree.

In a second note, of the 23d of June, I had the honor to recall your lordship's attention to that inquiry, and to add that my Government expected from me a communication upon it. And on the 8th of August, it was again brought to your lordship's recollection in the same mode. It was, moreover, mentioned in several conversations after the delivery of my first note, which had, in fact, been preceded by verbal explanations on my part, as well as by an abortive correspondence in writing, to which some of those explanations were preparatory.

If I had been so fortunate as to obtain for my hitherto unanswered inquiry the notice which I had flattered myself it might receive, and to which I certainly thought it was recommended by the plainest considerations of policy and justice, it would not, perhaps, have been necessary for me to trouble your lordship with this letter, the purpose of which is in very few words to remind His Majesty's Government, in pursuance of my instructions, of the sentiments and expectations of the Government of the United States, respecting such blockades as that which my inquiry principally regarded.

Those sentiments and expectations are so well explained in two letters, from Mr. Secretary Madison, of the 27th of October, 1803, to Mr. Thornton, and of the 3d of June, 1806, to Mr. Merry, that very little more is required, in the execution of my instructions on this occasion, than that I should refer your lordship to the copies of those letters, which are herewith transmitted.

Your lordship will perceive that the strong and conclusive objections, in law and reason, to be found in those papers, (especially in the first, which was occasioned by a communication from the British consul at New York, of a notice from Commodore Hood, in July, 1803, that the islands of Martinique and Gaudaloupe were, and for some times had been, blockaded,) apply to several blockades which Great Britain has lately pretended to establish; but in a particular manner to that of May, 1806, (from the Elbe to Brest, inclusive) to that in the spring of 1808, of the whole island of Zealand, and to that, in March, 1809, of the isles of Mauritius and Bourbon.

The Government of the United States can discover no just foundation for these and other similar attempts to blockade entire coasts, by notifications with which the fact has no correspondence. It views them as unwarrantable prohibitions of intercourse rather than regular blockades, and as resembling in all their essential qualities the extraordinary decrees and orders which, for the last four years, have nearly obliterated every trace of the public law of the world, and discouraged by menaces of hostile interruption, and pursued with seizure and confiscation the fairest and most innocent trade of neutral merchants.

It may now be hoped that those decrees and orders are about to disappear forever; and I think I may presume that, as my Government expects, no blockade like that of May, 1806, will survive them.

Your lordship has informed me, in a recent note, that it is "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity." And I cannot suppose that this freedom is understood to be consistent with vast constructive blockades, which may be so expanded at pleasure, as, without the aid of any new device, to oppress and annihilate every trade but that which England thinks fit to license. It is not, I am sure, to *such* freedom that your lordship can be thought to allude.

I am the more inclined to be confident on this point, because I have now before me a well-known official exposition, conceived in terms the most exact, of the British doctrine of blockade, as it stood in 1804, contained in the reply of Mr. Merry, His Majesty's minister in America, to the very able remonstrance above mentioned from Mr. Madison to Mr. Thornton.

In that reply (of the 12th of April, 1804,) it is formally announced to the Government of the United States, "by His Majesty's command, signified to Mr. Merry by the principal Secretary of State for Foreign Affairs, that, for redressing the grievance complained of" by the American Government, orders had been sent to Commodore Hood (and the necessary directions given to the Vice-Admiralty Courts in the West Indies and America) "not to consider any blockade of the islands of Martinique and Guadalupe as existing, unless in respect of particular ports which might be actually invested; and then not to capture vessels bound to such ports, unless they should previously have been warned not to enter them."

It is natural to conclude, that, though the "grievance," which this frank communication condemns, has been since so often repeated, as almost to make us lose sight of the rule in the multitude of its violations, your lordship could not speak of the restoration of the just freedom of commerce, as an event desired by Great Britain, without some reference to the neglected doctrine of this paper, and without some idea of reviving it.

With regard to the blockade of May, 1806, I regret that I have failed to obtain an admission, apparently warranted by facts, and invited by circumstances, that it is not in force.

Your lordship's answers to my letters of the 15th of February and 7th of March last, appear to justify the opinion that this blockade sunk into the orders in council of 1807, with which it was perfectly congenial. It can scarcely be said, that, since the promulgation of those orders, there has been even a show of maintaining it, as an actual blockade, by a stationary force, adequate or inadequate, distributed with that view along the immense line of coast which it affected to embrace. And if it has not been constantly so maintained, nor even attempted to be maintained, as an actual blockade, but has yielded its functions since 1807 to orders in council, neither being, nor professing to be, actual blockades, it may, I imagine, be very safely asserted that it exists no longer.

But as this conclusion has not been adopted, but has rather been resisted by your lordship, it is my duty, in transmitting the enclosed copy of an act of the Congress of the United States, passed on the 1st of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," to state to your lordship that an annulment of the blockade of May, 1806, is considered by the President to be as indispensable, in the view of that act, as the revocation of the British orders in council.

I have the honor to be, with high consideration, my lord, your lordship's most obedient, humble servant,
WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, September 28, 1810.

I have already sent you a copy of Lord Wellesley's reply to that part of my letter of the 15th instant which particularly respected the case of the *Alert*. The amount of that reply was, that Government could not interfere, and that the case must be left to the Court of Admiralty.

I now transmit his answer to that part of my letter which regarded the effect of the blockade of Elsinore, (as it was interpreted by Sir James Saumarez,) on the passage of the Sound; from which it appears that it is not yet intended to close that passage.

No notice has been taken of the residue of my letter concerning the four American seamen taken from the Alert.

As I have transmitted you a copy of Lord Wellesley's reply to my application for the release of the Mary, from which it was to be inferred that she would be immediately released, I ought now to mention that, so far from being released, she is to be forthwith proceeded against as prize. These things require a large stock of patience.

I have the honor to be, &c.

WM. PINKNEY.

ROBT. SMITH, Esq. &c.

[Referred to and enclosed in the preceding.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, *September 26, 1810.*

The Marquis Wellesley has the honor to acquaint Mr. Pinkney, in answer to that part of his letter of the 15th instant, relating to an alleged misconception of the order of council for the blockade of Elsinore, that it is the intention of His Majesty's Government that that blockade should be strictly confined to the port of Elsinore, and that it does not affect any vessels professedly bound up the Sound, unless it should appear from their papers that they are bound to Elsinore.

The Marquis Wellesley begs to renew to Mr. Pinkney the assurances of his high consideration.

WM. PINKNEY, Esq., &c. &c.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *October 3, 1810.*

Lord Wellesley's communication concerning the passage of the Sound was supposed, by a merchant here to whom I showed it, to be ambiguous, by reason of the expressions "bound up the Sound," &c.

The ambiguity has, however, been removed (if, indeed, there was any) by a note which I have just received from the Foreign Office in answer to one from me.

It says that "no vessels will be subject to the restrictions of the blockade of Elsinore but such as may be going to that port, *in whatever direction they may be passing the Sound.*" It says further, that "the *equivogue* in the original communication was certainly not intentional."

I have the honor to be, &c.

WM. PINKNEY.

Mr. Smith, Secretary of State, to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, *October 19, 1810.*

Your despatch of the 24th of August, enclosing a newspaper statement of a letter from the Duke of Cadore to General Armstrong, notifying a revocation of the Berlin and Milan decrees, has been received. It ought not to be doubted that this step of the French Government will be followed by a repeal on the part of the British Government of its orders in council. And if a termination of the crisis between Great Britain and the United States be really intended, the repeal ought to include the system of paper blockades, which differ in name only from the retaliatory system comprised in the orders in council. From the complexion of the British prints, not to mention other considerations, the paper blockades may, however, not be abandoned. There is hence a prospect that the United States may be brought to issue with Great Britain on the legality of such blockades. In such case, as it cannot be expected that the United States, founded as they are in law and in right, can acquiesce in the validity of the British practice, it lies with the British Government to remove the difficulty. In addition to the considerations heretofore stated to you in former letters, you may bring to the view of the British Government the retrospective operation of those diplomatic notifications of blockades which consider a notice to the minister as a notice to his Government, and to the merchants who are at a distance of three thousand miles. It will recur to your recollection that the present ministry, in the debates of Parliament, in opposition to the authors of the orders of January, 1807, denied that they were warranted by the law of nations. The analogy between these orders and the blockade of May, 1806, in so far as both relate to a trade between enemy ports, furnishes an appeal to the consistency of those now in office, and an answer to attempts by them to vindicate the legality of that blockade. It is remarkable, also, that this blockade is founded on "the new and extraordinary means resorted to by the enemy for the purpose of distressing the commerce of British subjects." What are those means? In what respect do they violate our *neutral* rights? Are they still in operation? It is believed that true answers to these questions will enforce the obligation of yielding to our demands on this subject. You may, also, refer the British Government to the characteristic definition of a blockaded port as set forth in their treaty with Russia of June, 1801, the preamble of which declares that one of its objects was to settle "an invariable determination of their principles upon the *rights of neutrality.*"

Should the British Government unexpectedly resort to the pretext of an acquiescence, on the part of the United States, in their practice, it may be remarked that, prior to, as well as during, the present administration, this Government has invariably protested against such pretensions; and, in addition to other instances heretofore communicated to you, I herewith transmit to you an extract of a letter to the Department of State of July 15, 1799, from Mr. King our minister at London, and also such part of Mr. Marshall's letter to him of the 20th September, 1800, as relates to the subject of blockades. And it may, moreover, be urged, that the principle now contended for by the United States was maintained against others, as well as Great Britain, as appears from the accompanying copy of the letter to our minister at Madrid in the year 1801. To this principle the United States also adhered, when a belligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letters from the Navy Department. You will press on the justice, friendship, and policy of Great Britain such a course of proceeding as will obviate the dilemma resulting to the United States from a refusal to put an end to the paper blockades as well as the orders in council.

The necessity of revoking the blockade of Copenhagen, as notified to you in May, 1808, will not escape your attention. Its continuance may embarrass us with Denmark, if not with France.

Your answer as to the Corfu blockade is approved, and should the answer to it render a reply necessary, the President directs you to remonstrate against such a blockade; availing yourself, as far as they may be applicable,

of the ideas in the letter to Mr. Charles Pinckney of October, 1801, and particularly of the proof it affords of our early remonstrance against the principle of such blockades.

No communication having yet been made by General Armstrong of a letter to him from the Duke of Cadore, declaring that the Berlin and Milan decrees will cease to be in force from the 1st day of November next, I can at this time only inform you, that if the proceedings of the French Government, when officially received, should correspond with the printed letter of the Duke of Cadore, enclosed in your despatch, you will let the British Government understand that on the 1st day of November the President will issue his proclamation, conformably to the act of Congress, and that the non-intercourse law will consequently be revived against Great Britain. And if the British Government should not, with the early notice received of the repeal of the French decrees, have revoked all its orders which violate our neutral rights, it should not be overlooked that Congress, at their approaching session, may be induced not to wait for the expiration of the three months (which were allowed on the supposition that the first notice might pass through the United States) before they give effect to the renewal of the non-intercourse. This consideration ought to have its weight in dissuading the British Government from the policy, in every respect misjudged, of procrastinating the repeal of its illegal edicts.

If the British Government be sincerely disposed to come to a good understanding, and to cultivate a friendly intercourse with the United States, it cannot but be sensible of the necessity, in addition to a compliance with the act of Congress, of concluding, at this time, a general arrangement of the topics between the two countries; and, above all, such a one as will, upon equitable terms, effectually put a stop to the insufferable vexations to which our seamen have been, and yet are exposed, from the British practice of impressment; a practice which has so strong a bearing on our neutrality, and to which no nation can submit consistently with its independence. To this very interesting subject you will therefore recall the attention of the British Government, and you will accordingly consider yourself hereby authorized to discuss and adjust the same separately, conformably to the instructions in my letter to you of the 20th January last; on the condition, however, contained in that letter, namely, that the requisite atonement shall have been previously made in the case of the outrage on the Chesapeake. But as in this case every admissible advance has been exhausted on the part of the United States, it will be improper to renew the subject to the British Government, with which it must lie to come forward with the requisite satisfaction to the United States. You will, therefore, merely evince a disposition to meet in a conciliatory form any overtures that may be made on the part of the British Government.

The British Government, having so long omitted to fulfil the just expectations of the United States in relation to a successor to Mr. Jackson, notwithstanding the reiterated assurances to you of such an intention, has no claims to further indulgence. On the receipt of this letter, therefore, should the appointment of a plenipotentiary successor not have been made and communicated to you, you will let your purpose be known of returning to the United States, unless, indeed, the British Government should have unequivocally manifested a disposition to revoke their orders in council conformably to the act of Congress of May last, and our affairs with them should have accordingly taken so favorable a turn as to justify, in your judgment, a further suspension of it.

I have the honor to be, &c.

R. SMITH.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. King, Minister Plenipotentiary of the United States at London, to Mr. Pickering, Secretary of State, dated

LONDON, July 15, 1799.

Seven or eight of our vessels, laden with valuable cargoes, have been lately captured, and are still detained for adjudication. These vessels were met in their voyages to and from the Dutch ports declared to be blockaded. Several notes* have passed between Lord Grenville and me upon this subject, with the view, on my part, of establishing a more limited and reasonable interpretation of the law of blockade than is attempted to be enforced by the English Government. Nearly one hundred Danish, Russian, and other neutral ships, have, within a few months, been in like manner intercepted, going to and returning from the United Provinces. Many of them, as well as some of ours, arrived in the Texel in the course of the last winter, the severity of which obliged the English fleet to return to their ports, leaving a few frigates only to make short cruises off the Texel, as the season would allow.

My object has been to prove that, in this situation of the investing fleet, there can be no effective blockade, which, in my opinion, cannot be said to exist without a competent force stationed and present at or near the entrance of the blockaded port.

Extract of a letter from Mr. King to Lord Grenville, dated

DOWNING STREET, LONDON, May 23, 1799.

It seems scarcely necessary to observe, that the presence of a competent force is essential to constitute a blockade; and, although it is usual for the belligerent to give notice to neutral nations when he institutes a blockade, it is not customary to give any notice of its discontinuance; and that, consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade, in like manner as the actual investment of a besieged place is the only evidence by which we decide whether the siege is continued or raised. A siege may be commenced, raised, recommenced, and raised again; but its existence at any precise time must always depend upon the fact of the presence of an investing army. This interpretation of the law of blockade is of peculiar importance to nations situated at a great distance from each other, and between whom a considerable length of time is necessary to send and receive information.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. Marshall, Secretary of State, to Mr. King, dated

SEPTEMBER 20, 1800.

The right to confiscate vessels bound to a blockaded port has been unreasonably extended to cases not coming within the rule as heretofore adopted.

* See the note from Mr. King to Lord Grenville, immediately following.

On principle, it might well be questioned, whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle (a departure which has received some sanction from practice) that we mean to complain. It is, that ports, not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and, on that account, confiscated.

This is a vexation proceeding directly from the Government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of all the belligerent Powers may, at all times, be declared in that state, and the commerce of neutrals be thereby subjected to universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British minister, who replies, that an occasional absence of a fleet from a blockaded port ought not to change the state of the place.

Whatever force this observation may be entitled to where that occasional absence has been produced by accident, as a storm, which for a moment blows off the fleet and forces it from its station, which station it immediately resumes, I am persuaded that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle requiring an effective blockade, which is, that the mischief can then only be co-extensive with the naval force of the belligerent, requires that, during such temporary absence, the commerce of neutrals to the place should be free.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Extract of a letter from Mr. Madison to Mr. Charles Pinckney, dated

DEPARTMENT OF STATE, October 25, 1801.

The pretext for the seizure of our vessels seems at present to be, that Gibraltar has been proclaimed in a state of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish Government, and defended on that ground, you will be able to reply:

1. That the proclamation was made as far back as the 15th of February, 1800, and has not since been renewed; that it was immediately protested against by the American and other neutral ministers at Madrid, and not warranted by the real state of Gibraltar; and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded to have been rather a menace against the enemies of Spain than a measure to be carried into execution against her friends.

2. That the state of Gibraltar is not, and never can be, admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations, as laid down in the most approved commentators; by every treaty which has undertaken to define a blockade, particularly those of latest date* among the maritime nations of Europe; and by the sanction of Spain herself, as a party to the armed neutrality, in the year 1791. The spirit of Articles 15 and 16 of the treaty between the United States and Spain may also be appealed to as favoring a liberal construction of the rights of the parties in such cases. In fact, the idea of an investment, a siege, or a blockade, as collected from the authorities referred to, necessarily results from the force of those terms; and, though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favorite objects, it has invariably kept its place in the code of public law, and cannot be shown to have been expressly renounced in a single stipulation between particular nations.

3. That the situation of the naval force at Algeziras, in relation to Gibraltar, has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege, or blockade the garrison, nor to guard the entrance into the port. On the contrary, the gun-boats infesting our commerce have their stations in another harbor, separated from that of Gibraltar by a considerable bay; and are so far from beleaguering their enemy at that place, and rendering the entrance into it dangerous to others, that they are, and, ever since the proclamation of a blockade, have been, for the most part kept at a distance by a superior naval force, which makes it dangerous to themselves to approach the spot.

4. That the principle on which the blockade of Gibraltar is asserted is the more inadmissible, as it may be extended to every other place in passing to which vessels must sail within the view and reach of the armed boats belonging to Algeziras. If, because a neutral vessel bound to Gibraltar can be annoyed and put in danger by way-laying cruisers, which neither occupy the entrance into the harbor nor dare approach it, and by reason of that danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may with equal reason be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture; or, if the armed vessels from Algeziras alone should be insufficient to create this danger in passing into the Mediterranean, other Spanish vessels, co-operating from other stations, might produce the effect, and thereby not only blockade any particular port, or the ports of any particular nation, but blockade at once a whole sea, surrounded by many nations. Like blockades might be proclaimed by any particular nation enabled by its naval superiority to distribute its ships at the mouth of the same or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this, Spain herself appears to have been sensible in the year 1780, when she yielded to Russia ample satisfaction for the seizures of her vessels made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5. That the United States have the stronger ground for remonstrating against the annoyance of her vessels on their way to Gibraltar, inasmuch as, with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy for their own accommodation in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration it may be added, that the real object of a blockade is to subject the enemy to privations, which may co-operate with external force in compelling them to surrender—an object which cannot be alleged in a case where it is well known that Great Britain can and does at all times, by her command of the sea, secure to the garrison of Gibraltar every supply which it wants.

* The late treaties between Russia and Sweden, and between Russia and Great Britain.

6. It is observable that the blockade of Gibraltar is rested by the proclamation on two considerations: one, that it is necessary to prevent illicit traffic, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition, never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain from its complaints against Great Britain, unless it could be shown that the United States were in an unlawful collusion with the latter—a charge which they well know that Spain is too just and too candid to insinuate. It cannot even be said that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretexts, on their lawful commerce. Had this, indeed, been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish occasional examples, and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain, as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be best suited to their object; and it is equally certain that redress has in some measure been obtained, and that the pursuit of complete redress is by no means abandoned.

7th. Were it admitted that the circumstances of Gibraltar, in February, 1800, the date of the Spanish proclamation, amounted to a real blockade, and that the proclamation was therefore obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real blockade, (neither of which can be admitted,) still the conduct of the Algeiras cruisers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force of the proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case since the date of the proclamation; particularly and notoriously when the port of Algeiras itself was lately entered and attacked by a British fleet; and because, on a renewal of the blockade, either a new proclamation ought to have issued, or the vessels making for Gibraltar ought to have been premonished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief to neutral commerce, than the attempts to substitute fictitious blockades by proclamation, for real blockades formed according to the law of nations; and, consequently, none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority, from repetitions on one side, and silent acquiescence on the other.

[Referred to in the letter of the Secretary of State of October 19, 1810.]

Mr. Smith, Secretary of the Navy, to Commodore Preble.

SIR:

NAVY DEPARTMENT, *February 4, 1804.*

Your letter of the 12th November, enclosing your circular notification of the blockade of the port of Tripoli, I have received.

Sensible, as you must be, that it is the interest, as well as the disposition, of the United States to maintain the rights of neutral nations, you will, I trust, cautiously avoid whatever may appear to you to be incompatible with those rights. It is, however, deemed necessary, and I am charged by the President to state to you what, in his opinion, characterizes a blockade. I have, therefore, to inform you, that the trade of a neutral, in articles not contraband, cannot be rightfully obstructed to any port not actually blockaded by a force so disposed before it, as to create an evident danger of entering it. Whenever, therefore, you shall have thus formed a blockade of the port of Tripoli, you will have a right to prevent any vessel from entering it, and to capture for adjudication any vessel that shall attempt to enter the same, with a knowledge of the existence of the blockade. You will, however, not take as prize any vessel attempting to enter the port of Tripoli without such knowledge; but in every case of an attempt to enter, without a previous knowledge of the existence of the blockade, you will give the commanding officer of such vessel notice of such blockade, and forewarn him from entering; and if, after such a notification, such vessel should again attempt to enter the same port, you will be justifiable in sending her into port for adjudication. You will, sir, hence perceive, that you are to consider your circular communication to the neutral Powers, not as an evidence that every person attempting to enter has previous knowledge of the blockade, but merely as a friendly notification to them of the blockade, in order that they might make the necessary arrangements for the discontinuance of all commerce with such blockaded port.

I have the honor to be, &c.

ROBERT SMITH.

Extracts:—Mr. Smith to Mr. Pinkney.

NOVEMBER 2, 1810.

With the duplicate of my letter to you of the 19th ultimo, I now send to you a copy of the President's proclamation, founded on the repeal of the Berlin and Milan decrees. Enclosed you will also receive a copy of my letter to General Armstrong of this day, which will afford you a view of the reservations and understanding under which this proclamation has been issued.

To the copy of the proclamation herewith transmitted, in relation to West Florida, and to my letter to General Armstrong, touching the same, I refer you for information, as to the views of this Government in taking possession of that country, and as to the considerations which had constrained the President, at this juncture, to resort to this measure.

This despatch will be delivered to you by one of the officers of the United States' frigate Essex, who will have orders to return to his ship as soon as he shall have received such letters as you may deem it necessary to transmit to this Department.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *November 5, 1810.*

I have presented a second note, of which a copy is enclosed, to Lord Wellesley, on the subject of the orders in council, under an impression that the state of the King's health (for which I beg to refer you to the paper

herewith transmitted) did not render it improper, and that, if it was not improper on that account, it was indispensable on every other.

The day had gone by when the Berlin and Milan decrees were to cease to operate, according to the communication made by the Government of France to the American minister at Paris, and published in the official journal of that Government; and yet no step whatever had been taken, or apparently thought of, towards the revocation of the British orders. I had received no explanation of the reasons of this backwardness, and no such assurance, looking to the future, as could justify an opinion that it would not continue. Lord Wellesley's letter of the 31st of August, which I had left unanswered till after the 1st of November, that I might stand on the strongest possible ground when I did answer it, made no profession of being a present measure, and (though, from obvious motives, I have not so represented it in my note to him of the 3d instant,) was vague and equivocal as a prospective pledge. It defined nothing, and was so far from warranting any specific expectation, that it seemed rather to take away the very little of precision which belonged to former declarations on the same point. It was highly important to the commerce of the United States, that this ambiguity should be cleared away with all practicable expedition, and, if it could not be removed, that no presumption should be afforded of a disposition on the part of the United States to acquiesce in it. My note to Lord Wellesley was written and delivered upon those inducements.

In the King's actual situation, the orders in council can scarcely be formally recalled, even if the cabinet are so inclined; but it does not follow that something may not be done (though I have no reason to think that any thing will be done) which may be productive of immediate advantage, and, at any rate, prepare the way for the desired repeal.

I have the honor to be, with great consideration, sir, your most obedient, humble servant,

WILLIAM PINKNEY.

The Hon. ROBERT SMITH, *Secretary of State.*

P. S. This letter is written in great haste, that I may send it to Liverpool by this evening's mail.

W. P.

[Referred to in Mr. Pinkney's despatch of November 5.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, November 3, 1810.

In my note of the 25th of August, I had the honor to state to your lordship that I had received, from the minister plenipotentiary of the United States at Paris, a letter, dated the 6th of that month, in which he informed me that he had received from the French Government a written and official notice that it had revoked the decrees of Berlin and Milan, and that, after the 1st of November, those decrees would cease to have any effect; and I expressed my confidence that the revocation of the British orders in council of January and November, 1807, and April, 1809, and of all other orders dependent upon, analogous to, or in execution of them, would follow of course.

Your lordship's reply, of the 31st of August, to that note, repeated a declaration of the British minister in America, made, as it appears, to the Government of the United States in February, 1808, of "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and his readiness to abandon the system which had been forced upon him, whenever the enemy should retract the principles which had rendered it necessary;" and added an official assurance that, "whenever the repeal of the French decrees should have actually taken effect, and the commerce of the neutral nations should have been restored to the condition in which it stood previously to the promulgation of those decrees, His Majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled him to adopt."

Without departing in any degree from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French decrees would be immediately followed by at least a like revocation of the orders of England, I must remind your lordship, that the day has now passed when the repeal of the Berlin and Milan edicts, as communicated to your lordship in the note above mentioned, and published to the whole world by the Government of France in the *Moniteur* of the 9th of September, was, by the terms of it, to take effect. That it has taken effect cannot be doubted, and it can as little be questioned that, according to the repeated pledges given by the British Government on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system to which your lordship's reply to my note of the 25th of August alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States, that the Government of Great Britain should lose no time in disclosing, with frankness and precision, its intentions on this head. Intelligence of the French repeal has reached America, and commercial expeditions have, doubtless, been founded upon it. It will have been taken for granted that the British obstructions to those expeditions, having thus lost the support, which, however insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such orders in council as were subsequent in date to the decrees of France, will be added the annulment of the antecedent order, to which my late letter respecting blockades particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British Government shall have determined not to remove those obstructions with all practicable promptitude, I trust that my Government will be apprized, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests; and that the reasons upon which that determination may have been formed will not be withheld from it.

I have the honor to be, with high consideration, my lord, your lordship's most obedient, humble servant,
WM. PINKNEY.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, November 7, 1810.

I enclose a duplicate of my letter of the 5th instant, in which was transmitted a copy of my note to Lord Wellesley of the 3d, concerning the orders in council.

I have little more to say, in addition to what is contained in that letter, than that it is my intention, in case Lord Wellesley gives me an unfavorable answer to it, to enter at large into the whole subject in my rejoinder; and, in case he delays improperly his reply, to take as strong notice of that impropriety as I can.

As soon as the King recovers, I mean to mention again the subject of a minister plenipotentiary to the United States, (which Lord Wellesley, notwithstanding his written and verbal pledges, seems to have quite forgotten,) and if satisfactory assurances are not renewed and *acted upon*, to announce my determination to return to America, and to leave a chargé d'affaires; in the choice of whom, however, I shall have considerable difficulty, unless you should furnish me in season with the expected secretary of legation. I presume that, in taking this course, I shall fulfil the wishes of the President, and I can assure you, with great truth, that I shall consult by it my own inclinations.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, November 14, 1810.

I have finally determined not to mention again to Lord Wellesley (as I had thoughts of doing) the subject of a plenipotentiary successor to Mr. Jackson. I think, upon reflection, (and shall act accordingly,) that I ought, after what has passed, to leave him, without further inquiry or notice on my part, to shape his course upon it; and that, if an appointment should not be made as soon as the King's health (which would seem to be improving) will permit, I ought at once to send in an official note, announcing my resolution to return to America, and to leave some suitable person as a chargé d'affaires.

My letter of the 23d of July informed you that, after Lord Wellesley's written assurance of the 22d of that month, (which was in conformity, as far as it went, with his assurances in conversation,) "that it was his intention *immediately* to recommend the appointment of an envoy extraordinary and minister plenipotentiary from the King to the United States," I did not think myself authorized to take the step which the instructions contained in your letter of the 23d of May, in certain circumstances, prescribed.

My opinion was, that whether the prospect, which then existed, of bringing to a conclusion the affair of the Chesapeake, were taken into the account or not, it was my obvious duty to remain at my post, most irksome as it was every day becoming, until it should incontestably appear that those assurances were not to be relied upon.

Before a sufficient time had elapsed to warrant so harsh a conclusion, I received from Lord Wellesley, on the 28th of August, a further *casual* intimation (reported to you in my letter of the 29th of the same month) that his recommendation of a minister would, as he believed, be made in the course of that week or the next.

In the mean time the repeal, by the Government of France, of the Berlin and Milan decrees had produced a posture of affairs which, whatever might be Lord Wellesley's forgetfulness of his own declarations, or the inattention of his Government to what he might advise in consequence of them, rendered my stay in England for two or three months longer indispensable.

In fine, the effect of that consideration had not ceased, when the illness of the King made it impossible that I should depart.

Upon the King's recovery, I shall have every motive for bringing this matter to an issue, and none for the least hesitation or reserve upon it. Several months will have been allowed for the performance of an act which might have been completed in as many weeks.

I shall have done every thing in my power on the subjects connected with the revocation of the French edicts. And the British Government will be in a situation to admit of such proceedings on its own part, and on mine, as the occasion will require.

From Lord Wellesley's intimation to me on the 28th of August, (mentioned above,) it is perfectly clear that he had not then executed the intention, so positively announced in his note of the 22d of July. Five or six weeks had passed, and that which he had both said and written he meant to do *immediately*, he was not yet sure that he meant to do within another fortnight. The presumption seems, nevertheless, to be quite unnatural, that Lord Wellesley continued, up to the commencement of the King's malady, to be negligent of a pledge, which he chose to rest not merely on his *official* but his *personal* character—a pledge, of which he knew I could neither question the sufficiency nor doubt the sincerity, and by which, as he also knew, my conduct on an extremely delicate point of duty was wholly determined.

On the other hand, if Lord Wellesley *has* been mindful of his pledge, and has recommended a minister in compliance with it, how has it happened (how *can* it have happened) that this recommendation has not been followed by an appointment?

In the midst of all this doubt, which Lord Wellesley might dissipate if he pleased, by an explanation apparently necessary for his own sake, there is, I believe, no uncertainty as to the course which, in the actual state of my instructions, (or on the score of general propriety,) I ought to pursue; especially as I must infer from your silence since the arrival of Mr. Morier at Washington, (if I had no other reason for that inference,) that no such communication was made, either by or through that gentleman to you, as ought, in the judgment of the President, to have any influence upon my conduct on this occasion.

I have the honor to be, &c.

WM. PINKNEY.

P. S. November 15. I hear nothing from Lord Wellesley, and not much from any other quarter, concerning the orders in council. I have not lately sought any interview with him on that or any other occasion. It is impossible for me to look back upon the past, and to place much value upon conferences.

I am particularly anxious to get from Lord Wellesley, in case the British Government persists in declining to repeal the orders, a distinct statement in *writing* of the motives of its conduct.

Thus far I have taken for granted the manifest and incontrovertible justice of our expectations; believing that there could, in the first instance, be no sufficient inducement for anticipating difficulties and objections in so plain a case; that, if any existed, they ought to be, and would be, avowed; and that when avowed I could meet them with more advantage than while they were only conjectured. Should, however, a studious ambiguity continue to be preserved on a subject, which now touches more nearly than ever (in my opinion *vitally*) the character and rights of our country, I shall very soon think myself called upon to suppose for this Government reasons which it will not declare, and to examine them with fulness and freedom in a letter to Lord Wellesley. It is unnecessary, in the mean time, to trouble you with the view which that letter will contain. I have not lately received any thing from France which enables me to put the repeal of the French decrees in a stronger light than could otherwise be done. Mr. Russell has written me two letters; the first dated the 26th of September, and received on the 3d of October; the other dated the 10th of October, and received the 13th of November. This last enclosed a letter to me from General Armstrong of the 29th of September. He had written me a short note from Paris, dated the 13th of September, (but not received till long afterwards,) which enclosed a copy of the French minister's letter to him of the 12th of that month, already received from Mr. Russell in his letter of the 26th of September.

Such use as could be made of these different communications I have made. Of course it could be very little. A *Moniteur* of the 9th of September, containing the Duke of Cadore's letter of the 5th of August to General Armstrong, (which I got through a private channel,) is much more likely to be of service (if any thing can be of service) here, where that journal is considered as equivalent to the London Gazette; and I have accordingly referred to it in my note to Lord Wellesley of the 3d instant.

Mr. Smith to Mr. Pinkney.

SIR:

DEPARTMENT OF STATE, November 15, 1810.

From a review of the conduct of the British Government in relation to a plenipotentiary successor to Mr. Jackson, as presented in your several communications, including even those brought by the *Hornet*, at which date and on which inviting occasion the subject does not appear to have been within the attention of the Government, the President thinks it improper that the United States should continue to be represented at London by a minister plenipotentiary. In case, therefore, no appointment of a successor to Mr. Jackson of that grade should have taken place at the receipt of this letter, you will consider your functions as suspended, and you will accordingly take your leave of *absence*, charging a fit person with the affairs of the legation.

Considering the season at which this instruction may have its effect, and the possibility of a satisfactory change in the posture of our relations with Great Britain, the time of your return to the United States is left to your discretion and convenience.

I have the honor, &c.

WM. PINKNEY, Esq. &c. &c.

R. SMITH.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, November 19, 1810.

My third letter to Lord Wellesley concerning the French decrees and the British orders in council, will be presented much sooner than I had at first intended. I shall, I think, present it in a few days. Upon the other subject of my letter to you of the 14th instant, I need not add any thing to what is there said upon it.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, November 21, 1810.

An American vessel (the *Fox*) has, within a few days past, been brought into Plymouth as prize to a King's ship (the *Amethyst*) for an imputed attempt to go to Cherbourg, in France, in violation of the unrepealed British orders. I have requested that the case may be represented in proper form to me, and I mean to use it as the best ground for my intended letter to Lord Wellesley.

Extract of a letter from William Pinkney, Esq. minister plenipotentiary of the United States in London, to the Secretary of State.

LONDON, December 14, 1810.

On the 4th instant I received from Lord Wellesley a note, of which a copy (marked No. 1) is enclosed, respecting the repeal of the French decrees. The conference to which it invited me took place on the 5th; and in the course of it I explained to him at considerable length my view of that subject, and of the points immediately connected with it. Lord Wellesley heard me in his usual manner, but confined himself to such general remarks and professions as I need not repeat to you. He proposed that our conference should be renewed on the 7th, and engaged in the mean time to report to his colleagues what I had said, and at our next interview to make me acquainted with the result.

He introduced, of his own accord, the two subjects of a minister plenipotentiary and the Chesapeake.

On the *first*, he professed to entertain the same disposition and intention as heretofore, and declared that the delay which had taken place arose altogether from some obstacles of a personal nature to obtaining the services of the person whom he particularly wished to send to America; that he hoped these obstacles would soon be removed; that he had another person in view if it should be otherwise; that he had not supposed that delay could be considered as of any moment by my Government, after the assurance contained in his note to me in July last; that these temporary inequalities were common, and, when not meant to be offensive, were never held to be so, &c.

On the *second*, he informed me that he had not sent me a paper which he had prepared upon it, because he thought it would be well that the new minister should carry out the adjustment, and, consequently, that it should be postponed till he was appointed. He repeated that we should have no difficulties upon it. I give you these verbal explanations as I received them.

On the 6th instant I received from Lord Wellesley another note, of which a copy (marked No. 2) is enclosed, requesting me to recapitulate in writing my verbal communication of the 5th. With this request I complied, as you will perceive by the enclosed copy (marked No. 3) of my letter to him of the 10th.

I could have no motive for going to him on the 7th, and had therefore no interview with him on that day.

As the case of the *Fox* was rather pressing, and I was not sure that I could prepare my letter on the general subject in season, I sent in a separate note upon it on the 8th. A copy of that note (marked No. 4) is enclosed. I have no reply to it, and did not expect one; but I understand that the cause has been, and will be, postponed.

A newspaper copy of the President's proclamation of the 2d of November arrived in London on the 11th instant, and produced a good deal of sensation. It gave me pleasure to find my letter to Lord Wellesley so supported. I hope soon to receive an official communication of it.

What will be done here on the affair of the orders in council, &c. I cannot yet say. The general impression seems to be that they will do nothing. My letter to Lord Wellesley was written (as my verbal communication had been given) under a persuasion that they will do nothing if they can help it. A very firm tone ought now to be assumed with this Government.

No. 1.

SIR:

FOREIGN OFFICE, *December 4, 1810.*

After the most accurate inquiry, I have not been able to obtain any authentic intelligence of the actual repeal of the French decrees, to which your notes of the 25th of August and 3d of November refer, or of the restoration of the commerce of neutral nations to the condition in which it stood previously to the promulgation of those decrees.

If you should be in possession of any such information, I should be happy to receive it from you, and for that purpose I request to have the honor of a conference with you at this office to-morrow, at two o'clock.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq. &c. &c. &c.

No. 2.

SIR:

FOREIGN OFFICE, *December 6, 1810.*

The importance of the verbal communication which I had the honor of receiving from you yesterday induces me to request that you will have the goodness to commit the substance of it to writing at the earliest time which may suit your convenience.

As soon as I shall have received such a written statement from you, I shall be anxious to return an official reply in the same form.

Under these circumstances, it may, perhaps, be unnecessary that you should take the trouble of calling at this office to-morrow.

If, however, you should be desirous of seeing me, I shall be ready to have the honor of receiving you between two and three o'clock.

I have the honor to be, &c.

WELLESLEY.

WM. PINKNEY, Esq. &c. &c. &c.

No. 4.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, *December 8, 1810.*

I have the honor to represent to you that an American vessel, (the Fox,) proceeding with an American cargo, from a port of the United States to Cherbourg, in France, in the confidence that the repeal of the decrees of Berlin and Milan had, in conformity with repeated pledges and the obvious demands of justice, been followed by the revocation of the British orders in council, has been captured, since the 1st of last month, by an English frigate, for an alleged breach of those orders, and brought into Plymouth, and since proceeded against in the High Court of Admiralty as prize of war.

It is my duty to require that this vessel and her cargo may be restored as speedily as possible to their rightful owner, that she may be left at full liberty to resume the lawful voyage in which she was engaged, and that effectual measures may be adopted, with as little delay as circumstances will permit, for the prevention of similar interruptions in future.

I understand that the captors, in this case, are likely to be urgent for condemnation; and that the orders in council will, if unrepealed, be considered by the court as imposing upon it a necessity to pronounce such a sentence. I am further informed that the cause may be heard, if the captors press it, on, or very soon after, Tuesday next. I trust, however, that the necessary steps will be taken by the British Government for preventing the signal injustice and the many embarrassments that could not fail to result from such an adjudication.

I have the honor to be, &c.

WM. PINKNEY.

No. 3.

Copy of a letter from Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, *December 10, 1810.*

In compliance with the request contained in your note of the 6th instant, I proceed to recapitulate in this letter (with some variations, however,) the statements and remarks which I had the honor to make in our conference of the 5th, respecting the revocation of the French decrees, as connected with a change of system here, on the subject of neutral rights.

Your lordship need not be told that I should have been happy to offer, at a much earlier moment, every explanation in my power on matters of such high concern to the rights and commerce of my country, and the future character of its foreign relations, if I had been made to understand that explanation was desired.

My written communications of August and November were concise, but they were not intended to be insufficient. They furnished evidence which I thought conclusive, and abstained from labored commentary, because I deemed it superfluous. I had taken up an opinion, which I abandoned reluctantly and late, that the British Government would be eager to follow the example of France in *recalling*, as it had professed to do in *promulgating*, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade in almost all its directions the hopeless alternative of inactivity or confiscation; which considered it as a subject to be regulated, like the trade of the United Kingdom, by the statutes of the British Parliament; and undertook to bend and fashion it by every variety of expedient to all the purposes and even the caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly *odious*, for its theory and destructive effects, to others, could survive the public declaration of France that the edicts of Berlin and Milan were revoked. Instructed at length, however, by your lordship's continued silence, and alarmed for the *property of my fellow citizens*, now more than ever exposed, by an erroneous confidence, to the ruinous operation of the British orders, I was preparing to support my general representations by detailed remonstrance, when I received the honor of your note of the 4th instant. In the conference which ensued, I troubled your lordship with a verbal communication, of which the following is nearly the substance:

The doubts which appear to stand in the way of the recall of the British orders in council, (under which denomination I include certain orders of blockade of a kindred principle and spirit,) must refer to the *manner*, or the *terms*, or the *practical effect* of the alleged repeal of the decrees of France.

That the *manner* of the proceeding is satisfactory to the British Government cannot be questioned; since it is precisely that in which its own numerous orders for establishing, modifying, or removing blockades, and other maritime obstructions, are usually proclaimed to neutral States and merchants.

The French repeal was officially notified on the 5th of August, to the minister plenipotentiary of the United States at Paris, by the French Minister for Foreign Affairs, as I had the honor to inform your lordship in my letter of the 25th of the same month, which not only gave the import, but (as the enclosed copy will show) adopted the words of General Armstrong's statement to me of the tenor and effect of that notice.

On the 9th of August the notification to General Armstrong was published in the *Moniteur*, the official journal of the French Government, as the act of that Government; and thus became a formal declaration, and a public pledge to all who had an interest in the matter of it.

It would be a waste of time to particularize the numerous instances of analogous practice in England, by which this course is countenanced; but a recent example happens to be before me, and may therefore be mentioned. The partial recall, or modification of the English blockade of the ports and places of Spain from Gijon to the French territory, (itself known to my Government only through a circular notification to me, recited afterwards in the London Gazette,) was declared to the American and other Governments in exactly the same mode.

I think it demonstrable that the *terms* in which the French revocation was announced are just as free from well-founded objection as the *manner*.

Your lordship's view of them is entirely unknown to me; but I am not ignorant that there are those in this country who, professing to have examined them with *care*, and having certainly examined them with *jealousy*, maintain that the revocation, on the 1st of November, was made to depend, by the obvious meaning of those terms, upon a condition precedent which has not been fulfilled, namely, the revocation by Great Britain of her orders in council, including such blockading orders as France complains of as illegal.

If this were even admitted to be so, I am yet to learn upon what grounds of justice the British Government could decline to meet, by a similar act on its part, an advance, thus made to it by its adversary in the face of the world, towards a co-operation in the great work of restoring the liberty of the ocean; so far, at least, as respects the orders in council of 1807 and 1809, and such blockades as resemble them. It is not necessary, however, to take this view of the question; for the French revocation turns on no condition precedent, is absolute, precise, and unequivocal.

What construction of the document which declares that revocation might be made by determined suspicion and distrust, I have no wish and am not bound to inquire. Such interpreters would not be satisfied by any form of words, and would be likely to draw the same conclusion from perfect explicitness and studied obscurity. It is enough for me that the fair, and natural, and necessary import of the paper affords no color for the interpretation I am about to examine.

The French declaration "that the decrees of Berlin and Milan are revoked, and that, from the 1st of November they will cease to have any effect," is precision itself. But they are followed by these words: "Bien entendu qu'en conséquence de cette déclaration les Anglais révoqueront leurs arrêts du conseil, et renonceront aux nouveaux principes de blocus qu'ils ont voulu établir, ou bien que les Etats Unis, conformément à l'acte que vous venez communiquer, feront respecter leurs droits par les Anglais."

If these words state any *condition*, they state *two*; the first depending upon Great Britain, the last upon the United States; and as they are put in the disjunctive, it would be extravagant to hold that the non-performance of one of them is equivalent to the non-performance of both. I shall take for granted, therefore, that the argument against my construction of the Duke of Cadore's letter must be moulded into a new form. It must deal with two conditions instead of one, and considering them equally as conditions precedent to be performed (disjunctively) before the day limited for the operative commencement of the French repeal, must maintain that, if *neither* of them should be performed before that day, the decrees were not to be revoked; and, consequently, that, as neither of them *has* been so performed, the decrees are still in force.

If this hypothesis of previous conditions, thus reduced to the only shape it can assume, be proved to be unsound, my construction is at once established; since it is only upon that hypothesis that any doubt can be raised, against the exact and perspicuous assurance that the decrees were actually repealed, and that the repeal would become effectual on the 1st of November. This hypothesis is proved to be unsound, by the following consideration:

It has clearly no foundation in the phraseology of the paper, which does not contain a syllable to put any condition before the repeal. The repeal is represented as a step already taken, to have effect on a day specified. Certain consequences are, indeed, declared to be expected from this proceeding; but no day is given, either expressly or by implication, within which they are to happen. It is not said, "bien entendu que les Anglais auront révoqué," &c. but "que les Anglais révoqueront," &c. indefinitely as to time.

The notion of conditions precedent is, therefore, to say the least of it, perfectly gratuitous. But it is also absurd. It drives us to the conclusion, that a palpable and notorious impossibility was intended to be prescribed as a condition, in a paper which they, who think it was meant to deceive, must admit was meant to be plausible.

It was a palpable and notorious impossibility, that the United States should, before the 1st of November, execute *any condition*, no matter what the nature of it, the performance of which was to follow the ascertained failure of a condition to be executed by Great Britain *at any time* before the same 1st of November. That the act expected from the United States was to be consequent upon the failure of the *other*, is apparent. It is also apparent, that upon any interpretation which would make the act of Great Britain a *condition precedent to the French repeal*, and, consequently, precedent to the 1st of November, (when the repeal was, if ever, to take effect,) that condition could not be said to have failed before the whole *period*, from the 5th of August to the 1st of November, had elapsed. But if Great Britain had the whole time within which to elect the course which she would pursue, what opportunity would be left to the United States, (equally bound, upon this idea of conditions precedent, to act their part within the same period,) to become acquainted with that election, and to decide upon and take their own course in consequence; to say nothing of the transmission of such intelligence of it to Europe, as would be indispensable to the efficacy of the conditional revocation?

This general view would alone be sufficient to discredit the arbitrary construction under consideration. But it will be more completely exposed by an explanation of the nature of the act, which the latter professes to expect from the United States, in case Great Britain should omit to revoke. This act is the *revival* of the non-intercourse law against England, France remaining exempt from it, as well as from the provisions of the subsequent law, commonly called the non-intercourse act. Now, if it is too plain, upon the face of the last mentioned law (to which the letter expressly refers) to escape the most negligent and unskilful observer, that this revival could not, by any industry or chance, be accomplished before the time fixed for the cessation of the French decrees, or even for a considerable time afterwards, it certainly cannot be allowable to assume, that the revival was required by the letter (whatever was the *object* of the writer or his Government) to precede the cessation. And if this was not required, it is incontrovertible that the cessation would, by the terms of the letter, take place on the appointed day, whether any of the events disjunctively specified had intervened or not.

The first step towards a revival of the non-intercourse against England would be the proclamation of the President that France had so revoked or modified her edicts, as that they ceased to violate the neutral commerce of the United States. But the letter of Monsieur Champagny left the decrees as it found them up to the first of November, and, consequently, *up to that day* it could not, for any thing contained in that letter, be said that the rights of American commerce were no longer infringed by them. A prospective proclamation, that they would cease to violate those rights, might, perhaps, be issued; but it could scarcely have any substantial operation, either in favor of France or to the prejudice of England, until the epoch to which it looked had arrived.

Let it be admitted, however, that all physical and legal obstacles to the issuing, *before the 1st of November*, of a proclamation, to take effect immediately, were out of the way; how would such a proceeding fulfil, of itself, the expectation that the United States would, before the 1st of *November*, "cause their rights to be respected by the English," in the mode pointed out in the letter, namely, by the enforcement of the non-intercourse law? The proclamation would work no direct or immediate consequence against England. Three months from its date must pass away before the non-intercourse law could revive against her; and when it did so, the revival would not be the effect of the proclamation, but of the continued adherence of England to her obnoxious system. Thus, even if a proclamation, effectual from its date, had been issued by the President on the day when the French declaration of repeal came to the hands of the American minister at Paris, the intercourse between the United States and Great Britain would, on the 1st of November, have remained in the same condition in which it was found in August. As all this was well understood by the Government of France, the conclusion is, that its minister, professing too to have the American law before him, and to expect only what was *conformable with that law*, did not intend to require the revival of the non-intercourse against England as a *condition* to be performed before the 1st of November.

It is worthy of remark, as introductory to another view of this subject, that even they who conclude that the repeal of the French decrees has failed, are not backward to ascribe to the French declaration a purpose utterly inconsistent with that conclusion. They suppose the purpose to have been to affect the existing relations between America and England, by the only means which the declaration states, the act of non-intercourse. And it is certain that unless England should abandon particular parts of her system, this *was* the result avowedly in view, and meant to be accomplished. But there could be no hope of such a result without a previous effectual relinquishment of the French decrees. A case could not otherwise be made to exist (as the Duke of Cadore was aware) for such an operation of the American law. To put the law before the revocation of the edicts was impossible. With the law in his hand, it would have been miraculous ignorance not to know that it was the exact reverse of this which his paper must propose. He would derive this knowledge, not from that particular law only, but from the whole tenor and spirit of American proceedings, in that painful and anomalous dilemma, in which Great Britain and France, agreeing in nothing else, had recently combined to place the maritime interests of America. He would collect from those proceedings that, while those conflicting Powers continued to rival each other in their aggressions upon neutral rights, the Government of the United States would oppose itself impartially to both. The French declaration, then, had either no meaning at all, or it meant to announce to General Armstrong a positive revocation of the French edicts.

I should only fatigue your lordship by pursuing further a point so plain and simple. I will, therefore, merely add to what I have already said on this branch of the subject, that the strong and unqualified communication from General Armstrong to me, mentioned in the commencement of this letter, and corroborated by subsequent communications (one of which I now lay before you) may, perhaps, without any great effort of courtesy, be allowed to contain that "authentic intelligence" which your lordship is in search of. He could scarcely have been free from doubt, if the occasion was calculated to suggest it; and if he had really doubted, would hardly have spoken to me with the confidence of conviction.

It only remains to speak of the *practical effect* of the French repeal. And here your lordship must suffer me to remind you that the orders of England in 1807, did not wait for the practical effect of the *Berlin* decree, nor linger till the obscurity, in which the meaning of that decree was supposed to be involved, should be cleared away by time or explanation. They came promptly after the decree itself, while it was not only ambiguous but inoperative, and raised upon an idle prohibition, and a yet more idle declaration, which France had not attempted to enforce, and was notoriously incapable of enforcing, a vast scheme of oppression upon the seas, more destructive of all the acknowledged rights of peaceful States than history can parallel. This *retaliation*, as it was called, was so rapid, that it was felt before the injury was said to have provoked it; and yet, that injury, such as it was, was preceded by the practical assertion, on the part of Great Britain, of new and alarming principles of public law, in the notification of the blockade of May, 1806, and in the judicial decisions of the year before. To uphold the *retaliatory* orders, every thing was *presumed* with a surprising facility. Not only was an impotent, unexecuted, and equivocal menace presumed to be an active scourge of the commerce of neutral nations, but the acquiescence of those nations was presumed, against the plainest evidence of facts.

The alacrity with which all this was done can never be remembered without regret and astonishment; but our regret and astonishment must increase, if, after four years have been given to the *pernicious innovation* which these presumptions were to introduce and support, something like the same alacrity should not be displayed in seizing an honorable opportunity of discarding it forever.

It is not unnatural to imagine that *it will be* discarded with pleasure, *when it is considered*, that having never been effectual as an instrument of hostility, it cannot now lay claim to those *other* recommendations for which it may have heretofore been prized. The orders in council (of November) have passed through some important changes; but they have been steady, as long as it was possible, to the *purpose which first impressed them with a character not to be mistaken*.

In their original plan, they comprehended not only France and such allied or dependent Powers as had adopted the edict of Berlin, but such other nations as had merely excluded from their ports the commercial flag of England. This prodigious expansion of the system was far beyond any intelligible standard of *retaliation*; but it soon appeared that neutrals might be permitted to traffic, under certain restrictions, with all these different nations, provided they would submit with a dependence *truly colonial*, to carry on their trade through British ports, and to pay such duties as the British Government should think fit to impose, and such charges as British agents and other British subjects might be content to make.

The United States abstained from this *traffic*, in which they could not embark without dishonor; and in 1809 the system shrunk to narrower dimensions, and took the appearance of an absolute prohibition of all commercial intercourse with France, Holland, and the kingdom of Italy.

The prohibition was absolute in appearance, but not in fact. It had lost something of former exuberance, but nothing of former pliancy, and, in the event, was seen to yield to the demands of *one* trade while it prevented every other.

Controlled and relaxed and managed by *licenses*, it did not, after a brief exhibition of impartial sternness, affect to "distress the enemy" by the occlusion of his ports, when the commerce of *England* could advantageously find

its way to them. At length, however, this convenience seems to be enjoyed no longer, and the orders in council may apparently be now considered (if, indeed, they ought not always to have been considered) as affecting England with a loss as heavy as that which they inflict on those whose rights they violate. In such circumstances, if it be too much to except the *credulity* of 1807, it may yet be hoped, that the evidence of the *practical effect* of the French repeal need not be very strong to be satisfactory. It is, however, as strong as the nature of such a case will admit, as a few observations will show.

On such an occasion it is no paradox to say, that the want of evidence is itself evidence. That certain decrees are not in force, is proved by the absence of such facts as would appear if they *were* in force. Every motive which can be conjectured to have led to the repeal of the edicts invites to the full execution of that repeal, and no motive can be imagined for a different course. These considerations are alone conclusive.

But further, it is known that American vessels bound confessedly to England, have, before the 1st of November, been visited by French privateers, and suffered to pass upon the foundation of the prospective repeal of the decree of Berlin, and the proximity of the day when it would become an actual one.

If there are not even stronger facts to show that the decree of *Milan* is also withdrawn, your lordship can be at no loss for the reason. It cannot be proved that an American vessel is practically held by France; nor to be *denationalized* by British visitation, because your cruisers *visit* only to *capture*, and compel the vessel visited to terminate her voyage not in France, but in England. You will not ask for the issue of an experiment which yourselves intercept, nor complain that you have not received evidence, which is not obtained because you have rendered it impossible. The vessel which formed the subject of my note of the 8th instant, and another more recently seized as prize, would, if they had been suffered, *as they ought*, to resume their voyages after having been stopped and examined by English cruisers, have furnished on that point unanswerable proof; and I have reason to know, that precise offers have been made to the British Government to put to a practical test the disposition of France in this respect, and that those offers have been refused. Your cruisers, however, have not been able to visit all American vessels bound to France, and it is understood that such as have arrived have been received with friendship.

I cannot quit this last question without entering my protest against the pretension of the British Government to postpone the justice which it owes to my Government and country, for this tardy investigation of consequences. I am not able to comprehend upon what the pretension rests, nor to what limits the investigation can be subjected. If it were even admitted that France was more emphatically bound to repeal her almost nominal decrees than Great Britain to repeal her substantial orders, (which will not be admitted,) what more can reasonably be required by the latter than has been done by the former? The decrees are officially declared by the Government of France to be repealed. They were ineffectual as a material prejudice to England before the declaration, and must be ineffectual since. There is, therefore, nothing of substance for this dilatory inquiry, which, if once begun, may be protracted without end, or at least till the hour for just and *prudent* decision has passed. But, if there were room to apprehend that the repealed decrees might have some operation in case the orders in council were withdrawn, still, as there is no sudden and formidable peril to which Great Britain could be exposed by that operation, there can be no reason for declining to act at once upon the declaration of France, and to leave it to the future to try its sincerity, if that sincerity be suspected.

I have thus disclosed to your lordship, with that frankness which the times demand, my view of a subject deeply interesting to our respective countries. The part which Great Britain may act on this occasion cannot fail to have important and lasting consequences, and I can only wish that they may be good.

By giving up her orders in council and the *blockades*, to which my letter of the 21st of September relates, she has nothing to lose in character or strength. By adhering to them she will not only be *unjust to others*, but *unjust to herself*.

I have the honor to be, &c.

WM. PINKNEY.

The Most Noble the MARQUIS WELLESLEY, &c. &c. &c.

Mr. Pinkney to the Secretary of State.

SIR:

LONDON, December 23, 1810.

I received on the 20th instant, from Liverpool, your letter of the 19th of October, the only one yet received of a date subsequent to the 17th of July.

My letter of the 14th of November will show that I had myself resolved upon the course of proceeding which the last paragraph of your letter indicates. I now wait only for the restoration of the capacity of the Government.

I presume that my note to Lord Wellesley of the 21st of September will be considered as having anticipated such parts of your letter as relate to blockades. No answer of any sort has been given to that note, but I will not fail to take the first occasion to reinforce it, by enlarging on the considerations to which you allude. In my opinion the subject cannot be too much pressed, nor the importance of it exaggerated. If such blockades are to continue, we shall have got rid of the orders of 1807 and 1809 in vain.

You will perceive that, in my note above mentioned, I undertook to mention the blockade of the whole island of Zealand, as one of those paper blockades to which the United States objected; that, in my note of the 25th of August, that blockade was comprehended under the general description of such orders as were "*analogous to*" the orders in council of 1807 and 1809; and that in my late note (of the 10th instant,) I have urged the revocation of all the blockades to which my note of the 21st of September related.

I had no instructions to warrant me in representing any other blockade than that of May, 1806, as indispensable in the view of our laws concerning commercial intercourse with Great Britain and France. I have endeavored, however, so to shape my different notes to Lord Wellesley, as that, when taken together, they may be considered to embrace the whole of the paper blockades, for *every purpose*, or only for particular purposes, as future instructions or convenience might require.

Upon the subject of impressments, I need not say any thing, as the affair of the Chesapeake has not been adjusted. For other matters, I refer you to the newspapers.

I have the honor to be, &c.

WM. PINKNEY.

11th CONGRESS.]

No. 234.

[3d SESSION.

FRANCE.

[The following documents were transmitted to Congress by the President's messages of December 5, 1810, and January 14, January 31, and February 19, 1811.]

To the House of Representatives of the United States:

JANUARY 14, 1811.

I transmit to the House of Representatives copies of the documents referred to in their resolution of the 4th instant.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JANUARY 31, 1811.

I lay before Congress a letter from the chargé des affaires of the United States at Paris to the Secretary of State; and another from the same to the French Minister of Foreign Relations; also two letters from the agent of the American consul at Bordeaux to the Secretary of State.

JAMES MADISON.

Extract:—Mr. Armstrong to Mr. Smith, Secretary of State.

PARIS, January 28, 1810.

M. Champagny stated that the order given, in relation to our ships, &c. in Spain, was a regular consequence of the system declared in his letter of the 22d August last, and which had been promulgated throughout the United States. "It is obvious," he added, "that His Majesty cannot permit to his allies a commerce which he denies to himself. This would be at once to defeat his system and oppress his subjects, by demanding from them great and useless sacrifices; for, if the system be not strictly observed every where, it cannot any where produce the effects expected from it. Still," he said, "the property is only sequestered, and becomes a subject of the present negotiation." As our remonstrances have been sufficiently frequent and free, as this was a meeting merely of conciliation, and as the closing remark of the minister indicated rather the policy of looking forward to our rights than backward on our wrongs, I thought it most prudent to suppress the obvious answers which might have been given to his observations, and which, under other circumstances, should not have been omitted. I accordingly contented myself with expressing a hope that our future intercourse should be a competition only of good offices.

In conformity to the suggestions contained in your letter of the 1st December, 1809, I demanded whether, if Great Britain revoked her blockades of a date anterior to the decree, commonly called the Berlin decree, His Majesty the Emperor would consent to revoke the said decree? To which the minister answered, that "the only condition, required for the revocation by His Majesty of the decree of Berlin, will be a previous revocation by the British Government of her blockade of France, or part of France, (such as that from the Elbe to Brest,) of a date anterior to that of the aforesaid decree; and that, if the British Government would then recall the orders in council which had occasioned the decree of Milan, that decree should also be annulled." Our interview closed here, and we have had no meeting, either accidental or by rendezvous, since.

Extract of a letter from the same to the same.

PARIS, February 17, 1810.

The note from M. Champagny, a copy of which is enclosed, was received yesterday.

This goes by the way of England, and may not be much later in reaching you than my despatch of the 28th ultimo, which took the same road.

[Enclosed in the preceding despatch.]

[TRANSLATION.]

PARIS, February 14, 1810.

The undersigned has rendered an account to His Majesty, the Emperor and King, of the conversation he has had with Mr. Armstrong, minister plenipotentiary of the United States of America. His Majesty authorizes him to give the following answer:

His Majesty should consider his decrees of Berlin and Milan as violating the principles of eternal justice, if they were not the compelled consequence of the British orders in council, and, above all, of those of November, 1807. When England has proclaimed her sovereignty universal, by the pretension of subjecting the universe to a tax on navigation, and by extending the jurisdiction of her Parliament over the industry of the world, His Majesty thought that it was the duty of all independent nations to defend their sovereignty, and to declare as denationalized (*denationalisés*) those vessels which should range themselves under the domination of England, by recognising the sovereignty which she arrogated over them.

His Majesty distinguishes the search (*la visite*) from the recognition (*reconnaissance*) of the vessel. The recognition has no other end than to ascertain the reality of the flag. The search is an interior inquest held, although the verity of the flag be ascertained, and of which the result is either the impressment of individuals, or the confiscation of merchandise, or the application of arbitrary laws or regulations.

His Majesty could place no reliance on the proceedings of the United States, who, having no ground of complaint against France, comprised her in their acts of exclusion, and, since the month of May, have forbidden the entrance of their ports to French vessels, under the penalty of confiscation. As soon as His Majesty was informed of this measure, he considered himself bound to order reprisals on American vessels, not only in his territory, but likewise in the countries which are under his influence. In the ports of Holland, of Spain, of Italy, and of Naples, American vessels have been seized, because the Americans have seized French vessels. The Americans cannot

hesitate as to the part which they are to take; they ought either to tear to pieces the act of their independence, and to become again, as before the revolution, the subjects of England, or to take such measures as that their commerce and industry should not be tarified (*tarifés*) by the English, which renders them more dependent than Jamaica, which, at least, has its Assembly of Representatives and its privileges. Men, without just political views, (*sans politique*,) without honor, without energy, may allege that payment of the tribute, imposed by England, may be submitted to because it is light; but why will they not perceive that the English will no sooner have obtained the admission of the principle, than they will raise the tariff in such way, that the burthen, at first light, becoming insupportable, it will then be necessary to fight for interest, after having refused to fight for honor?

The undersigned avows with frankness that France has every thing to gain from receiving well the Americans in her ports. Her commercial relations with neutrals are advantageous to her. She is in no way jealous of their prosperity. Great, powerful, and rich, she is satisfied when, by her own commerce or by that of neutrals, her exportations give to her agriculture and her fabrics the proper development.

It is now thirty years since the United States of America founded, in the bosom of the new world, an independent country at the price of the blood of so many immortal men who perished on the field of battle, to throw off the leaden yoke of the English monarch. These generous men were far from supposing, when they thus sacrificed their blood for the independence of America, that there would so soon be a question whether there should be imposed upon it a yoke more heavy than that which they had thrown off, by subjecting its industry to a tariff of British legislation, and to the orders in council of 1807.

If, then, the minister of America can enter into an engagement that the American vessels will not submit to the orders in council of England of November, 1807, nor to any decree of blockade, unless this blockade should be real, the undersigned is authorized to conclude every species of convention tending to renew the treaty of commerce with America, and in which all the measures proper to consolidate the commerce and the prosperity of the Americans shall be provided for.

The undersigned has considered it his duty to answer the verbal overtures of the American minister by a written note, that the President of the United States may the better know the friendly intentions of France towards the United States, and her favorable dispositions to American commerce.

The undersigned prays Mr. Armstrong to accept the assurances of his high consideration.

CHAMPAGNY, DUC DE CADORE.

Mr. Armstrong to Mr. Smith.

SIR:

PARIS, February 18, 1810.

I wrote a few lines to you yesterday, announcing the receipt and transmission of a copy of the Duke of Cadore's note to me of the 14th instant.

After much serious reflection, I have thought it best to forbear all notice, at present, of the errors, as well of fact as of argument, which may be found in the introductory part of this note, to take the minister at his word, to enter at once upon the proposed negotiation, and, for this purpose, to offer to him a projet for renewing the convention of 1800.

This mode will have the advantage of trying the sincerity of the overtures made by him, and, perhaps, of drawing from him the precise terms on which his master will accommodate. If these be such as we ought to accept, we shall have a treaty in which neither our rights nor our wrongs will be forgotten; if otherwise, there will be enough both of time and occasion to do justice to their policy and our own by a free examination of each.

With great respect, &c.

JOHN ARMSTRONG.

HON. ROBERT SMITH, &c.

Extract:—General Armstrong to Mr. Smith.

PARIS, March 10, 1810.

I have at length received a verbal message in answer to my note of the 21st ultimo. It was from the Minister of Foreign Relations, and in the following words: "His Majesty has decided to sell the American property seized in Spain, but the money arising therefrom shall remain in dépôt." This message has given occasion to a letter from me [annexed,] in a temper somewhat different from that of the 18th February.

[Referred to in Mr. Armstrong's despatch of March 10, 1810.]

General Armstrong to the Duke of Cadore.

SIR:

PARIS, March 10, 1810.

I had yesterday the honor of receiving a verbal message from your excellency, stating that His Majesty had decided that the American property seized in the ports of Spain should be sold, but that the money arising therefrom should remain in dépôt.

On receiving this information, two questions suggested themselves:

1st. Whether this decision was, or was not, extended to ships as well as to cargoes? and,

2d. Whether the money arising from the sales which might be made under it, would, or would not, be subject to the issue of the pending negotiation?

The gentleman charged with the delivery of your message not having been instructed to answer these questions, it becomes my duty to present them to your excellency, and to request a solution of them. Nor is it less a duty on my part to examine the ground on which His Majesty has been pleased to take this decision, which I understand to be that of *reprisal*, suggested for the first time in the note you did me the honor to write to me on the 14th ultimo. In the fourth paragraph of this note, it is said, that His Majesty could not have calculated on the measures taken by the United States, who, having no grounds of complaint against France, have comprised her in their acts of exclusion, and since the month of May last, have prohibited the entry into their ports of French vessels, by subjecting them to confiscation." It is true that the United States have, since the 20th of May last, forbidden the entry of French vessels into their harbors. And it is also true, that the penalty of confiscation attaches to the violation of this law. But in what respect does this offend France? Will she refuse to us the right of regulating commerce within our own ports? Or will she deny that the law in question is a regulation merely municipal? Examine it both as to object and means. What does it more than forbid American ships from going into

the ports of France, and French ships from coming into those of the United States? And why this prohibition? To avoid injury and insult; to escape that lawlessness, which is declared to be a "a forced consequence of the decrees of the British council." If, then, its object be purely defensive, what are its means? Simply a *law*, previously and generally promulgated, operating solely within the territory of the United States, and punishing alike the infractors of it, whether citizens of the said States, or others. And what is this but the exercise of a right, common to all nations, of excluding, at their will, foreign commerce, and of enforcing that exclusion? Can this be deemed a wrong to France? Can this be regarded as a legitimate cause of reprisal on the part of a Power who makes it the first duty of nations to defend their sovereignty, and who even denationalize the ships of those who will not subscribe to the opinion?

But it has been said that "the United States have nothing to complain of against France." Was the capture and condemnation of a ship driven on the shores of France by stress of weather and the perils of the sea—nothing? Was the seizure and sequestration of many cargoes brought to France in ships violating no law and admitted to regulate entry at the imperial custom houses—nothing? Was the violation of our maritime rights, consecrated as they have been by the solemn forms of a public treaty—nothing? In a word, was it nothing that our ships were burnt on the high seas without other offence than that of belonging to the United States, or other apology than was to be found in the enhanced safety of the perpetrators? Surely, if it be the duty of the United States to *resent* theoretical usurpations of the British orders of November, 1807, it cannot be less their duty to *complain* of the daily and practical outrages on the part of France. It is indeed true, that were the people of the United States destitute of policy, of honor, and of energy, (as has been insinuated,) they might have adopted a system of discrimination between the two great belligerents. They might have drawn imaginary lines between the first and second aggressor. They might have resented in the one a conduct to which they tamely submitted in the other, and in this way have patched up a compromise between honor and interest, equally mean and disgraceful. But such was not the course they pursued: and it is, perhaps, a necessary consequence of the justice of their measures, that they are at this day an independent nation. But I will not press this part of my subject. It would be affrontful to your excellency, (knowing as you do that there are not less than one hundred American ships within His Majesty's possession, or that of his allies,) to multiply proofs that the *United States have grounds of complaint against France*.

My attention is necessarily called to another part of the same paragraph, which immediately follows the quotation already made. "As soon," says your excellency, "as His Majesty was informed of this measure, (the non-intercourse law,) it became his duty to retaliate upon the American vessels, not only within his own territories, but also within the countries under his influence. In the ports of Holland, Spain, Italy, and Naples, the American vessels have been seized, because *the Americans had seized French vessels*."

These remarks divide themselves into the following heads:

1st. The right of His Majesty to seize and confiscate American vessels within his own territories.

2d. The right to do so within the territories of his allies? and

3d. The reason of that right, *viz: because Americans had seized French vessels*.

The first of these subjects has been already examined, and the second must be decided like the first, since His Majesty's rights within the limits of his ally cannot be greater than within his own. If, then, it has been shown that the non-intercourse law was merely defensive in its object, that it was but intended to guard against that state of violence which unhappily prevailed, that it was restricted in its operation to the territory of the United States, and that it was duly promulgated there and in Europe before execution, it will be almost unnecessary to repeat, that a law of such description cannot authorize a measure of *reprisal*, equally sudden and silent in its enactment and application, founded on no previous wrong, productive of no previous complaint, and operating beyond the limits of His Majesty's territories, and within those of sovereigns who had even *invited* the commerce of the United States to their ports.

It is, therefore, the third subject only, *the reason of the right*, which remains to be examined; and with regard to it I may observe, that if the alleged fact which forms this reason be unfounded, the reason itself fails, and the right with it. In this view of the business, I may be permitted to inquire, when and where any seizure of a French vessel has taken place under the non-intercourse law? and at the same time to express my firm persuasion that no such seizure has been made—a persuasion founded alike on the silence of the Government and of the journals of the country, and still more on the positive declaration of several well-informed and respectable persons, who have left America as late as the 26th December last. My conclusion, therefore, is, that no *French vessel* having violated the law, no seizure of such vessel has occurred, and that the report which has reached Paris is probably founded on a circumstance altogether unconnected with the non-intercourse law or its operation.

Though far from wishing to prolong this letter, I cannot close it without remarking the great and sudden change wrought in His Majesty's sentiments with regard to the defensive system adopted by the United States.

The law which is now believed to furnish ground for reprisal, was first communicated to His Majesty in June or July last, and certainly did not *then* excite any suspicion of feeling unfriendly to the American Government. Far from this, its communication was immediately followed by overtures of accommodation, which, though productive of no positive arrangement, did not make matters worse than they found them.

On the 22d of August last I was honored with a full exposition of the views and principles which had governed, and which should continue to govern, His Majesty's policy in relation to the United States, and in *this* we do not find the slightest trace of complaint against the provisions of the law in question.

At a period later than the 22d of August, an American ship, destined to a port of Spain, was captured by a French privateer. An appeal was made to His Majesty's Minister of War, who, having submitted the case, received orders to *liberate all American* vessels destined to Spanish ports which had not violated the imperial decrees. Another American ship, at a point of time still later than the capture of the preceding, was brought into the port of Bayonne; but having violated no law of His Majesty was acquitted by his council of prizes; and lastly, in the long conversation I had the honor of holding with your excellency on the 25th of January, no idea of reprisal was maintained by you nor suspected by me; but, on the contrary, in speaking of the seizure of American property in Spain, you expressly declared that it was not a *confiscation*.

Can proofs be more conclusive, that from the first promulgation of the law down to the 25th of January last, nothing in the nature of reprisal was contemplated by His Majesty?

What circumstance may have since occurred to produce a change in his opinion, I know not; but the confidence I feel in the open and loyal policy of His Majesty altogether excludes the idea that the rule was merely found for the occasion, and made to justify seizures not otherwise justifiable.

I pray your excellency to accept, &c.

JOHN ARMSTRONG.

Extracts:—Mr. Armstrong to Mr. Smith.

PARIS, April 4, 1810.

After seven weeks' detention in England, the John Adams has at length got back to France. She arrived in the roads of Havre on the 28th ultimo.

I informed M. Champagny, first, that Mr. Pinkney had not been able to send by this conveyance the result of his application to the British Government concerning the blockades of France prior to the Berlin decree; but that he hoped to be able to send it in a few days by another conveyance; and, secondly, that if he (M. Champagny) had any thing to communicate which would have the effect of changing the present relations of the two countries, and which he wished to be early known to the Government of the United States, he would do well to let me know it within twenty-four hours, as the messenger would leave Paris within that time. To this message I received from him the following answer: "That for some days past nothing in the nature of business, and unconnected with the marriage of the Emperor, could be transacted; and that for some days to come the same cause of delay would continue to operate; that my letters were still before the Emperor, and that he would seize the first moment to get some decision in relation to them. Thus, you see, every thing is yet in air.

General Armstrong to Mr. Smith.

SIR:

PARIS, April 16, 1810.

The John Adams being yet detained, I am able to inform you that on the 11th instant the Emperor directed the sale of all the American vessels taken in the ports of Spain, and that the money arising therefrom should be placed in his *caisse privé*. He has also refused to give up the *Hero*, and has ordered that the case be brought before the council of prizes, where condemnation necessarily awaits it. I send a copy of a note upon which this last order was taken, and another relating to our business in Naples; and am, with very high consideration, your most obedient and very humble servant,

JOHN ARMSTRONG.

The Hon. Mr. SMITH, &c. &c. &c.

Copy of Mr. Pinkney's letter to General Armstrong, dated

DEAR SIR:

LONDON, March 23, 1810.

Although I have detained the corvette much longer than I wished, I am not yet able to send you the result of my application to this Government concerning the British blockades of France prior to the Berlin decree. I expect to receive it in a very few days, and will immediately forward it to you by Mr. Lee, by the way of Morlaix, for it seems that the French Government will not permit a messenger to land at any other port.

I have the honor to be, &c.

WM. PINKNEY.

His Excellency GENERAL ARMSTRONG.

Extracts:—Mr. Armstrong to Mr. Smith.

PARIS, May 3, 1810.

Mr. Lee arrived here some days ago with two letters from Mr. Pinkney, copies of which, with my answers, are enclosed.

I need scarcely observe how impossible it is for me to make *this* or any *similar statement* the groundwork of a new demand for a repeal of the Berlin decree.

[Referred to in Mr. Armstrong's letter of May 3, 1810.]

Mr. Pinkney to Mr. Armstrong.

SIR:

LONDON, March 27, 1810.

I had the honor to receive, by Mr. Powell, your letter of the 25th of January. In pursuance of my instructions, I have addressed a letter to the Marquis Wellesley, His Britannic Majesty's principal Secretary of State for Foreign Affairs, inquiring whether any, and, if any, what blockades of France instituted by Great Britain during the present war before the 1st of January, 1807, are understood by this Government to be in force? Lord Wellesley's reply to that letter not being so explicit as I wished, I have written a second letter requesting explanation. In his lordship's answer to my second letter, I am informed that the blockade notified by Great Britain in May, 1806, (from the Elbe to Brest) has never been formally withdrawn, but that the restrictions which that blockade established are comprehended under the more extensive restrictions of the order in council of the 7th January, 1807, and that no other blockade of the ports of France was instituted by Great Britain between the 16th May, 1806, and the 7th January, 1807, excepting the blockade of Venice, instituted on the 27th of July, 1806, which is still in force.

I have the honor to be, &c.

WM. PINKNEY.

His Excellency GENERAL ARMSTRONG, &c.

[Referred to in Mr. Armstrong's letter of May 3, 1810.]

Mr. Pinkney to General Armstrong.

SIR:

LONDON, April 6, 1810.

I do not know whether the statement contained in my letter of the 27th of last month will enable you to obtain a recall of the Berlin decree. Certainly the inference from that statement is, that the blockade of 1806 is virtually at an end, being merged and comprehended in an order in council issued after the date of the edict of Berlin. I am, however, about to try to obtain a formal revocation of that blockade, (and of that of Venice,) or at least a precise declaration that they are not in force. As it will not be possible to obtain either the one or the other

very soon, (*if, indeed, they can be obtained at all*) I will not detain Mr. Lee, but I will send you another messenger (Mr. Craig, of Philadelphia,) in the course of three or four weeks, with the result of my endeavors. In the mean time, such use can be made of my communication of the 27th ultimo as you may deem advisable.

I have the honor to be, &c.

WM. PINKNEY.

His Excellency GENERAL ARMSTRONG, &c. &c. &c.

[Referred to in Mr. Armstrong's despatch of May 3, 1810.]

Extract of a letter from General Armstrong to Mr. Pinkney, dated

PARIS, May 2, 1810.

I have received your three letters of the 3d and 27th of March, and 6th of April. Accept my thanks for your friendly attention with regard to the passport, and express to Lord Wellesley the sense I have of his lordship's politeness, and the pleasure it would give me to make this acknowledgment in person. The doubt with which you begin your letter of the 6th instant is well founded. The explanation you have received is not such as will enable me to demand the performance of the Emperor's promise (communicated to you in my letter of the 25th of January last,) since it (the explanation) not only admits that *the British order of blockade of May, 1806, is not formally withdrawn*, but that *that of the 27th of July, of the same year, is still in force*. An argument in the face of these admissions, and founded merely on the operation of an order of ulterior date, and more extensive restriction, must not be hazarded, as it would be not merely useless, but productive of mischief.

Extract.—Mr. Armstrong to Mr. Smith.

PARIS, May 24, 1810.

Some circumstances have occurred since the date of my despatch by Mr. Ronaldson, which, from their importance, make a speedy conveyance necessary. These I shall detail as briefly as possible.

1st. On the 14th instant, was published here in the official and other journals, a decree of the Emperor, dated at Rambouillet, on the 23d of March last, directing the seizure and sale of all American vessels which had entered the ports of the empire, or of its dependencies, since the 20th of May last, &c.

2d. Four commissioners have been sent to Amsterdam, with orders to take possession of the American property to be found there agreeably to the tenth article of the late treaty between France and Holland; and

3d. Several of our ships and cargoes, with regard to which compromises have been made under the sanction of the council of prizes, have been seized again, to satisfy the provisions of the new decree.

[Referred to in Mr. Armstrong's despatch of May 24.]

Translation of a decree issued by the Emperor of the French, at Rambouillet, 23d March, 1810.

NAPOLEON, &c. &c. &c.

Considering that the Government of the United States, by an act dated 1st March, 1809, which forbids the entrance of the ports, harbors, and rivers of the said States to all French vessels, orders, 1st, That after the 20th May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated, as well as their cargoes; 2d, That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any foreign port or place whatsoever, under the penalty of seizure, confiscation, and a fine of three times the value of the merchandise; 3d, That American vessels cannot go to any port of France, of her colonies, or dependencies: We have decreed, and do decree what follows:

ART. 1st. All vessels navigating under the flag of the United States, or possessed, in whole or in part, by any citizen or subject of that Power, which, counting from the 20th May, 1809, have entered or shall enter into the ports of our empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund (*caisse d'amortissement*.)

There shall be excepted from this regulation the vessels which shall be charged with despatches, or with commissions of the Government of the said States, and who shall not have either cargoes or merchandise on board.

Our Grand Judge, Minister of Justice, and our Minister of Finance, are charged with the execution of our present decree.

NAPOLEON.

The Secretary of State to General Armstrong.

SIR:

DEPARTMENT OF STATE, June 5, 1810.

Your letters of the 17th, 18th, and 21st February, and 10th, 15th, 21st, and 24th March, with their several enclosures, were received on the 21st May.

As the "John Adams" is daily expected, and as your further communications by her will better enable me to adapt to the actual state of our affairs with the French Government the observations proper to be made in relation to their seizure of our property, and to the letter of the Duke of Cadore of the 14th February, it is by the President deemed expedient not to make, at this time, any such animadversions. I cannot, however, forbear informing you that a high indignation is felt by the President, as well as by the public, at this act of violence on our property, and at the outrage, both in the language and in the matter of the letter of the Duke of Cadore, so justly portrayed in your note to him of the 10th March.

The particular object of this letter is to add to my despatches of the 4th and 22d May another chance of hastening into your hands a copy of the act of Congress of the last session, concerning the commercial intercourse between the United States and Great Britain and France.

In the fourth section of this act, you will perceive a new modification of the authority given to the President. If there be sincerity in the language held at different times by the French Government, and especially in the late

overture, to proceed to amicable and just arrangements in case of our refusal to submit to the British orders in council, no pretext can be found for longer declining to put an end to the decrees of which the United States have so justly complained. By putting in force, agreeably to the terms of this statute, the non-intercourse against Great Britain, the very species of resistance would be made which France has been constantly representing as most efficacious. It may be added, that the form in which the law now presents the overture is as well calculated as the overture itself to gain a favorable attention, inasmuch as it may be regarded by the belligerent first accepting it as a promise to itself, and a threat only to its adversary.

If, however, the arrangement contemplated by the law should be acceptable to the French Government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground short of a preliminary restoration of the property, on which the contemplated arrangement can be made, will be an understanding that the confiscation is reversible, and that it will become immediately the subject of discussion with a reasonable prospect of justice to our injured citizens.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to General Armstrong.

SIR:

DEPARTMENT OF STATE, July 2, 1810.

The enclosed is a copy of a letter of instruction to Mr. Pinkney, bearing the same date with this letter. You will thence perceive, that if the answer of the British Government to the representation and requisition which our minister at London may make should be of a satisfactory nature, it will be transmitted to you without delay.

In that case, you will make a proper use of it for obtaining a repeal of the Berlin decree, and you will proceed, concurrently with Mr. Pinkney, in bringing about successive removals by the two Governments of all their predatory edicts.

I avail myself of this occasion to state to you, that it is deemed of great importance that our ministers at foreign courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to General Armstrong.

SIR:

DEPARTMENT OF STATE, July 5, 1810.

The arrival of the John Adams brought your letters of the 1st, 4th, 7th and 16th April.

From that of the 16th April, it appears that the seizures of the American property lately made had been followed up by its actual sale, and that the proceeds had been deposited in the Emperor's *caisse privé*. You have presented in such just colors the enormity of this outrage, that I have only to signify to you that the President entirely approves the step that has been taken by you, and that he does not doubt that it will be followed by you, or the person who may succeed you, with such further interpositions as may be deemed advisable. He instructs you particularly to make the French Government sensible of the deep impression made here by so signal an aggression on the principles of justice and of good faith, and to demand every reparation of which the case is susceptible. If it be not the purpose of the French Government to remove every idea of friendly adjustment with the United States, it would seem impossible but that a reconsideration of this violent proceeding must lead to a redress of it, as a preliminary to a general accommodation of the differences between the two countries.

At the date of the last communication from Mr. Pinkney, he had not obtained from the British Government an acceptance of the condition on which the French Government was willing to concur in putting an end to all the edicts of both against our neutral commerce. If he should afterwards have succeeded, you will, of course, on receiving information of the fact, immediately claim from the French Government the fulfilment of its promise; and by transmitting the result to Mr. Pinkney, you will co-operate with him in completing the removal of all the illegal obstructions to our commerce.

Among the documents now sent is another copy of the act of Congress repealing the non-intercourse law, but authorizing a renewal of it against Great Britain in case France shall repeal her edicts, and Great Britain refuse to follow the example, and *vice versa*. You have been already informed that the President is ready to exercise the power vested in him for such a purpose, as soon as the occasion shall arise. Should the other experiment in the hands of Mr. Pinkney have failed, you will make the act of Congress, and the disposition of the President, the subject of a formal communication to the French Government; and it is not easy to conceive any ground, even specious, on which the overture specified in the act can be declined.

If the non-intercourse law, in any of its modifications, was objectionable to the Emperor of the French, that law no longer exists.

If he be ready, as has been declared in the letter of the Duke of Cadore of February 14th, to do justice to the United States in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the non-intercourse against Great Britain to oppose to her orders in council a measure, which is of a character that ought to satisfy any reasonable expectation.

If it should be necessary for you to meet the question, whether the non-intercourse will be renewed against Great Britain in case she should not comprehend in the repeal of her edicts her blockades, which are not consistent with the law of nations, you may, should it be found necessary, let it be understood that a repeal of the illegal blockades, of a date prior to the Berlin decree, namely, that of May, 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and of course identified with, the orders in council. With respect to blockades of a subsequent date, or not against France, you will press the reasonableness of leaving them, together with future blockades, not warranted by public law, to be proceeded against by the United States in the manner they may choose to adopt.

As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized, by the order or at the instance of the French Government, must be combined with a repeal of the French edicts, with a view to a non-intercourse with Great Britain; such a provision being an indispensable evidence of

the just purpose of France towards the United States. And you will, moreover, be careful, in arranging such a provision for that particular case of spoiliations, not to weaken the ground on which a redress of others may be justly pursued.

If the act of Congress, which has legalized a free trade with both the belligerents, without guarding against British interruptions of it with France, whilst France cannot materially interrupt it with Great Britain, be complained of, as leaving the trade on the worst possible footing for France, and on the best possible one for Great Britain, the French Government may be reminded of the other feature of the act, which puts it in their own power to obtain either an interruption of our trade with Great Britain, or a recall of her interruption of it with France.

Among the considerations which belong to this subject, it may be remarked, that it might have been reasonably expected by the United States that a repeal of the French decrees would have resulted from the British order in council of April, 1809. This order expressly revoked the preceding orders of November, 1807, heretofore urged by France in justification of her decrees, and was not only different in its extent and in its details, but was essentially different in its policy.

The policy of the orders of 1807 was, by cutting off all commercial supplies, to retort on her enemies the distress which the French decree was intended to inflict on Great Britain.

The policy of the order of April, 1809, if not avowedly, was most certainly to prevent such supplies, by shutting out those only which might flow from neutral sources, in order thereby to favor a surreptitious monopoly to British traders. In order to counteract this policy, it was the manifest interest of France to have favored the rival and cheaper supplies through neutrals; instead of which, she has co-operated with the monopolizing views of Great Britain, by rigorous exclusion of neutrals from her ports. She has, in fact, reversed the operation, originally professed by her decree. Instead of annoying her enemy at the expense of a friend, she annoys a friend for the benefit of her enemy.

If the French Government should accede to the overture contained in the act of Congress, by repealing or so modifying its decrees as that they will cease to violate our neutral rights, you will, if necessary, transmit the repeal properly authenticated to Mr. Pinkney, by a special messenger, and you will hasten and ensure the receipt of it here, by engaging a vessel, if no equivalent conveyance should offer, to bring it directly from France, and by sending several copies to Mr. Pinkney to be forwarded from British ports.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Mr. Smith, Secretary of State, to General Armstrong.

SIR:

DEPARTMENT OF STATE, July 17, 1810.

You will herewith receive duplicates of my letters to you of the 20th June, and 2d and 5th of July.

This despatch you will receive from Lieutenant Miller of the navy, who is to proceed from New York in the sloop of war the Hornet. This public vessel has been ordered to England, and to France, not only for the purpose of transmitting despatches to you and to our minister in London, but for the further purpose of affording you, as well as him, a safe opportunity of conveying to this Department, before the next meeting of Congress, full information of the ultimate policy, in relation to the United States, of the Governments of England and France. And with a view to ensure her return to the United States in due season, her commanding officer has received orders not to remain in any port of Europe after the 1st day of October next. With respect, therefore, to the time you will detain Mr. Miller in Paris, you will be influenced by the information which you may receive from him as to the orders he may have from the commanding officer of the Hornet.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c.

Extracts:—Mr. Armstrong to Mr. Smith.

PARIS, August 5, 1810.

I had this morning the honor of receiving the enclosed note from the Duke of Cadore, informing me that the imperial decrees of Berlin and Milan are revoked. I shall communicate this fact as promptly as possible to Mr. Pinkney.

I shall obtain a specific revocation of the decree of the 23d of March last; but it ought to be known to you that this decree has had no operation since my first unofficial communication of the law of the 1st of May.

[Referred to in Mr. Armstrong's letter of August 5.]

The Duke of Cadore to General Armstrong.

[TRANSLATION.]

SIR:

PARIS, August 5, 1810.

I have laid before His Majesty, the Emperor and King, the act of Congress of the 1st of May, taken from the Gazette of the United States, which you have sent to me.

His Majesty could have wished that this act, and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long interval of time. There have resulted from this delay serious inconveniences, which would not have existed if these acts had been promptly and officially communicated.

The Emperor had applauded the general embargo laid by the United States on all their vessels, because that measure, if it has been prejudicial to France, had in it at least nothing offensive to her honor. It has caused her to lose her colonies of Martinique, Guadeloupe, and Cayenne; the Emperor has not complained of it. He has made this sacrifice to the principle which had determined the Americans to lay the embargo, inspiring them with

the noble resolution of interdicting to themselves the ocean, rather than to submit to the laws of those who wished to make themselves the tyrants (*les dominateurs*) of it.

The act of the 1st March has raised the embargo, and substituted for it a measure the most injurious to the interests of France.

This act, of which the Emperor knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Reprisal was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise (*de transiger*.) The sequestration of all the American vessels in France has been the necessary consequence of the measure taken by Congress.

Now Congress retrace their steps, (*revient sur ses pas*;) they revoke the act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans; in short, Congress engages to oppose itself to that one of the belligerent Powers which should refuse to acknowledge the rights of neutrals.

In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade, which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch, the Emperor is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the Emperor will consider as conformable with the interests of his empire.

Accept, sir, the assurance of my high consideration,

CHAMPAGNY, DUKE DE CADORE.

His Excellency GENERAL ARMSTRONG, &c.

General Armstrong to the Duke of Cadore. [No date.]

SIR:

The enclosed copy of the law of the United States of the 1st of May last, has been transmitted to me *officially* by the Secretary of State, and I hasten to lay it before your excellency. It will supply any want of authenticity which may be found in that already communicated.

In making this second communication of the law, I cannot but recall to your recollection an inference injurious either to my Government, or to myself, which may be drawn from the first paragraph of the letter you did me the honor to write to me on the 5th instant. In this paragraph it is said: "S. M. aurait désiré que cet acte, et tous les autres actes du Gouvernement des Etats Unis, qui peuvent intéresser la France, lui eussent toujours été notifiés officiellement. En général, elle n'en a eu connaissance qu'indirectement, et après un long intervalle du temps. Il résulte de ce retard des inconveniens graves, qui n'auraient pas lieu, si ces actes étaient promptement et officiellement communiqués." ["His Majesty could have wished, that this act and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long interval of time. There have resulted from this delay serious inconveniences, which would not have existed, if these acts had been promptly and officially communicated."]

From these words it may be inferred, either that the United States have been habitually negligent in transmitting to me such of their acts as concern France, or that I have neglected to perform my duty, in not presenting these acts with sufficient promptitude.

In looking back on the public measures of the United States, which in any way interest France, I find but the following, viz:

- 1st. An act prohibiting commercial intercourse between the United States and St. Domingo.
- 2d. An act laying an embargo on the ships or other vessels of the United States.
- 3d. An act prohibiting all commercial intercourse between the United States and France.
- 4th. An arrangement made between the Secretary of State of the United States, and the minister of His Britannic Majesty at Washington; and,
- 5th. The late act of the 1st of May. Now of these, *all* have been presented *officially*; and, making a proper allowance for the remoteness of the United States from France, with sufficient promptitude, excepting the *last*, which (from causes unknown to me) did not reach Paris until yesterday. Your excellency can at any time ascertain the correctness of this statement by referring to the archives of your own Department.

I have the honor to be, &c.

JOHN ARMSTRONG.

Extract:—Mr. Armstrong to Mr. Smith.

PARIS, September 10, 1810.

Since the date of my last despatch, (by Mr. Jarvis,) nothing has occurred worth communicating, until yesterday, when I received the letter from the Duke of Cadore, of which No. 1 (enclosed) is a copy. By this it will be seen that the decree of Rambouillet is not in operation, and that American ships, entering the ports of France before the 1st of November next, will be judged under the decrees of Berlin and of Milan.

No. 2 is the copy of a note written to Mr. Champagny, with a view of drawing from him something explicit on the points of which it treats. The first of these may appear to have been useless, after the declaration of that minister, that American ships, which will hereafter arrive in the ports of France, shall not be subject to confiscation; but understanding from the council of prizes, that, until some act be taken which had the effect of recalling by name the decree of the 23d March last, they must continue to consider it both as existing and operative, and, of course, binding upon them, I hastened to present the subject again, and in a form which leaves no room for misunderstanding.

SEPTEMBER 12.

I have the honor to enclose copies of two other letters from the Duke of Cadore, one of which is an answer to my note of the 8th instant. To the question, whether we had any thing to expect in reparation for past wrongs?

they reply, that their act being of reprisal, the law of reprisal must govern: in other words, that, if you *confiscate French property under the law of non-intercourse, they will confiscate your property under their decree of Rambouillet.* The words underscored are the verbal explanation which accompanied the letter.

I set out this day for Bordeaux, (on my way to the United States,) and hope to begin my voyage from that port on the 1st October next.

[Referred to in Mr. Armstrong's despatch of September 10, 1810.]

No. 1.

[TRANSLATION.]

The Duke of Cadore to Mr. Armstrong.

SIR:

PARIS, September 7, 1810.

You have done me the honor to ask of me, by your letter of the 20th August, what will be the lot of the American vessels which may arrive in France before the 1st of November?

His Majesty has always wished to favor the commerce of the United States. It was not without reluctance that he used reprisal towards the Americans, while he saw that Congress had ordered the confiscation of all French vessels which might arrive in the United States.

It appears that Congress might have spared to His Majesty and his subjects this mortification, (*ce désagrément*) if, in place of that harsh and decisive measure, which left to France no choice, they had used some palliative, such as that of not receiving French vessels, or of sending them away after a delay of so many days.

As soon as His Majesty was informed of this hostile act, he felt that the honor of France, involved in this point, could not be cleansed (*ne pouvait être lavé*) but by a declaration of war, which could not take place but by tedious explanations.

The Emperor contented himself with making reprisals, and, in consequence, he applied to American vessels which came to France, or to the countries occupied by the French armies, word for word, the regulations of the act of Congress.

Since the last measures, by which that hostile act is repealed, His Majesty hastens to cause it to be made known to you, that he anticipates that which may re-establish harmony with the United States, and that he repeals his decree of Berlin and Milan, under the conditions pointed out in my letter to you of the 5th August.

During this interval, the American vessels which shall arrive in France will not be subjected to confiscation, because the act of Congress, which had served as a motive to our reprisals, is repealed; but these vessels will be subjected to all the effects of the Berlin and Milan decrees; that is to say, they will be treated *amicably*, if they can be considered as Americans, and *hostilely*, if they have lost their national character, (*s'ils se sont laissés dénationalisés*.) by submitting to the orders in council of the British Government.

I have the honor to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY, DUC DE CADORE.

His Excellency General ARMSTRONG, &c. &c. &c.

No. 2.

[Referred to in Mr. Armstrong's despatch of September 10.]

General Armstrong to the Duke of Cadore.

SIR:

PARIS, September 7, 1810.

Your excellency will not think me importunate, if I should employ the last moments of my stay in Paris in seeking an explicit declaration on the following points:

1st. Has the decree of His Majesty of the 23d of March last, enjoining acts of reprisal against the commerce of the United States, on account of their late law of non-intercourse, been recalled?

2d. What will be the operation, on the vessels of the United States, of His Majesty's decree of July last, forbidding the departure of neutral ships from ports of France, unless provided with imperial licenses? Are these licenses merely substitutes for clearances; or do they prescribe regulations to be observed by the holders of them within the jurisdiction of the United States?

Do they confine the permitted intercourse to two ports only of the said States; and do they enjoin that all shipments be made on French account exclusively?

Is it His Majesty's will, that the seizures made in the ports of Spain, and other places, on the principle of reprisal, shall become a subject of present or future negotiation between the two Governments; or, are the acts already taken by His Majesty to be regarded as conclusive against remuneration?

I need not suggest to your excellency the interest that both Governments have in the answers that may be given to these questions, and how nearly connected they are with the good understanding which ought to exist between them. After the great step lately taken by His Majesty, towards an accommodation of differences, we are not at liberty to suppose that any new consideration will arise, which shall either retard or prevent the adoption of measures necessary to a full restoration of the commercial intercourse and friendly relations of the two Powers.

I cannot omit expressing, on this occasion, the sense I shall carry with me of the many obligations I am personally under to your excellency, and of the very high consideration with which I have the honor to be,

Your most obedient and very humble servant,

JOHN ARMSTRONG.

His Excellency the DUKE OF CADORE, &c. &c. &c.

[Referred to in Mr. Armstrong's despatch of September 10.]

[TRANSLATION.]

The Duke of Cadore to Mr. Armstrong.

SIR:

PARIS, September 12, 1810.

I have received your letter of the 7th September. That which I wrote to you the same day answered the first of the questions you put to me. I will add to what I have had the honor to write to you, that the decree of the 23d March, 1810, which ordered reprisals, in consequence of the act of Congress of the 1st March, 1809, was repealed, as soon as we were informed of the repeal of the act of *non-intercourse* passed against France.

On your second question, I hasten to declare to you, that American vessels, loaded with merchandise, the growth of the American provinces, will be received without difficulty in the ports of France, provided they have not

suffered their flag to lose its national character, by submitting to the acts of the British council: they may, in like manner, depart from the ports of France. The Emperor has given licenses to American vessels. It is the only flag which has obtained them. In this His Majesty has intended to give a proof of the respect he loves to show to the Americans. If he is somewhat dissatisfied (*peu satisfaite*) that they have not as yet been able to succeed in causing their flag to be respected, at least he sees with pleasure that they are far from acknowledging the tyrannical principles of English legislation.

The American vessels which may be loaded on account of Frenchmen, or on account of Americans, will be admitted into the ports of France. As to the merchandise confiscated, it having been confiscated as a measure of reprisal, the principles of reprisal must be the law in that affair.

I have the honor to renew to you, sir, the assurance of my high consideration.

CHAMPAGNY, DUC DE CADORE.

His Excellency General ARMSTRONG, &c. &c. &c.

General Armstrong to Mr. Pinkney.

SIR:

BORDEAUX, September 29, 1810.

Your letter of the 3d instant found me at this place, and on the point of embarking for the United States. I hasten, therefore, to give to it an immediate answer.

There was no error in my representation to you, nor in your representation to Lord Wellesley, of the words, or of the meaning, as I understand it, of the Duke of Cadore's note to me; nor, indeed, do either of these appear to be readily susceptible of mistake. The former, no doubt, *retract*, in the most positive terms, the Berlin and Milan decrees, and, of course, the principles on which these decrees were founded; and, in doing so, assuredly give us a fair claim on His Britannic Majesty for a fulfilment of the promise made by his minister plenipotentiary to our Government on the 23d of February, 1808. It would, however, appear, by Lord Wellesley's letter to you of the 31st ultimo, that the British cabinet has given a new version to this promise of His Majesty, and that, as a preliminary to its execution, it is now required, not merely that the principles which had rendered necessary the British system should be *retracted*, but that the repeal of the French decrees should have actually begun to operate, and that the commerce of neutral nations (generally) should have been restored to the condition in which it stood previously to the promulgation of these decrees. It would also appear, from different passages in your letter, that this deviation from the original promise of His Majesty grew out of a supposition that the recall of the French decrees implied a contemporaneous cessation of the British orders in council of November, 1807, and a repeal before the 1st day of November next of all proclamation blockades of France, &c. &c. Than this construction nothing can, in my opinion, be more erroneous. Were the repeal of the French decrees dependent alone on what Great Britain may do, the supposition would have in it some color of reasonableness; but as the conditions of it present an alternative, one side of which depends, not on the will of His Britannic Majesty at all, but altogether on that of the United States, and which cannot be adopted by them until after the 1st November next, it necessarily follows that the conditions are not *precedent*, as has been supposed, but *subsequent*, as I represent them. This reasoning will receive illustration from a plain and unsophisticated statement of the Duke of Cadore's declaration, viz: that the Berlin and Milan decrees will cease to operate after the 1st day of November next, on one of two conditions; either that Great Britain shall revoke her orders in council, so far as they violate the maritime rights of the United States, or that, refusing to do so, the United States shall revive towards her certain sections of their late non-intercourse law, conformably to an act of Congress of the 1st May last. In this we find nothing of a contemporaneous cessation of the French decrees and British orders in council, nor that the blockades of France must be recalled before the 1st day of November next; indeed, the very reverse is to be found there; for it contains an express engagement that the decrees shall cease, if the United States do a certain act, which all the world knows they cannot do till after that day. These remarks may derive some additional force from the contents of my letter by Mr. Masson, which will, I hope, show that the concessions made by France to the United States are at least sufficiently substantial to invite from Great Britain some measures of a character equally conciliatory, and that, "earnestly desiring to see the commerce of the world restored to that freedom which is necessary to its prosperity," and no more hesitating to follow the good than she has done to follow the bad example of her neighbor and rival, she will go on to declare that her orders in council, &c. shall cease after the 1st day of November next, on condition, either that France shall have actually withdrawn her offensive decrees on that day, or that, if she refuse to do so, the United States shall proceed to enforce against her their late non-intercourse law.

In my view of the subject, nothing short of this can be considered a sufficient pledge on the part of the British Government, which, unlike that of France, presents no alternative in the conditions on which her orders in council shall be repealed, and which, of course, in no way makes that repeal depend on an act which would be altogether that of the United States.

I have the honor to be, &c.

JOHN ARMSTRONG.

His Excellency WILLIAM PINKNEY, &c. &c. &c.

Extract of a letter from Mr. Pinkney to Mr. Russell.

OCTOBER 7, 1810.

It may not be amiss to mention that, as it will be obviously prudent, even if it be not absolutely necessary, to furnish me with all such further evidence as can conveniently be gained, confirmatory of our expectation that the French repeal of the Berlin and Milan decrees will take effect on the 1st of November, I beg you to transmit me such evidence if ———, and as soon as it shall be gained.

It may be yet more important to send me, with as little delay as possible, after the 1st of November, the most decisive proof in your power that the repeal has taken effect, at least an official letter from you to me stating that fact.

Extracts:—Mr. Smith, Secretary of State, to Mr. Armstrong.

DEPARTMENT OF STATE, November 2, 1810.

You will herewith receive a printed copy of the proclamation, which, conformably to the act of Congress, has been issued by the President on the revocation of the Berlin and Milan decrees; you will, however, let the French Government understand that this has been done on the ground that the repeal of these decrees does involve an

extinguishment of all the edicts of France actually violating our neutral rights, and that the reservations under the expression "it being understood," are not conditions precedent, affecting the operation of the repeal; and on the ground also that the United States are not pledged against the blockades of Great Britain, beyond what is stated in my letter to you of the 5th July. It is to be remarked, moreover, that in issuing the proclamation it has been presumed that the requisition contained in that letter, on the subject of the sequestered property, will have been satisfied. This presumption is not only favored by the natural connexion of the policy and justice of a reversal of that sequestration with the repeal of the decrees, but is strengthened by concurrent accounts, through different channels, that such property as has been sequestered has been actually restored.

The enclosed copy of my last letter to Mr. Pinkney of the 19th ultimo, will afford you a distinct view of the line of conduct presented to him in relation to the British orders and blockades.

This despatch will be delivered to you by one of the officers of the United States' frigate *Essex*, who will have orders to return to his ship as soon as he shall have received such despatches as you may deem it necessary to transmit to this Department.

Mr. Smith to General Armstrong.

SIR:

DEPARTMENT OF STATE, *November 5, 1810.*

As the ground on which the French Government has deemed it expedient to place the revocation of its decrees may suggest to it the further pretext of requiring a restoration of the French property seized here under the non-intercourse law, as a condition to their restoring the American property condemned or sequestered under the French decree of March, you are authorized, in case a restoration can be thus, and not otherwise, obtained, to acquiesce in such an arrangement, and, if necessary, to give to such arrangement a conventional form requiring the sanction of the Senate. You will, however, take care to avoid any expressions implying an acknowledgment, on the part of the United States, that the non-intercourse law, which was not retrospective, has any analogy to the French decree, the injustice of which essentially consists in its retrospective operation. In truth, the arrangement, on the part of the United States, will be little more than nominal, as will appear by the enclosed copy of a letter from the Treasury Department. It may be proper to remark that the third section of the act of May, for the recovery of forfeitures under the non-intercourse law, contemplated violations by our own citizens, rather than French violations, which could not have been of sufficient importance to have called for such a provision, pointing particularly at them.

I have the honor to be, &c.

R. SMITH.

General JOHN ARMSTRONG, &c. &c. &c.

Mr. Russell to the Secretary of State.

SIR:

PARIS, *December 4, 1810.*

This serves merely to cover a copy of my letter to Mr. Pinkney of the 1st of this month; since that time nothing has come to my knowledge to affect the statement which it contains. It is my duty, however, to say that I have not learned the occurrence of any case to which the Berlin and Milan decrees could be applied.

I have the honor to be, &c.

JON. RUSSELL.

The Hon. R. SMITH, *Secretary of State.*

[Referred to in Mr. Russell's letter of Dec. 4, 1810.]

Mr. Russell to Mr. Pinckney.

SIR:

PARIS, *December 1, 1810.*

As nothing has transpired here of sufficient importance to be communicated by a special messenger, and as no safe private conveyance has hitherto presented itself, I have delayed, till now, to acknowledge the receipt of your letters under date of the 7th and 28th of October.

No event within my knowledge has occurred, either before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the Duke of Cadore on the 5th August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month on any vessel arriving during that time in any of the ports of France, may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know, indeed, of no better evidence than this which the negative character of the case admits, or how the non-existence of an edict can be proved, except by the promulgation of its repeal and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measures which exclusively depend on them.

I need not suggest to you the importance of transmitting hither, as early as possible, any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I am, sir, with great respect, &c.

JON. RUSSELL.

His Excellency WM. PINKNEY, Esq.

Jonathan Russell, Esq., Chargé d'Affaires of the United States at Paris, to Mr. Smith, Secretary of State.

SIR:

PARIS, *December 11, 1810.*

On the evening of the 9th instant, I learned that the *Essex* frigate had arrived at L'Orient on the 4th, and had been put under quarantine for five days for the want of a bill of health, during which time the messenger is not allowed to come on shore. At the same time that I received this intelligence, I was also informed that the brig *New Orleans Packet* was seized at Bordeaux, under the Berlin and Milan decrees, by the director of the customs at that place. The simultaneous occurrence of these two events formed, in my opinion, a crisis which required a prompt decision of this Government. Under this impression, I immediately addressed to the Duke of Cadore the note of which the enclosed is a copy, and in which I thought it politic to remonstrate with firmness

against the proceedings of the director of the customs at Bordeaux, and to leave the Government here at liberty to disavow them. This disavowal, however, I am persuaded, depends entirely on the nature of the despatches brought by the Essex. I feel, therefore, the most lively anxiety to receive them. In the mean time, I give this letter a chance of reaching you by a vessel about leaving Bordeaux for New York.

Since my last the Hanseatic towns have been annexed to this empire.

I have informed Mr. Pinkney of the arrival of the Essex, and suggested to him the possibility that the proclamation of the President had come out by her, in order that he might, if he thought proper, make a final attempt to obtain a repeal of the orders in council while it was yet in the power of the British ministry to do it with a good grace.

I have the honor to be, &c.

JONA. RUSSELL.

Hon. ROBERT SMITH, *Secretary of State U. S.*

[Referred to in Mr. Russell's despatch of December 11, 1810.]

Mr. Russell to the Duke of Cadore.

SIR:

PARIS, December 10, 1810.

I have this moment learned that the American brig, the New Orleans Packet, lately arrived at Bordeaux, has, with her cargo, the *bona fide* property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs under the Berlin and Milan decrees. I have also been informed that this director of the customs, not satisfied with this hardy violation of the solemn assurances given by your excellency to General Armstrong on the 5th August last, and confirmed by your letter to him of the 7th September, that these decrees were revoked, and would cease to operate from the 1st November, has, without regard to the plighted faith of his Government, announced his intention of selling the provisions which constitute a part of the cargo, under the pretext that they are perishable. The clear and unequivocal manner in which the revocation of the Berlin and Milan decrees was announced by your excellency, forbids me for a moment to suppose that the violent proceedings of this man will be sanctioned by His Majesty the Emperor and King, or that the least delay will be allowed in placing the property thus arrested at the free disposition of the rightful owner, whose confidence alone in the good faith with which it becomes nations to perform their engagements has brought him to the place where he is so inhospitably treated.

I am persuaded that your excellency will not, on this occasion, attempt to remind me of the conditions on which the revocation of those decrees was predicated. These conditions were in the alternative, and the performance of either is sufficient to render absolute and perpetual that revocation. It is of no importance that the British orders in council have not been withdrawn, if the United States, in due time, perform the condition which depends alone on them: and what is this condition? Why, to execute an act of Congress against the English, which, to be thus executed, requires the previous revocation of these very decrees. The letter of your excellency of the 5th August appears to have been written with a full knowledge of this requisition of the law, and manifestly with the intention to comply with it, in order that it might be competent for the President of the United States to exercise the contingent power which had been given to him.

It will not be pretended that the decrees have, in fact, been revoked, but that the delay of the United States in performing the condition presented to them authorizes their revival. The case of the New Orleans Packet is the first which has occurred since the 1st of November, to which the Berlin or Milan decrees could be applied; and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked; as to delay on the part of the United States, there has been none. No official information of the letter of your excellency of the 5th August left France for the United States, owing to circumstances which it was not in the power of General Armstrong to control, until the 29th September; and to this moment I have not learned that such official information has been there received. I might, indeed, have learned it, and been able now to have communicated to your excellency the measures on which the President has decided in consequence of it, had not the frigate, the Essex, despatched by him, been put under quarantine, on her arrival at L'Orient, for the want of a bill of health, and the messenger thereby detained since the 4th of this month. I will not undertake to decide whether a bill of health ought, in courtesy, to be exacted of a frigate of a friendly Power coming in the *winter season* from a place not known to have been lately afflicted with any malignant disease; but surely the delay which this exaction occasions cannot be imputed to a want of due diligence, on the part of the American Government.

It is from this view of the subject that I am thoroughly convinced that the application of the Berlin or Milan decree, by the director of the customs at Bordeaux, to the New Orleans Packet, will not be approved by His Majesty, but that prompt and efficient measures will be taken to correct a procedure which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid.

I pray your excellency to be assured of my most distinguished consideration.

JON. RUSSELL.

To the DUKE OF CADORE.

[Referred to in Mr. Russell's letter of December 11, 1810.]

Christopher Meyer to Mr. Smith, Secretary of State.

SIR:

UNITED STATES' CONSULATE, BORDEAUX, December 6, 1810.

I have the honor to enclose a copy of Mr. Cathalan's letter to me, received this morning, concerning the recapture of the schooner Grace Anne Greene, of New York, Daniel Greene, master, who brought her into the port of Marseilles, having two British officers and seven sailors on board, and they only being six men, amongst which number two boys.

The brig New Orleans Packet, of New York, with a cargo of provisions and three hundred bags of cocoa on board, bound to the Mediterranean, for a market, went to Gibraltar, and, after lying there some time, came to this port, where she has been sequestered.

The schooner Friendship, of and from Baltimore, Captain Snow, with a cargo of coffee and Campeachy, arrived five days ago in this river. Whatever the issue may be of these two vessels, I shall have the honor to inform you of it.

I remain, very respectfully, sir, your most obedient, humble servant,

CHRISTOPHER MEYER.

To the SECRETARY OF STATE of the United States of America, Washington.

[Referred to in Mr. Russell's letter of December 11, 1810.]

Christopher Meyer to Mr. Smith, Secretary of State.

SIR:

UNITED STATES' CONSULATE, BORDEAUX, *December 14, 1810.*

Annexed is a triplicate of my respects to you of the 6th instant; the brig *Osmin* and the ship *Commodore Rodgers*, by which the original and duplicate went, having not got to sea yet.

The brig *New Orleans Packet*, of New York, Captain *Harris*, mentioned in my former letter, has since been seized by the collector, and her cargo has been put in the imperial custom-house.

The schooner *Friendship*, of and from Baltimore, Captain *Snow*, has been sequestered.

This is accompanied with an account of sundry advances made for the relief of distressed seamen, for this port and the port of Bayonne, with twenty-two vouchers, amounting to 4,934 francs 20 centimes, and for which I have drawn on Jonathan Russell, Esq., our chargé d'affaires at Paris.

Captain *Skiddy*, of the schooner *Maria Louisa*, bound to New York, has eight distressed seamen on board, and for whom I have paid no passage money, nor have I laid in provisions for them.

The ship *Commodore Rodgers*, Captain *Shaler*, from Bayonne, bound to New York, will carry home from fifty to sixty seamen in distress, and for whom I shall have the honor to transmit you a list and an account by my next.

The duty on cocoa has been reduced from 5 francs 50 centimes to 2 francs 75 centimes per pound.

The *Essex* frigate is arrived at L'Orient from the United States.

This is accompanied by a file of newspapers, and which I shall have the honor to continue to send whenever opportunities offer.

I have the honor, &c.

CHRISTOPHER MEYER.

ROBERT SMITH, Esq., *Secretary of State.*

CIRCULAR.

SIR:

TREASURY DEPARTMENT, *November 2, 1810.*

You will herewith receive a copy of the proclamation of the President of the United States, announcing the revocation of the edicts of France, which violated the neutral commerce of the United States; and that the restrictions, imposed by the act of 1st May last, accordingly cease from this day in relation to France. French armed vessels may, therefore, be admitted into the harbors and waters of the United States, any thing in that law to the contrary notwithstanding.

It also follows, that if Great Britain shall not, on the 2d of February next, have revoked or modified in like manner her edicts violating the neutral commerce of the United States, the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the "Act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," shall, in conformity with the act first above mentioned, be revived and have full force and effect, so far as relates to Great Britain and her dependencies, from and after the said 2d day of February next. Unless, therefore, you shall before that day be officially notified by this Department of such revocation or modification, you will, from and after the said day, carry into effect the abovementioned sections, which prohibit both the entrance of British vessels of every description into the harbors and waters of the United States, and the importation into the United States of any articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of Great Britain, and of any articles whatever brought from the said dominions, colonies, and dependencies.

I am, respectfully, sir, your obedient servant.

The COLLECTOR of the Customs for the district of _____.

By the President of the United States of America.

A PROCLAMATION.

Whereas, by the fourth section of the act of Congress, passed on the 1st day of May, 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," it is provided "that, in case either Great Britain or France shall, before the 3d day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation; and if the other nation shall not, within three months thereafter, so revoke or modify her edicts, in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes,' shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid."

And whereas it has been officially made known to this Government, that the edicts of France violating the neutral commerce of the United States have been so revoked as to cease to have effect on the 1st of the present month: Now, therefore, I, James Madison, President of the United States, do hereby proclaim that the said edicts of France have been so revoked as that they ceased on the said 1st day of the present month to violate the neutral commerce of the United States; and that, from the date of these presents, all the restrictions imposed by the aforesaid act shall cease and be discontinued in relation to France and her dependencies.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, and signed the
[L. s.] same with my hand, at the city of Washington, this second day of November, in the year of our Lord one thousand eight hundred and ten, and of the independence of the United States the thirty-fifth.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

*The Vice Consul at Bordeaux to the Secretary of State.*UNITED STATES' CONSULATE, BORDEAUX, *December 31, 1810.*

SIR:

I had the honor of addressing you the 14th instant by this opportunity, (the schooner *Maria Louisa*, Captain Skiddy,) and I have now to enclose a newspaper of yesterday, containing two letters from the French Minister of Justice to the President of the Tribunal of Prizes, and from the Minister of Finance to the Collector General of all the customs in France, concerning American navigation.

I have the honor to be, &c.

HON. ROBERT SMITH, *Secretary of State.*CH. MEYER,
Vice Consul of the United States.

[Referred to in the preceding letter of Mr. Meyer.]

[TRANSLATION.]

FRENCH EMPIRE.

PARIS, *December 26, 1810.**Copy of a letter from his excellency the Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes.*

MR. PRESIDENT:

PARIS, *December 25, 1810.*

The Minister of Foreign Relations, by order of His Majesty the Emperor and King, addressed on the 5th of August last to the plenipotentiary of the United States of America a note containing the following words:

"I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being well understood that, in consequence of this declaration, the English will revoke their orders in council, and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation to announce the revocation of the decrees of Berlin and Milan, and declared that, in consequence thereof, all the restrictions imposed by the act of the 1st of May must cease with respect to France and her dependencies. On the same day the Treasury Department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the ports and waters of the United States armed French vessels; prescribes to them to apply, after the 2d of February next, to English vessels of every description, and to productions arising from the soil and industry or the commerce of England and her dependencies, the law which prohibits all commercial relations, if at that period the revocation of the English orders in council, and of all the acts violating the neutrality of the United States, should not be announced by the Treasury Department.

In consequence of this engagement, entered into by the Government of the United States, to cause their rights to be respected, His Majesty orders that all the causes that may be pending in the council of prizes of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration.

THE DUKE OF MASSA.

Copy of a letter from the Minister of Finance to the Count of Sussy, Counsellor of State, Director General of the Customs.

DECEMBER 25, 1810.

On the 5th of last August, the Minister of Foreign Relations wrote to Mr. Armstrong, minister plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the 1st of November they would cease to have effect; it being well understood that, in consequence of this declaration, the English would revoke their orders in council, and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation which announces the revocation of the Berlin and Milan decrees after the 1st of November; and which declares that, in consequence thereof, all the restrictions imposed by the act of the 1st of May, 1809, should cease with respect to France and her dependencies.

The same day the Treasury Department addressed to the collectors of the customs a circular, which directs them to admit into the ports and waters of the United States armed French vessels, and enjoins it on them to apply, after the 2d of February next, the law of the 1st of May, 1809, prohibiting all commercial relation to English vessels of every description, as well as to productions of the soil, industry, or commerce of England and her dependencies.

His Majesty having seen, in these two pieces, the enunciation of the measures which the Americans purpose taking on the 2d of February next, to cause their rights to be respected, has ordered me to inform you that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the 1st of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the 2d of February I shall acquaint you with the intentions of the Emperor with regard to the definitive measures to be taken for distinguishing and favoring the American navigation.

I have the honor to salute you.

The Minister of Finance, THE DUKE OF GAETE.

11th CONGRESS.]

No. 235.

[3d SESSION.]

TUNIS.

[The following documents were communicated to Congress by the President's message of December 5, 1810.]

Extract of a letter from John Gavino, Esq., consul of the United States at Gibraltar, to the Secretary of State.

GIBRALTAR, September 18, 1810.

I beg leave to hand you a copy of a letter from Consul Coxe, dated Malta, 26th ultimo, when he was on his return to Tunis. It has given me great pleasure to find his having succeeded in terminating amicably the differences which had taken place with that Bey.

[Referred to in the preceding.]

C. D. Coxe to John Gavino.

SIR:

MALTA, August 26, 1810.

I arrived at this place on the 22d instant, in the schooner Hamilton, Captain Whitlock, as a flag of truce, in consequence of an unfavorable change in the situation of our affairs at Tunis, with the expectation of making some arrangement whereby the difficulty which has taken place may be amicably adjusted.

On the 14th instant, his excellency the Bey sent a messenger to request my presence at the palace. I accordingly presented myself, and he informed me that, in consequence of the seizure of a vessel belonging to him and bearing his flag, through the interference of Mr. Pulis, the American consul at Malta, he had given orders to arrest all the Americans and sequester all their property in the kingdom of Tunis, which he would hold until he received full satisfaction from the United States, considering them responsible for the acts of their public agents.

The vessel alluded to was the ship Liberty, of Philadelphia, belonging to William Hazlett of that place, which had been taken by a French privateer, brought to Tunis, and sold by order of the French consul at public auction. The first minister of the Bey was the purchaser, and she afterwards proceeded to Malta under Tunisian colors, where she arrived without interruption in the month of May last. Mr. Pulis, the American consul, applied to the Maltese court, or *Consulate del Maore*, (as the British Vice Admiralty Court would not interfere,) and claimed the ship for the original American owners. His excellency the Bey, on being informed of this, took the measures before related.

He not only regards this as a loss of property, but as an insult offered to his flag, and will view it as a declaration of war if the ship should not be restored to him, with damages for detention. He insists on the right of purchasing prize vessels at auction, or any others offered for sale in his kingdom, and that his flag shall protect them. His excellency declared that he had given me the strongest proofs of his justice and friendly disposition to my Government, in causing all the American vessels with their cargoes to be released which had been taken within the limits of this jurisdiction; but that those taken on the high seas was an affair between the American and French Governments, and did not concern him. He has warned me that, if the ship Rolla (an American vessel, taken by a French privateer *without* his jurisdictional limits, and purchased by his agents at public auction at the French consulate,) should be hereafter claimed by an American citizen and given up to him, the Americans, with their property at Tunis, shall be answerable for the event.

The amount of American property at Tunis may be computed at about two hundred and fifty thousand dollars.

All my endeavors to deter his excellency from these harsh measures were of no avail. He assured me, in the most solemn manner, that he would not only firmly adhere to the steps he had already taken, but would pursue such others as he might deem necessary. I have now, however, to inform you that, on my arrival here, and in consequence of my having officially informed Mr. Pulis of what had taken place at Tunis, he has, as the only alternative to prevent a war, withdrawn his claim, and the ship has been restored to the Bey's ambassador at this place, whereby our relations with that regency are again placed on the same friendly footing on which they were before this unfortunate occurrence took place.

I shall sail on my return to Tunis immediately, in the vessel which brought me here; having thus brought the difficulty which had arisen to an amicable conclusion on terms which, I trust, will be satisfactory to my Government.

Very respectfully, I have the honor to be, sir, your most obedient, humble servant,

C. D. COXE.

JOHN GAVINO, Esq., *American consul at Gibraltar.*

11th CONGRESS.]

No. 236.

[3d SESSION.]

SPAIN—FLORIDA.

COMMUNICATED TO CONGRESS BY THE PUBLIC MESSAGE OF DECEMBER 5, 1810, AND THE CONFIDENTIAL MESSAGE OF JANUARY 3, 1811.

(Confidential.)

WASHINGTON, January 3, 1811.

To the Senate and House of Representatives of the United States:

I communicate to Congress, in confidence, a letter of the 2d December from Governor Folch, of West Florida, to the Secretary of State; and another of the same date, from the same to John McKee.

I communicate in like manner a letter from the British chargé d'affaires to the Secretary of State, with the answer of the latter. Although the letter cannot have been written in consequence of any instruction from the

British Government, founded on a late order for taking possession of the portion of West Florida well known to be claimed by the United States; although no communication has ever been made by that Government to this of any stipulation with Spain, contemplating an interposition which might so materially affect the United States; and although no call can have been made by Spain in the present instance for the fulfilment of any such subsisting engagement, yet the spirit and scope of the document, with the accredited source from which it proceeds, required that it should not be withheld from the consideration of Congress.

Taking into view the tenor of these several communications, the posture of things with which they are connected, the intimate relation of the country adjoining the United States eastward of the river Perdido to their security and tranquillity, and the peculiar interest they otherwise have in its destiny, I recommend to the consideration of Congress the seasonableness of a declaration that the United States could not see, without serious inquietude, any part of a neighboring territory, in which they have in different respects so deep and so just a concern, pass from the hands of Spain into those of any other foreign Power.

I recommend to their consideration also the expediency of authorizing the Executive to take temporary possession of any part or parts of the said territory, in pursuance of arrangements which may be desired by the Spanish authorities, and for making provision for the Government of the same during such possession.

The wisdom of Congress will at the same time determine how far it may be expedient to provide for the event of a subversion of the Spanish authorities within the territory in question, and an apprehended occupancy thereof by any other foreign Power.

JAMES MADISON.

Extract of a letter from Governor Holmes, of the Mississippi Territory, to the Secretary of State, dated

OCTOBER 17, 1810.

The enclosed letter I have been requested to transmit to you.

[Enclosed in Governor Holmes's letter of October 17, 1810.]

The President of the Convention of Florida to the Secretary of State.

SIR:

BATON ROUGE, October 10, 1810.

The Convention of the State of Florida have already transmitted an official copy of their act of independence, through his excellency Governor Holmes, to the President of the United States, accompanied with the expression of their hope and desire that this commonwealth may be immediately acknowledged and protected by the Government of the United States as an integral part of the American Union. On a subject so interesting to the community represented by us, it is necessary that we should have the most direct and unequivocal assurances of the views and wishes of the American Government without delay, since our weak and unprotected situation will oblige us to look to some foreign Government for support, should it be refused to us by the country which we have considered as our parent State.

We therefore make this direct appeal through you to the President and General Government of the American States, to solicit that immediate protection to which we consider ourselves entitled; and, to obtain a speedy and favorable decision, we offer the following considerations: 1st, The Government of the United States, in their instructions to the envoys extraordinary at Paris in March, 1806, authorized the purchase of East Florida, directing them at the same time to engage France to intercede with the cabinet of Spain to relinquish any claim to the territory which now forms this commonwealth. 2d, In all diplomatic correspondence with American ministers abroad, the Government of the United States have spoken of West Florida as a part of the Louisiana cession. They have legislated for the country as a part of their own territory, and have deferred to take possession of it, in expectation that Spain might be induced to relinquish her claim by amicable negotiation. 3d, The American Government has already refused to accredit any minister from the Spanish Junta, which body was certainly more legally organized as the representative of the sovereignty than that now called the regency of Spain. Therefore, the United States cannot but regard any force or authority emanating from them, with an intention to subjugate us, as they would an invasion of their territory by a foreign enemy. 4th, The Emperor of France has invited the Spanish Americans to declare their independence rather than remain in subjection to the old Spanish Government: therefore an acknowledgment of our independence by the United States could not be complained of by France, or involve the American Government in any contest with that Power. 5th, Neither can it afford any just cause of complaint to Great Britain, although she be the ally of Spain, that the United States should acknowledge and support our independence, as this measure was necessary to save the country from falling into the hands of the French exiles from the island of Cuba, and other partisans of Bonaparte, who are the eternal enemies of Great Britain.

Should the United States be induced by these, or any other considerations, to acknowledge our claim to their protection as an integral part of their territory, or otherwise, we feel it our duty to claim for our constituents an immediate admission into the Union as an independent State, or as a territory of the United States, with permission to establish our own form of Government, or to be united with one of the neighboring territories, or a part of one of them, in such manner as to form a State. Should it be thought proper to annex us to one of the neighboring territories, or a part of one of them, the inhabitants of this commonwealth would prefer being annexed to the island of Orleans; and in the mean while, until a State Government should be established, that they should be governed by the ordinances already enacted by this convention, and by their further regulations hereafter.

The claim which we have to the soil or unlocated lands within this commonwealth will not, it is presumed, be contested by the United States, as they have tacitly acquiesced in the claim of France or Spain for seven years, and the restrictions of the several embargo and non-intercourse laws might fairly be construed, if not as a relinquishment of their claim, yet at least sufficient to entitle the people of this commonwealth (who have wrested the Government and country from Spain at the risk of their lives and fortunes) to all the unlocated lands. It will strike the American Government that the moneys arising from the sales of these lands, applied as they will be to improving the internal communications of the country, opening canals, &c. will, in fact, be adding to the prosperity and strength of the Federal Union.

To fulfil with good faith our promises and engagements to the inhabitants of this country, it will be our duty to stipulate for an unqualified pardon for all deserters now residing within this commonwealth, together with an exemption from further service in the army or navy of the United States.

A loan of \$100,000 is solicited of the American Government, to be reimbursed at three, six, and nine years, from the sales of public lands. This loan may be made by the Secretary of the Treasury immediately, without committing the Government, or making it known to foreign ministers at Washington.

In order not to embarrass the cabinet of the United States, and to receive first through their own confidential agents their wishes and views with respect to us, it is deemed prudent to defer the departure of our envoy already named, who will be despatched immediately on receiving information that such a measure will meet the approbation of the United States.

We pray you to accept the assurances of our respect and high consideration.

By order of the Convention:

JOHN RHEA, *President.*

To the Honorable ROBERT SMITH, *Secretary of State for the United States.*

[Transmitted with the letter of Governor Holmes to the Secretary of State, of October 17, 1810.]

The Convention of Florida to His Excellency the Governor of the Mississippi Territory.

SIR:

BATON ROUGE, *September 26, 1810.*

We, the delegates of the people of this State, have the honor to enclose to you an official copy of their act of independence, requesting that it may be forthwith transmitted by you to the President of the United States, with the expression of their most confident and ardent hope that it may accord with the policy of the Government, as it does with the safety and happiness of the people of the United States, to take the present Government and people of this State under their immediate and special protection, as an integral and inalienable portion of the United States.

The Convention and their constituents of Florida rest in the firm persuasion that the blood which flows in their veins will remind the Government and the people of the United States that they are their children; that they have been acknowledged as such by the most solemn acts of the Congress of the United States; and that, so long as independence and the rights of man shall be maintained and cherished by the American Union, the good people of this State cannot or will not be abandoned or exposed to the invasion, violence, or force of any foreign or domestic foe.

The Convention beg you to receive for yourself, sir, and to assure the President of their high respect and consideration.

By order of the Convention:

JOHN RHEA, *President.*

[Transmitted with the letter of Governor Holmes to the Secretary of State, of October 17, 1810.]

By the Representatives of the people of West Florida, in Convention assembled.

A DECLARATION.

It is known to the world with how much fidelity the good people of this Territory have professed and maintained allegiance to their legitimate sovereign, while any hope remained of receiving from him protection for their property and lives.

Without making any unnecessary innovation in the established principles of the Government, we had voluntarily adopted certain regulations, in concert with our First Magistrate, for the express purpose of preserving this Territory, and showing our attachment to the Government which had heretofore protected us. This compact, which was entered into with good faith on our part, will forever remain an honorable testimony of our upright intentions and inviolable fidelity to our King and parent country, while so much as a shadow of legitimate authority remained to be exercised over us. We sought only a speedy remedy for such evils as seemed to endanger our existence and prosperity, and were encouraged by our Governor with solemn promises of assistance and co-operation. But those measures which were intended for our preservation he has endeavored to pervert into an engine of destruction, by encouraging, in the most perfidious manner, the violation of ordinances sanctioned and established by himself as the law of the land.

Being thus left without any hope of protection from the mother country, betrayed by a Magistrate whose duty it was to have provided for the safety and tranquillity of the people and Government committed to his charge, and exposed to all the evils of a state of anarchy, which we have so long endeavored to avert, it becomes our duty to provide for our own security, as a free and independent State, absolved from all allegiance to a Government which no longer protects us.

We, therefore, the representatives aforesaid, appealing to the Supreme Ruler of the world for the rectitude of our intentions, do solemnly publish and declare the several districts composing this Territory of West Florida to be a *free and independent State*; and that they have a right to institute for themselves such form of Government as they may think conducive to their safety and happiness; to form treaties; to establish commerce; to provide for their common defence; and to do all acts which may of right be done by a sovereign and independent nation; at the same time declaring all acts within the said Territory of West Florida, after this date, by any tribunal or authorities not deriving their powers from the people, agreeably to the provisions established by this convention, to be null and void; and calling upon all foreign nations to respect this our declaration, acknowledging our independence, and giving us such aid as may be consistent with the laws and usages of nations.

This declaration, made in convention, at the town of Baton Rouge, on the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and ten, we, the representatives, in the name aforesaid, and on behalf of our constituents, do hereby solemnly pledge ourselves to support with our lives and fortunes.

By order of the Convention:

JOHN RHEA, *President.*

ANDREW STEELE, *Secretary.*

The Secretary of State to Governor Claiborne.

SIR:

DEPARTMENT OF STATE, *October 27, 1810.*

From the enclosed proclamation of the President of the United States, you will perceive his determination to take possession of the Territory therein specified, in the name and in behalf of the United States, the considerations which have constrained him to resort to this necessary measure, and his direction that you, as Governor of the Orleans Territory, shall execute the same. Of this proclamation, upon your arrival at Natchez, you will,

without delay, cause to be printed as many copies, in the English, French, and Spanish languages, as may be deemed necessary, and you will cause the same to be extensively circulated throughout the said Territory.

You will immediately proceed, by the nearest and best route, to the town of Washington, in the Mississippi Territory. From the Secretary at War you will receive an order to the officers commanding the several frontier posts to afford you such assistance in passing the wilderness, and in descending the Western waters, as you may require; and, as despatch is very desirable, you are authorized, in case your horses should fail, to procure others at the public expense. After having made, at Washington, the necessary arrangements with Governor Holmes and with the commanding officer of the regular troops, you will, without delay, proceed into the said Territory, and, in virtue of the President's proclamation, take possession of the same, in the name and in behalf of the United States.

As the district, the possession of which you are directed to take, is to be considered as making part of the Territory of Orleans, you will, after taking possession, lose no time in proceeding to organize the militia; to prescribe the bounds of parishes; to establish parish courts; and, finally, to do whatever your legal powers applicable to the case will warrant, and may be calculated to maintain order; to secure to the inhabitants the peaceable enjoyment of their liberty, property, and religion; and to place them, as far as may be, on the same footing with the inhabitants of the other districts under your authority. As far as your powers may be inadequate to these and other requisite objects, the Legislature of Orleans, which it is understood will soon be in session, will have an opportunity of making further provisions for them, more especially for giving, by law, to the inhabitants of the said Territory, a just share in the representation in the General Assembly; it being desirable that the interval of this privation should not be prolonged beyond the unavoidable necessity of the case.

If, contrary to expectation, the occupation of this Territory on the part of the United States should be opposed by force, the commanding officer of the regular troops on the Mississippi will have orders from the Secretary at War to afford you, upon your application, the requisite aid; and should an additional force be deemed necessary, you will draw from the Orleans Territory, as will Governor Holmes from the Mississippi Territory, militia in such numbers and in such proportions from your respective territories, as you and Governor Holmes may deem proper. Should, however, any particular place, however small, remain in possession of a Spanish force, you will not proceed to employ force against it, but you will make immediate report thereof to this Department.

You will avail yourself of the first favorable opportunities that may occur to transmit to the several Governors of the Spanish provinces in the neighborhood copies of the President's proclamation, with accompanying letters of a conciliatory tendency.

To defray any reasonable expenditures which may necessarily attend the execution of these instructions, the President authorizes you, having due regard to economy, to draw for a sum not exceeding, in any event, twenty thousand dollars.

From the confidence which the President justly has in your judgment and discretion, he is persuaded that, in the execution of this trust, as delicate as it is important, your department will be temperate and conciliatory. Such a line of conduct towards the inhabitants is prescribed as well by policy as by justice.

You will, it is expected, be fully sensible of the necessity not only of communicating every important event that may occur in the progress of this business, but of transmitting a letter, whatever may be its contents, by every mail to this city.

I have the honor to be, &c.

R. SMITH.

WILLIAM C. C. CLAIBORNE, Esq. &c.

[Referred to in the preceding letter.]

By the President of the United States of America.

A PROCLAMATION.

Whereas the territory south of the Mississippi Territory and eastward of the river Mississippi, and extending to the river Perdido, of which possession was not delivered to the United States in pursuance of the treaty concluded at Paris on the 30th April, 1803, has, at all times, as is well known, been considered and claimed by them, as being within the colony of Louisiana conveyed by the said treaty, in the same extent that it had in the hands of Spain, and that it had when France originally possessed it;

And whereas the acquiescence of the United States in the temporary continuance of the said Territory under the Spanish authority was not the result of any distrust of their title, as has been particularly evinced by the general tenor of their laws, and by the distinction made in the application of those laws between that Territory and foreign countries, but was occasioned by their conciliatory views, and by a confidence in the justice of their cause, and in the success of candid discussion and amicable negotiation with a just and friendly Power;

And whereas a satisfactory adjustment, too long delayed, without the fault of the United States, has for some time been entirely suspended by events over which they had no control; and whereas a crisis has at length arrived subversive of the order of things under the Spanish authorities, whereby a failure of the United States to take the said Territory into its possession may lead to events ultimately contravening the views of both parties, whilst, in the mean time, the tranquillity and security of our adjoining Territories are endangered, and new facilities given to violators of our revenue and commercial laws, and of those prohibiting the introduction of slaves:

Considering, moreover, that, under these peculiar and imperative circumstances, a forbearance on the part of the United States to occupy the Territory in question, and thereby guard against the confusions and contingencies which threaten it, might be construed into a dereliction of their title, or an insensibility to the importance of the stake: Considering that in the hands of the United States it will not cease to be a subject of fair and friendly negotiation and adjustment: Considering, finally, that the acts of Congress, though contemplating a present possession by a foreign authority, have contemplated also an eventual possession of the said Territory by the United States, and are accordingly so framed as, in that case, to extend in their operation to the same:

Now be it known, that I, JAMES MADISON, President of the United States of America, in pursuance of these weighty and urgent considerations, have deemed it right and requisite that possession should be taken of the said Territory, in the name and behalf of the United States. William C. C. Claiborne, Governor of the Orleans Territory, of which the said Territory is to be taken as part, will accordingly proceed to execute the same, and to exercise over the said Territory the authorities and functions legally appertaining to his office. And the good people inhabiting the same are invited and enjoined to pay due respect to him in that character, to be obedient to the

laws, to maintain order, to cherish harmony, and in every manner to conduct themselves as peaceable citizens, under full assurance that they will be protected in the enjoyment of their liberty, property, and religion.

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

Done at the city of Washington, the twenty-seventh day of October, A. D. 1810, and in the thirty-fifth year of the independence of the said United States.

By the President:

JAMES MADISON.

R. SMITH, *Secretary of State.*

Mr. Smith to Governor Holmes.

SIR:

DEPARTMENT OF STATE, *November 15, 1810.*

I have received your letter of the 17th of October, enclosing the memorial of the convention of West Florida. To repress the unreasonable expectations therein indicated in relation to the vacant land in that Territory, it is deemed proper to lose no time in communicating to you and to Governor Claiborne the sentiments of the President on the subject.

The right of the United States to the Territory of West Florida, as far as the river Perdido, was fairly acquired by purchase, and has been formally ratified by treaty. The delivery of possession has, indeed, been deferred, and the procrastination has been heretofore acquiesced in by this Government, from a hope, patiently indulged, that amicable negotiation would accomplish the equitable purpose of the United States. But this delay, which proceeded only from the forbearance of the United States to enforce a legitimate and well-known claim, could not impair the legality of their title; nor could any change in the internal state of things, without their sanction, howsoever brought about, vary their right. It remains, of course, as perfect as it was before the interposition of the convention. And the people of West Florida must not for a moment be misled by the expectation that the United States will surrender, for their exclusive benefit, what had been purchased with the treasure and for the benefit of the whole. The vacant land of this Territory, thrown into common stock with all the other vacant land of the Union, will be a property in common, for the national uses of all the people of the United States. The community of interests upon which this Government invariably acts, the liberal policy which it has uniformly displayed towards the people of the Territories, (a part of which policy, has ever been a just regard to honest settlers,) will, nevertheless, be a sufficient pledge to the inhabitants of West Florida for the early and continued attention of the Federal Legislature to their situation and their wants.

These observations will apprise you, sir, of the sentiments of the President, as to the propositions in the memorial in relation to the vacant land in West Florida, and will enable you to make, when necessary and proper, suitable explanations to the people of that Territory. You will, however, keep in mind that the President cannot recognise in the convention of West Florida any independent authority whatever to propose or to form a compact with the United States.

I am sir, with the highest respect, your most obedient servant,

R. SMITH.

His Excellency DAVID HOLMES, *Governor of Mississippi.*

[TRANSLATION.]

Governor Folch to Mr. Smith, Secretary of State.

SIR:

MOBILE, *December 2, 1810.*

I will not detain myself in giving to your excellency information relative to the letter which I directed to his excellency Governor Holmes, being persuaded that it will be in the hands of your excellency long before this; but I will add to its contents, for your government, that I have decided on delivering this province to the United States under an equitable capitulation, provided I do not receive succor from the Havana or Vera Cruz, during the present month; or that his excellency the Marquis of Someruelos, (on whom I depend,) should not have opened directly a negotiation on this point.

The incomprehensible abandonment in which I see myself, and the afflicted situation to which this province sees itself reduced, not only authorize me, but force me to have recourse to this determination, the only one to save it from the ruin which threatens it.

The United States are also authorized to accept it; for as the disturbances which now afflict this province, so near to them, must increase every day, they cannot but have an influence on their tranquillity, an object which merits the first care of every Government.

The inhabitants of Baton Rouge may figure to themselves many motives which may, (in their conception) justify the determination they have adopted; but they cannot produce even a single one which can make tolerable the tyrannical, illegal, and unjust obstinacy with which they insist that the other districts should subject themselves to their will.

The United States, who profess the exercise of equity, cannot exempt themselves from taking part with the party unjustly oppressed. In this belief, I recur to its Executive, through the medium of your excellency, supplicating him, that he will be pleased to send orders to the commandant of Fort Stoddert, that he should assist me with the troops which he has under his orders, for the purpose of forcing the party under the command of Reuben Kemper to retire within the limits of the districts of Baton Rouge; intimating to him, that if in future he should repeat his incursions in the district of Mobile and Pensacola, the troops of the United States, joined to the Spanish troops, will use force to keep them back.

These districts have the more reason to expect from the rectitude of the United States the assistance which I ask, as the party which Kemper commands has been recruited, armed, and provisioned within the limits of their sovereignty.

At the same time, if my proposition is accepted, orders may be given authorizing some person to treat with me for regulating the evacuation of the province, and what ought to precede it.

I conclude by assuring your excellency of my consideration and respect.

God preserve your excellency many years.

VICENTE FOLCH.

His Excellency ROBERT SMITH, *Secretary of State of the United States, Washington.*

Governor Folch to Colonel McKee.

SIR:

MOBILE, December 2, 1810.

Since the conversations I have had with you respecting the disturbances which at present afflict this province, I have thought of addressing myself directly to the Executive power of the United States, through the medium of their Secretary of State, proposing to treat for the delivery of the province in more positive terms than those which I employed in the letter that I wrote to his excellency Governor Holmes, because, as our difficulties every day increase, the necessity of hastening their conclusion increases also.

I have believed, also, that it might be conducive to the better exit of this negotiation, that my despatch should be intrusted to a person who could give to the Government every information that it ought to possess, in order that it may deliberate with the brevity which is necessary; and considering that you, sir, are in a situation to fulfil this object, from having been an eye-witness to all that has passed in this part of the province and the adjacent country, you can give information respecting the alarm which reigns among the inhabitants, of the influence which the French agents in Louisiana exercise in these disturbances, and the risk which that province runs of being involved in the disorders which have had their birth in Florida, as well as the fatal consequences which may follow if the evil is not stopped in its beginning, and whatever else can be said on the subject.

In order to avoid accidents and delays, which it is not easy to foresee, I will deliver to you duplicates of the despatch which I address to his excellency the Secretary of State, in order that you may transmit one of them by the mail, and by this means give early information to the Government of the affairs on which it has to deliberate.

The satisfaction I have enjoyed for many years in your acquaintance assures me that you will use every exertion in a matter which is so interesting to our respective countries.

I remain, &c.

Col. JOHN MCKEE.

V. FOLCH.

Colonel McKee to Mr. Eustis.

SIR:

FORT STODDERT, December 5, 1810.

Having on the 21st ult. taken the liberty of addressing you on the subject of the disturbances in this quarter, and having no personal acquaintance with any member of the present Executive, I have presumed to enclose to your care a despatch from Governor Folch to the Secretary of State. I have also enclosed a hasty translation of Governor Folch's letter to me, which, with some other considerations, has induced me to proceed immediately to the city of Washington, for which I leave this in two or three days, and will proceed with the least possible delay by Knoxville.

I have the honor, &c.

Hon. WILLIAM EUSTIS.

JOHN MCKEE.

Mr. Morier to Mr. Smith.

SIR:

WASHINGTON, December 15, 1810.

I deem it to be a duty incumbent on me, considering the strict and close alliance which subsists between His Majesty's Government and that of Spain, to express to the Government of the United States, through you, the deep regret with which I have seen that part of the President's message to Congress, in which the determination of this Government to take possession of West Florida is avowed.

Without presuming to discuss the validity of the title of the United States to West Florida, (a title which is manifestly doubtful, since, according to the President's proclamation it is left open to discussion, but which has, nevertheless, been brought forward as one of the pleas to justify the occupation of that province,) may it not be asked why that province could not have been as fairly a subject of negotiation and adjustment in the hands of the Spaniards, who possess the actual sovereignty there, as in the hands of the Americans, who, to obtain possession, must begin by committing an act of hostility towards Spain?

But it may be said that the Spanish forces in Mexico, in Cuba, or at Pensacola, are unequal to quell the rebellious association of a band of desperadoes who are known here by the contemptuous appellation of land-jobbers. Allowing as much (which you will agree with me sir, is allowing a great deal) would it not have been worthy of the generosity of a free nation like this, bearing, as it doubtless does, a respect for the rights of a gallant people at this moment engaged in noble struggle for its liberty—would it not have been an act on the part of this country, dictated by the sacred ties of good neighborhood, and of friendship which exists between it and Spain, to have simply offered its assistance to crush the common enemy of both, rather than to have made such interference the pretext for wresting a province from a friendly Power, and that in the time of her adversity.

For allow me, sir, to inquire how can the declaration in the President's proclamation, "that in the hands of the United States that territory will not cease to be a subject of fair and friendly adjustment," be made to accord with the declaration in his message to Congress, (implying permanent possession,) "of the adoption of that people into the bosom of the American family?"

The act, consequently, of sending a force to West Florida to secure by arms what was before a subject of friendly negotiation, cannot, I much fear, under any palliation, be considered as other than as an act of open hostility against Spain.

Whilst, therefore, it is impossible to disguise the deep and lively interest which His Majesty takes in every thing that relates to Spain, which would, I am convinced, induce him to mediate between Spain and the United States on any point of controversy which may exist between them, with the utmost impartiality and good-will towards both parties, I think it due to the sincere wish of His Majesty, to maintain unimpaired the friendship which at this moment happily exists between Great Britain and the United States, to say that such are the ties by which His Majesty is bound to Spain, that he cannot see with indifference any attack upon her interests in America. And as I have no doubt that the Government of the United States will attribute this representation to the most conciliatory motives, I am induced to request, in answer to it, such explanation on the subject, as will at once convince His Majesty's Government of the pacific disposition of the United States towards His Majesty's allies the Spaniards, and will remove the contrary impression which I fear the President's message is likely to make.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. P. MORIER.

The Hon. R. SMITH, *Secretary of State.*

Mr. Morier to Mr. Smith.

WASHINGTON, *December 22, 1810.*

Mr. Morier presents his compliments to Mr. Smith, and begs the favor to be informed when he may expect an answer to the letter which he had the honor to address to Mr. Smith on the 15th inst.

Mr. Morier, at the same time, hopes that Mr. Smith, concurring with him in the opinion that it would be desirable that His Majesty's Government should, as soon as possible after the receipt of the President's message, be furnished with the explanation which Mr. Morier has requested in the above letter on the occupation of West Florida in the name of the United States, will readily excuse the solicitude with which he again presses this subject upon the attention of this Government.

Mr. Smith to Mr. Morier.

SIR:

DEPARTMENT OF STATE, *December 28, 1810.*

Taking into view the subject and the circumstances of your letter of the 15th inst., I have, in acknowledging it, only to remark to you, that although it is sufficiently evident, from the face of the documents before the public, that no hostile or unfriendly purpose is entertained towards Spain, the only Power known to the United States in the transaction, yet our functionary at London has been enabled to give to your Government whatever explanations may comport with the frankness and the spirit of conciliation which have been invariably manifested on the part of the United States.

I have the honor to be, &c.

R. SMITH.

JOHN PHILIP MORIER, Esq., *Chargé des Affaires, &c. Washington.*

11th CONGRESS.]

No. 237.

[3d SESSION.

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 29, 1810.

DECEMBER 28, 1810.

To the House of Representatives:

I lay before the House a report from the Secretary of State, complying with their resolution of the 21st instant.

JAMES MADISON.

SIR:

DEPARTMENT OF STATE, *December 28, 1810.*

In pursuance of the resolution of the House of Representatives of the 21st of this month, I have the honor of laying before you:

1st. A copy (marked A) of a decree of the Emperor of France, transmitted to this Department by General Armstrong.

2d. A copy (marked B) of a correspondence with General Turreau.

3d. A copy (marked C) of a communication, just received from General Armstrong, in relation to the duties lately imposed by the Emperor of France.

With the highest respect and consideration, I have the honor to remain, &c.

R. SMITH.

To the PRESIDENT of the United States.

A.

Translation of a decree of the 15th July, 1810.

Thirty or forty American vessels may import into France, under license, cotton, fish oil, dye-wood, salt fish, codfish, hides, and peltry. They may export wine, brandy, silks, linens, cloths, jewelry, household furniture, and other manufactured articles. They can only depart from Charleston and New York, under the obligation of bringing with them a gazette of the day of their departure, (American gazette,) moreover a certificate of the origin of the merchandise, given by the French consul, containing a sentence in cipher. The French merchants, who shall cause these vessels to come, must prove that they are concerned in the fabrics at Paris, Rouen, and other towns.

B.

[TRANSLATION.]

General Turreau to Mr. Smith.

SIR:

WASHINGTON, *November 27, 1810.*

Since our last conversation relative to the certificates of origin given by the consuls of His Majesty in the United States, I have collected and read over the different orders of my court on that subject, and asked of the

consul general of France those which he might have received directly on this part of the service, so essential for the security of your exportations.

It results from the instructions which I have received directly, and from those that have been sent to the consul general, that the consuls of His Majesty in the United States do not deliver, or must not hereafter deliver, under any pretext, any certificate of origin to American vessels destined for any port other than those of France; that they deliver them and will deliver them hereafter to all American vessels destined for the ports of France, loaded only with the produce of the United States; that all the certificates anterior to the last instructions, attributed to the consuls of His Majesty, and which, it is pretended, were given for colonial produce, that evidently came from England, have been challenged as false, (*argués de faux*,) inasmuch as the English publicly fabricate papers of this sort at London.

This, sir, is all that it is possible for me to say to you at present respecting certificates of origin.

I cannot doubt but that the Government of the United States will see, in these regulations of my court, an intention, distinctly pronounced, of favoring the commercial relations between France and the United States in all the objects of traffic which shall evidently proceed from their agriculture or manufactures.

You will readily perceive, sir, that, in giving this latitude to the mutually advantageous relations of the two friendly people, the Emperor cannot depart from the system of exclusion against English commerce, without losing the advantages which His Majesty and the allied Powers must necessarily expect from it.

I have the honor to be, with high consideration, &c.

TURREAU.

Hon. ROBERT SMITH, *Secretary of State*.

The Secretary of State to General Turreau.

SIR:

DEPARTMENT OF STATE, *November 23, 1810.*

I have had the honor of receiving your letter of yesterday, stating that the French consuls in the United States are, at this time, authorized to deliver certificates of origin only to such American vessels as are bound to some port of France, and as are laden with the produce of the United States.

It will afford satisfaction to our merchants to know, and, therefore, I have to request you to inform me, whether in American vessels having such certificates of origin, they can export to France every kind of produce of the United States, and especially cotton and tobacco.

In addition to the intelligence communicated in your letter in relation to the certificates of origin, I have the honor of asking from you information upon the following questions:

1st. Have not the French consuls been in the practice, under the authority of the French Government, of delivering, in the ports of the United States, certificates of origin for American vessels bound to the ports of France and of her allies, and laden with either colonial produce or the produce of the United States?

2d. Have the French consuls in the United States lately received from the French Government instructions not to deliver such certificates of origin for American vessels, and at what time did they receive such instructions?

3d. At what time did the French consuls cease to issue certificates of origin to American vessels, in pursuance of instructions from their Government, in cases of destination to ports of the allies of France?

These facts being connected with questions interesting to our merchants in foreign tribunals, your goodness will pardon the resort to your aid in ascertaining them.

I have the honor to be, &c.

General TURREAU, &c.

R. SMITH.

[TRANSLATION.]

General Turreau to Mr. Smith.

SIR:

WASHINGTON, *December 12, 1810.*

If I have not replied sooner to the letter which you did me the honor to write to me on the 28th of last month, it is because I have sought information from the consul general of His Majesty, whether he had not received directly instructions more recent than those which I had transmitted to him, and also to enable me to give a positive answer to the questions contained in the letter referred to above.

I reply, sir, to the first of your questions, that Messieurs the consuls of His Majesty to the United States have always delivered certificates of origin to American vessels for the ports of France; they did it in execution of a decree of His Majesty of the 1st of Messidor, of the year eleven.

Messieurs the French consuls have also delivered them to vessels destined for neutral or allied ports, whenever they have been required of them. This measure was sanctioned and authorized by a circular despatch of his excellency the Minister of Foreign Relations, under date of the 20th April, 1808. This despatch prescribes the formalities to be gone through for the certificates delivered in such cases.

I proceed now, sir, to reply to the second of your questions.

By a despatch of his excellency the Duke of Cadore, of the 30th of August last, received by the *Hornet*, the 13th of last month, and of which information was given the same day to the consuls and vice-consuls of His Majesty, they are expressly prohibited from delivering certificates of origin for merchandise of any kind, or under any pretext whatever, if the vessels are not destined for France.

This reply to your second question, sir, furnishes you with a solution of the third. The consuls and vice-consuls of His Majesty will have ceased to deliver certificates of origin to vessels for any other place than France, immediately on the receipt of this circular, which will reach them a few days sooner or later, according to the greater or less distance of the places of their residence.

Concerning cotton and tobacco, their importation into France is, at this moment, specially prohibited; but I have reasons to believe (and I pray you, meanwhile, to observe, sir, that they do not rest upon any facts,) that some modifications will be given to this absolute exclusion. These modifications will not depend upon the chance of events, but will be the result of other measures, firm, and pursued with perseverance, which the two Governments will continue to adopt, to withdraw from the monopoly and from the vexations of the common enemy a commerce, loyal (*loyal*) and necessary to France as well as to the United States.

Accept, sir, the renewed assurance of my high consideration.

TURREAU.

Hon. ROBERT SMITH, *Secretary of State*.

The Secretary of State to General Turreau.

DEPARTMENT OF STATE, December 18, 1810.

SIR:

I have had the honor of receiving your letter of the 12th instant, in reply to my inquiries in relation to certificates of origin, as well as to the admission into France of the products of the agriculture of the United States.

From your letter it appears that the importation into France of cotton and tobacco, the produce of the United States, is, at this time, specially and absolutely prohibited.

From the decree of the 15th July, it moreover appears, that there can be no importation into France, but upon terms and conditions utterly inadmissible; and that, therefore, there can be no importation at all of the following articles, the produce of the United States, namely, fish-oil, dye-wood, salt fish, codfish, hides, and peltry.

As these enumerated articles constitute the great mass of the exports from the United States to France, the mind is naturally awakened to a survey of the actual condition of the commercial relations between the two countries, and to the consideration that no practical good, worthy of notice, has resulted to the United States from the revocation of the Berlin and Milan decrees, combined, as it unexpectedly has been, with a change in the commercial system of France, so momentous to the United States.

The act of Congress of May last had for its object, not merely the recognition of a speculative legitimate principle, but the enjoyment of a substantial benefit. The overture, therein presented, obviously embraced the idea of commercial advantage. It included the reasonable belief that an abrogation of the Berlin and Milan decrees would leave the ports of France as free for the introduction of the produce of the United States, as they were previously to the promulgation of those decrees.

The restrictions of the Berlin and Milan decrees had the effect of restraining the American merchants from sending their vessels to France. The interdictions in the system that has been substituted against the admission of American products will have the effect of imposing upon them an equal restraint. If, then, for the revoked decrees, municipal laws, producing the same commercial effect, have been substituted, the mode only, and not the measure, has undergone an alteration. And however true it may be that the change is lawful in form, it is, nevertheless, as true, that it is essentially unfriendly, and that it does not at all comport with the ideas inspired by your letter of the 27th ultimo, in which you were pleased to declare the "distinctly pronounced intention of His Imperial Majesty of favoring the commercial relations between France and the United States in all the objects of traffick, which shall evidently proceed from their agriculture or manufactures."

If France, by her own acts, has blocked up her ports against the introduction of the products of the United States, what motive has this Government in a discussion with a third Power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In such a state of things, a blockade of the coast of France would be to the United States as unimportant as would be a blockade of the coast of the Caspian sea.

The British edicts may be viewed as having a double relation: first to the wrong done to the United States; secondly to the wrong done to France. And it is in the latter relation only, that France has a right to speak. But what wrong, it may be asked, can France suffer from British orders which co-operate with her own regulations?

However sensible the United States may be to the violation of their neutral rights under those edicts, yet, if France herself has by her own acts rendered it a theoretical instead of a practical violation, it is for this Government to decide on the degree in which sacrifices of any sort may be required by considerations which peculiarly and exclusively relate to the United States. Certain it is, that the inducements to such sacrifices are weakened, as far as France can weaken them, by having converted the right to be maintained into a naked one, whilst the sacrifices to be made would be substantial and extensive.

A hope, however, is indulged, that your instructions from your Government will soon enable you to give some satisfactory explanations of the measures to which reference has been made, and that their operation, in virtue of modifications which have not yet transpired, will not be as has been herein represented.

The President has received with great satisfaction the information that the consuls of France have been heretofore in the official and authorized practice of furnishing certificates of origin to American vessels, as well as to those destined to neutral ports, as to those whose sovereigns are in alliance with France; and that this practice, sanctioned by the French Government, did not cease in any part of the United States before the 13th of last month, and then only in consequence of a despatch from the Duke of Cadore, bearing date the 30th of August preceding. This satisfaction arises from the hope that similar information may have been given to the Danish Government, and from a sense of the happy influence which such a communication will have had on the American property that had been seized and detained by the privateers of Denmark, upon the supposition that these certificates of origin were spurious and not authorized by the French Government. It is, nevertheless, to be regretted, that the functionaries of France in Denmark had not made known to the Danish authorities, during the occurrence of such outrages on the American trade, the error of denouncing as illegitimate authentic documents, which had been lawfully issued by the accredited agents of His Imperial Majesty.

I have the honor to be, &c.

General TURREAU, &c.

R. SMITH.

Translation of a letter from General Turreau to Mr. Smith.

SIR:

WASHINGTON, December 25, 1810.

I have received the letter you have done me the honor to write to me on the 18th of this month, and I hasten to transmit a copy of it to his excellency the Duke de Cadore.

This despatch, sir, being an answer to the letters which I had the honor to write to you on the 27th of November and the 12th of this month, naturally takes me back to their object, to which I believe it is my duty again to call your attention.

I pray you to observe that the last instructions I have received from my court relative to the new directions the commerce of France with the United States must follow, are of a very old date; the official despatches from which I have taken them are of the 12th and 28th of April last.

It is the more probable that the regulations of my Government, in regard to this commerce, have undergone some modifications, as the consul general received by the "Hornet" despatches of the 10th July, 22d and 30th August last, in which it is specially stated, that cottons may be imported into France in American vessels, and under certain regulations; whereas, according to the instructions which were addressed to me on the 12th and 28th of April preceding, cotton and tobacco are specially prohibited.

I will add to these data, (*ces données*) that, according to the orders transmitted to the consuls of His Majesty respecting certificates of origin, and under the date before cited, (30th August last,) they may deliver them to all

American vessels destined for France; observing, that these certificates are not applicable *but to the products of the United States*. If these certificates of origin cannot be applied but to the productions of the United States, and cannot be given to any vessels but those destined for France, the introduction of these productions is not then prohibited there.

You will be pleased especially to observe, sir, that the dispositions which were announced to me by the despatches of the 12th and 28th of April, are of course anterior to the repeal of the decrees of Berlin and Milan, and are necessarily without an object the moment the said decrees are no longer in force. I do not know of any subsequent acts which modify this repeal; for the instructions already cited, sent to the consul general the 30th August last, relative to the certificates of origin, are only a consequence of it, and formally exclude only colonial productions.

Furthermore, sir, I have before me the letters of the Duke of Cadore to General Armstrong, under date of the 5th of August and 12th September, of which copies have been sent to me by order of my court. These are the only documents on which it seems to me reasonable to fix the attention, (*s'arrêter*), and I see in them nothing which can cause it to be supposed that the French Government may have had an intention to modify or to restrict the repeal of the before cited decrees. This act contains no reserve; it does not exact any guaranty. The declaration of the Duke of Cadore is formal; and it is the provisions themselves of the act of the honorable Congress of the 1st of May last, which have dictated to him the consequence.

I seize this occasion with eagerness, sir, to renew to you the assurance of my high consideration.

TURREAU.

C.

General Armstrong to Mr. Smith.

Sir:

WASHINGTON, December 27, 1810.

The enclosed documents, marked 1 and 2, were intended to have made part of my last communication. The paper entitled *Avis au commerce, &c.* (notice to merchants,) contains a tariff of the new duties payable in France, and shows, besides, what are the articles of commerce admissible there. If this paper has no other value, it will be found important from the illustration it gives to that passage of the Duke of Cadore's letter to me of the 12th of September last, in which he says that "*American vessels loaded with merchandise, the growth of the American States, will be received without difficulty into the ports of France.*" It is also in perfect concert with the practice of the French custom-house, in the case of the ship *Ida*, coming from Boston with a cargo of cotton.

I am, sir, &c.

JOHN ARMSTRONG.

Hon. ROBERT SMITH, *Secretary of State.*

Notice to Merchants on the Sale of the 1st of August, 1810.

Designation.	Tares.	Custom-house duties.
Oars, - - - - -	-	2 francs the 100.
Cotton of Brazil, Surinam, Cayenne, Demarara, and Georgia—long staple, -	6 per cent.	800 francs the 100 killogrammes.
Cotton of every other country except Naples, -	6 per cent.	600 francs the 100 killogrammes.
Logwood, - - - - -	-	80 francs the 100 killogrammes.
Cocoa, - - - - -	3 per cent.	1000 francs the 100 killogrammes.
Coffee in bags, - - - - -	3 per cent.	} 400 francs the 100 killogrammes.
Coffee in casks, - - - - -	12 per cent.	
Cigars in boxes, - - - - -	12 per cent.	400 francs the 100 kill. and 80 on manufacture.
Cloves in bags, - - - - -	2 per cent.	600 francs the 100 killogrammes.
Gum Arabic in bags, - - - - -	2 per cent.	4 francs 8 centimes the 100 killogrammes.
Fish oil in casks, - - - - -	15 per cent.	25 francs the 100 killogrammes.
Beans in hhds. - - - - -	12 per cent.	100 centimes the 100 killogrammes.
Indigo in seroons, - - - - -	6 per cent.	} 900 francs the 100 killogrammes.
Indigo in cases and casks, - - - - -	12 per cent.	
Potash in casks, - - - - -	12 per cent.	15 centimes per 100 francs.
Black pepper in bags, - - - - -	3 per cent.	400 francs the 100 killogrammes.
Oak plank, - - - - -	-	15 centimes per cent. <i>ad valorem</i> .
Peruvian bark in boxes, - - - - -	12 per cent.	} 200 francs the 100 killogrammes.
Peruvian bark in seroons, - - - - -	2 per cent.	
Rice in barrels, - - - - -	12 per cent.	10 francs the 100 killogrammes.
Rum (<i>au litre</i>) - - - - -	-	80 centimes <i>le litre</i> .
Rocou in casks, - - - - -	12 per cent.	12 francs the 100 killogrammes.
Clayed sugar in boxes and casks, -	12 per cent.	400 francs the 100 killogrammes.
Raw sugar in boxes and barrels, -	15 per cent.	300 francs the 100 killogrammes.
Tobacco in leaf, box, or hhd. - - -	12 per cent.	} 400 francs the 100 kill. and 80 on manufacture.
Tobacco in <i>sacs ou paniers</i> , - - -	2 per cent.	

NOTE.—The additional *tenth* is not comprised in the above duties.

☞ The document, of which the above is a translation, is in print; and under the words "Custom-house duties," ("*Droits de Douane*,") are in manuscript the following words, viz: "by decree of the 5th August, 1810."

11th CONGRESS.]

No. 238.

[3d Session.

SPAIN.

COMMUNICATED TO CONGRESS, JANUARY 10, 1811.

(Confidential.)

JANUARY 10, 1811.

To the Senate and House of Representatives of the United States:

I communicate to Congress, in confidence, the translation of a letter from Luis de Onis to the Captain General of the province of Caraccas.

The tendency of misrepresentations and suggestions, which, it may be inferred from this specimen, enter into more important correspondences of the writer, to promote in foreign councils, at a critical period, views adverse to the peace and to the best interests of our country, renders the contents of the letter of sufficient moment to be made known to the Legislature.

JAMES MADISON.

Translation of a letter from Luis de Onis to the Captain General of the Province of the Caraccas, dated

PHILADELPHIA, February 2, 1810.

The administration of this Government, having put the stamp upon the servile meanness and adulation in which they stand in relation to their oracle, Bonaparte, the day before yesterday, by their direction, Mr. Eppes, the son-in-law of the former President, Jefferson, made a proposition that a minister should be immediately sent to Joseph Bonaparte, at Madrid. This was supported, in the committee in which the House then was, by Mr. Cutts, who is the brother-in-law of President Madison. There were various debates, there were howlings in the tribunals, there were sarcasms against the Supreme Central Junta, and many trifling observations from one party and the other, among which mention was made of the arrival of a minister from the Supreme Junta, and of this Government's having wisely refused to receive him; and, at length, a vote was taken, from which it resulted that, for the present, no minister was to be sent to Joseph.

In the annexed paper you will see all the debates, which, for want of time, I have not been able to have translated. If your excellency should not be informed, by my former despatches, of the mode of thinking of the present administration, this alone will show the little hope there is of obtaining any thing favorable from it, *but by energy, by force, and by chastisement.*

The facility—I again repeat it, and I will repeat it a thousand times—with which American vessels are admitted into our colonies, preferring them to our own, makes these people believe that our weakness does not permit us even to talk to them on equal terms, much less to take measures which may injure them. From hence springs the great opinion (*la grande opinion*) they have, that the intruder, Joseph, will rule in Spain and her colonies; and hence the incitement to their scandalous conduct in promoting, by every means in their power, the machinations of Joseph to make himself master of our colonies, as if upon that depended their happiness.

The determination of making war on England, and of treating Spain with contempt, supposing that her nullity did not entitle her to any thing else, was taken by the present administration some time since, though it was not in them the determination of reason. To accomplish it, they thought of forming an alliance, offensive and defensive, between France, Russia, Denmark, Sweden, and the United States; and some even suppose that it is formed. With this object they have sent Mr. Adams to the court of St. Petersburg, in quality of minister plenipotentiary, directing him to examine on his way (*haciendole recorrer al paro*) the courts of Stockholm and Copenhagen; but, notwithstanding this, if England should display her energy, in however small a degree, and if, on our part, some vessels should be sent to their coasts, and some troops should draw near to Louisiana, there is reason to believe that we should see these provinces separated and divided into two or three republics, and, consequently, they would remain in a state of perfect nullity. We should soon have from the republic of the north, which would be our friend, all the supplies which are now drawn from the others, who would perish from poverty and quarrels among themselves.

This country is now without a cent, with a deficit of four millions of dollars in her revenue, with not more of an effective army than six thousand despicable men, of whom two thousand five hundred, that they had at New Orleans, are reduced by death to six hundred; and although they have passed a law for one hundred thousand, much time and money will be necessary to organize them. Its navy is for the most part disarmed, although they propose to arm it, and the whole of it is reduced to eight or nine frigates. The blindness of these people is such, that the Secretary of the Treasury (Gallatin) speaking with Colonel Joseph de Gonzales, late Governor of Puno, who, from his having come from the Havana, Mexico, and other provinces, he believed (not knowing his integrity) to be one of the many emissaries of Napoleon, the *caste* which abounds most here, offered to him the constitution of Paine, and other papers relative to the liberty which here they dispute about, persuading him to send them to Mexico and our other colonies, and that he should endeavor to induce them to unite themselves to this republic; that here they were ready, if this succeeded, to move near to them, or even to place in their country, the seat of Government. These, sir, are the ideas with which this administration is animated. Notwithstanding, at the time they observed this conduct, they sent General Sumpter in the character of minister plenipotentiary to Rio Janeiro.

God preserve you many years.

LUIS DE ONIS.

To the CAPTAIN GENERAL of the Province of Caraccas.

[12th CONGRESS.]

No. 239.

[1st SESSION.]

GREAT BRITAIN.

Communicated to Congress by the messages of November 5,* and 14, 1811; January 16, 17, March 16, June 1, 4, 8, 11, 15, 16, and 22, 1812; and November 4, 1812.

WASHINGTON, November 13, 1811.

To the Senate and House of Representatives of the United States:

I communicate to Congress copies of a correspondence between the envoy extraordinary and minister plenipotentiary of Great Britain and the Secretary of State, relative to the aggression committed by a British ship of war on the United States' frigate Chesapeake; by which it will be seen that that subject of difference between the two countries is terminated by an offer of reparation, which has been acceded to.

JAMES MADISON.

WASHINGTON, January 16, 1812.

To the Senate and House of Representatives of the United States:

I communicate to Congress a letter from the envoy extraordinary and minister plenipotentiary of Great Britain to the Secretary of State, with the answer of the latter.

The continued evidence afforded in this correspondence, of the hostile policy of the British Government against our national rights, strengthens the considerations recommending and urging the preparation of adequate means for maintaining them.

JAMES MADISON.

WASHINGTON, January 17, 1812.

To the Senate and House of Representatives of the United States:

I lay before Congress a letter from the envoy extraordinary and minister plenipotentiary of Great Britain to the Secretary of State, with the answer of the latter.

JAMES MADISON.

MARCH 13, 1812.

To the Senate and House of Representatives of the United States:

I lay before Congress a letter from the envoy extraordinary and minister plenipotentiary of Great Britain to the Secretary of State.

JAMES MADISON.

WASHINGTON, June 1, 1812.

To the Senate and House of Representatives of the United States:

I communicate to Congress certain documents, being a continuation of those heretofore laid before them, on the subject of our affairs with Great Britain.

Without going back beyond the renewal, in 1803, of the war in which Great Britain is engaged, and omitting unrepaired wrongs of inferior magnitude, the conduct of her Government presents a series of acts hostile to the United States as an independent and neutral nation.

British cruisers have been in the continued practice of violating the American flag on the great highway of nations, and of seizing and carrying off persons sailing under it, not in the exercise of a belligerent right, founded on the law of nations against an enemy, but of a municipal prerogative over British subjects. British jurisdiction is thus extended to neutral vessels, in a situation where no laws can operate but the law of nations, and the laws of the country to which the vessels belong; and a self-redress is assumed, which, if British subjects were wrongfully detained and alone concerned, is that substitution of force for a resort to the responsible sovereign, which falls within the definition of war. Could the seizure of British subjects, in such cases, be regarded as within the exercise of a belligerent right, the acknowledged laws of war, which forbid an article of captured property to be adjudged, without a regular investigation before a competent tribunal, would imperiously demand the fairest trial, where the sacred rights of persons were at issue. In place of such a trial, these rights are subjected to the will of every petty commander.

The practice, hence, is so far from affecting British subjects alone, that under the pretext of searching for these, thousands of American citizens, under the safeguard of public law and of their national flag, have been torn from their country, and from every thing dear to them; have been dragged on board ships of war of a foreign nation; and exposed, under the severities of their discipline, to be exiled to the most distant and deadly climes, to risk their lives in the battles of their oppressors, and to be the melancholy instruments of taking away those of their own brethren.

Against this crying enormity, which Great Britain would be so prompt to avenge if committed against herself, the United States have in vain exhausted remonstrances and expostulations. And that no proof might be wanting of their conciliatory dispositions, and no pretext left for a continuance of the practice, the British Government was formally assured of the readiness of the United States to enter into arrangements, such as could not be rejected if the recovery of British subjects were the real and the sole object. The communication passed without effect.

British cruisers have been in the practice also of violating the rights and the peace of our coasts. They hover over and harass our entering and departing commerce. To the most insulting pretensions they have added the most lawless proceedings in our very harbors, and have wantonly spilt American blood within the sanctuary of our territorial jurisdiction. The principles and rules enforced by that nation, when a neutral nation, against armed vessels of belligerents hovering near her coasts, and disturbing her commerce, are well known. When called on, nevertheless, by the United States, to punish the greater offences committed by her own vessels, her Government has bestowed on their commanders additional marks of honor and confidence.

Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea; the great staples of our country have been cut off from their legitimate markets; and a destructive blow aimed at our agricultural and maritime interests. In

* For this message, see Foreign Relations, vol. 1, p 78.

aggravation of these predatory measures, they have been considered as in force from the dates of their notification; a retrospective effect being thus added, as has been done in other important cases, to the unlawfulness of the course pursued. And to render the outrage the more signal, these mock blockades have been reiterated and enforced in the face of official communications from the British Government, declaring, as the true definition of a legal blockade, "that particular ports must be actually invested, and previous warning given to vessels bound to them not to enter."

Not content with these occasional expedients for laying waste our neutral trade, the cabinet of Great Britain resorted at length to the sweeping system of blockades, under the name of orders in council, which has been moulded and managed as might best suit its political views, its commercial jealousies, or the avidity of British cruisers.

To our remonstrances against the complicated and transcendent injustice of this innovation, the first reply was, that the orders were reluctantly adopted by Great Britain, as a necessary retaliation on decrees of her enemy, proclaiming a general blockade of the British isles, at a time when the naval force of that enemy dared not to issue from his own ports. She was reminded, without effect, that her own prior blockades, unsupported by an adequate naval force actually applied and continued, were a bar to this plea: that executed edicts against millions of our property could not be retaliation on edicts confessedly impossible to be executed; that retaliation to be just should fall on the party setting the guilty example, not on an innocent party, which was not even chargeable with an acquiescence in it.

When deprived of this flimsy veil, for a prohibition of our trade with her enemy, by the repeal of his prohibition of our trade with Great Britain, her cabinet, instead of a corresponding repeal, or a practical discontinuance of its orders, formally avowed a determination to persist in them against the United States, until the markets of her enemy should be laid open to British products; thus asserting an obligation on a neutral Power to require one belligerent to encourage, by its internal regulations, the trade of another belligerent; contradicting her own practice towards all nations, in peace as well as in war; and betraying the insincerity of those professions which inculcated a belief that, having resorted to her orders with regret, she was anxious to find an occasion for putting an end to them.

Abandoning still more all respect for the neutral rights of the United States, and for its own consistency, the British Government now demands, as prerequisites to a repeal of its orders, as they relate to the United States, that a formality should be observed on the repeal of the French decrees, nowise necessary to their termination, nor exemplified by British usage; and that the French repeal, besides including that portion of the decrees which operate within a territorial jurisdiction, as well as that which operates on the high seas, against the commerce of the United States, should not be a single and special repeal in relation to the United States, but should be extended to whatever other neutral nations, unconnected with them, may be affected by those decrees. And as an additional insult, they are called on for a formal disavowal of conditions and pretensions advanced by the French Government, for which the United States are so far from having made themselves responsible, that in official explanations, which have been published to the world, and in a correspondence of the American minister at London with the British Minister for Foreign Affairs, such a responsibility was explicitly and emphatically disclaimed.

It has become, indeed, sufficiently certain, that the commerce of the United States is to be sacrificed, not as interfering with the belligerent rights of Great Britain, not as supplying the wants of her enemies, which she herself supplies, but as interfering with the monopoly which she covets for her own commerce and navigation. She carries on a war against the lawful commerce of a friend, that she may the better carry on a commerce with an enemy; a commerce polluted by the forgeries and perjuries which are, for the most part, the only passports by which it can succeed.

Anxious to make every experiment short of the last resort of injured nations, the United States have withheld from Great Britain, under successive modifications, the benefits of a free intercourse with their market; the loss of which could not but outweigh the profits accruing from her restrictions of our commerce with other nations. And to entitle these experiments to the more favorable consideration, they were so framed as to enable her to place her adversary under the exclusive operation of them. To these appeals her Government has been equally inflexible, as if willing to make sacrifices of every sort rather than yield to the claims of justice, or renounce the errors of a false pride. Nay, so far were the attempts carried to overcome the attachment of the British cabinet to its unjust edicts, that it received every encouragement, within the competency of the Executive branch of our Government, to expect that a repeal of them would be followed by a war between the United States and France, unless the French edicts should also be repealed. Even this communication, although silencing forever the plea of a disposition in the United States to acquiesce in those edicts, originally the sole plea for them, received no attention.

If no other proof existed of a predetermination of the British Government against a repeal of its orders, it might be found in the correspondence of the minister plenipotentiary of the United States at London, and the British Secretary for Foreign Affairs, in 1810, on the question whether the blockade of May, 1806, was considered as in force, or as not in force. It had been ascertained that the French Government, which urged this blockade as the ground of its Berlin decree, was willing, on the event of its removal, to repeal that decree, which being followed by alternate repeals of the other offensive edicts, might abolish the whole system on both sides. This inviting opportunity for accomplishing an object so important to the United States, and professed so often to be the desire of both the belligerents, was made known to the British Government. As that Government admits that an actual application of an adequate force is necessary to the existence of a legal blockade, and it was notorious that if such a force had ever been applied, its long discontinuance had annulled the blockade in question, there could be no sufficient objection on the part of Great Britain to a formal revocation of it; and no imaginable objection to a declaration of the fact, that the blockade did not exist. The declaration would have been consistent with her avowed principles of blockade, and would have enabled the United States to demand from France the pledged repeal of her decree, either with success, in which case the way would have been opened for a general repeal of the belligerent edicts; or without success, in which case the United States would have been justified in turning their measures exclusively against France. The British Government would, however, neither rescind the blockade, nor declare its non-existence, nor permit its non-existence to be inferred and affirmed by the American plenipotentiary. On the contrary, by representing the blockade to be comprehended in the orders in council, the United States were compelled so to regard it, in their subsequent proceedings.

There was a period when a favorable change in the policy of the British cabinet was justly considered as established. The minister plenipotentiary of His Britannic Majesty here proposed an adjustment of the differences more immediately endangering the harmony of the two countries. The proposition was accepted with the promptitude and cordiality corresponding with the invariable professions of this Government. A foundation appeared to be laid for a sincere and lasting reconciliation. The prospect, however, quickly vanished. The whole proceeding was disavowed by the British Government without any explanations which could at that time repress the belief that the disavowal proceeded from a spirit of hostility to the commercial rights and prosperity of the United

States. And it has since come into proof, that at the very moment when the public minister was holding the language of friendship, and inspiring confidence in the sincerity of the negotiation with which he was charged, a secret agent of his Government was employed in intrigues, having for their object a subversion of our Government, and a dismemberment of our happy Union.

In reviewing the conduct of Great Britain towards the United States, our attention is necessarily drawn to the warfare just renewed by the savages, on one of our extensive frontiers; a warfare which is known to spare neither age nor sex, and to be distinguished by features peculiarly shocking to humanity. It is difficult to account for the activity and combinations which have for some time been developing themselves among tribes in constant intercourse with British traders and garrisons, without connecting their hostility with that influence, and without recollecting the authenticated examples of such interpositions heretofore furnished by the officers and agents of that Government.

Such is the spectacle of injuries and indignities which have been heaped on our country, and such the crisis which its unexampled forbearance and conciliatory efforts have not been able to avert. It might at least have been expected, that an enlightened nation, if less urged by moral obligations, or invited by friendly dispositions on the part of the United States, would have found, in its true interest alone, a sufficient motive to respect their rights and their tranquillity on the high seas; that an enlarged policy would have favored that free and general circulation of commerce, in which the British nation is at all times interested, and which, in times of war, is the best alleviation of its calamities to herself, as well as to other belligerents; and more especially that the British cabinet would not, for the sake of a precarious and surreptitious intercourse with hostile markets, have persevered in a course of measures, which necessarily put at hazard the invaluable market of a great and growing country, disposed to cultivate the mutual advantages of an active commerce.

Other councils have prevailed. Our moderation and conciliation have had no other effect than to encourage perseverance, and to enlarge pretensions. We behold our seafaring citizens still the daily victims of lawless violence, committed on the great common and highway of nations, even within sight of the country which owes them protection. We behold our vessels freighted with the products of our soil and industry, or returning with the honest proceeds of them, wrested from their lawful destinations, confiscated by prize courts, no longer the organs of public law, but the instruments of arbitrary edicts; and their unfortunate crews dispersed and lost, or forced or inveigled in British ports into British fleets; whilst arguments are employed, in support of these aggressions, which have no foundation, but in a principle equally supporting a claim to regulate our external commerce in all cases whatsoever.

We behold, in fine, on the side of Great Britain, a state of war against the United States; and on the side of the United States, a state of peace towards Great Britain.

Whether the United States shall continue passive under these progressive usurpations, and these accumulating wrongs, or, opposing force to force in defence of their national rights, shall commit a just cause into the hands of the Almighty Disposer of events, avoiding all connexions which might entangle it in the contests or views of other Powers, and preserving a constant readiness to concur in an honorable re-establishment of peace and friendship, is a solemn question, which the constitution wisely confides to the Legislative Department of the Government. In recommending it to their early deliberations, I am happy in the assurance that the decision will be worthy the enlightened and patriotic councils of a virtuous, a free, and a powerful nation.

Having presented this view of the relations of the United States with Great Britain, and of the solemn alternative growing out of them, I proceed to remark, that the communications last made to Congress, on the subject of our relations with France, will have shown, that since the revocation of her decrees, as they violated the neutral rights of the United States, her Government has authorized illegal captures, by its privateers and public ships; and that other outrages have been practised on our vessels and our citizens. It will have been seen, also, that no indemnity had been provided, or satisfactorily pledged, for the extensive spoliations committed under the violent and retrospective orders of the French Government against the property of our citizens seized within the jurisdiction of France. I abstain, at this time, from recommending to the consideration of Congress definitive measures with respect to that nation, in the expectation, that the result of unclosed discussions between our minister plenipotentiary at Paris and the French Government will speedily enable Congress to decide, with greater advantage, on the course due to the rights, the interests, and the honor of our country.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JUNE 4, 1812.

I transmit for the information of Congress, copies of a correspondence of the minister plenipotentiary of Great Britain, with the Secretary of State.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JUNE 8, 1812.

I lay before Congress copies of letters which have passed between the Secretary of State and the envoy extraordinary and minister plenipotentiary of Great Britain.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JUNE 11, 1812.

I transmit, for the information of Congress, copies of letters which have passed between the Secretary of State and envoy extraordinary and minister plenipotentiary of Great Britain.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JUNE 15, 1812.

I transmit, for the information of Congress, copies of letters which have passed between the Secretary of State and the envoy extraordinary and minister plenipotentiary of Great Britain.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JUNE 16, 1812.

I transmit, for the information of Congress, copies of a letter to the Secretary of State from the chargé des affaires of the United States at London, accompanied by a letter from the latter to the British Minister of Foreign Affairs.

JAMES MADISON.

To the Senate and House of Representatives of the United States:

JUNE 22, 1812.

I communicate to Congress copies of a letter to the Secretary of State from the chargé des affaires of the United States at London, and of a note to him from the British Secretary for Foreign Affairs.

JAMES MADISON.

I. CORRESPONDENCE BETWEEN THE MINISTER OR CHARGE D'AFFAIRES OF THE UNITED STATES AT LONDON AND THE SECRETARY OF STATE.

Mr. Pinkney to the Secretary of State.

SIR:

LONDON, January 17, 1811.

I had the honor to receive, on the 5th instant, while I was confined by a severe illness, your letter of the 15th November, and, as soon as I was able, prepared a note to Lord Wellesley in conformity with it.

On the 3d instant I had received a letter from Lord Wellesley, bearing date the 29th ultimo, on the subjects of the orders in council and the British blockades, to which I was anxious to reply, at the same time that I obeyed the orders of the President signified in your letter above mentioned. I prepared an answer accordingly, and sent it in with the other note and a note of the 15th respecting two American schooners lately captured on their way to Bordeaux, for a breach of the orders in council. Copies of all these papers are enclosed.

My answer to Lord Wellesley's letter was written under the pressure of indisposition and the influence of more indignation than could well be suppressed. His letter proves, what scarcely required proof, that if the present Government continue, we cannot be friends with England. I need not analyze it to you.

I am still so weak as to find it convenient to make this letter a short one, and will therefore only add that I have derived great satisfaction from your instructions of the 15th of November, and have determined to return to the United States in the Essex. She will go to L'Orient for Mr. Grayson, and then come to Cowes for me and my family. I calculate on sailing about the last of February. The choice of a chargé d'affaires embarrasses me exceedingly, but I will do the best I can. The despatches by the Essex were delivered to me by Lieutenant Rodgers on Sunday.

I have the honor to be, &c.

WM. PINKNEY.

ROBERT SMITH, Esq. &c.

[Referred to in Mr. Pinkney's letter of January 17.]

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, December 29, 1810.

In acknowledging the receipt of your letter of the 10th instant,* I must express my regret that you should have thought it necessary to introduce into that letter any topics which might tend to interrupt the conciliatory spirit in which it is the sincere disposition of His Majesty's Government to conduct every negotiation with the Government of the United States.

From an anxious desire to avoid all discussions of that tendency, I shall proceed without any further observation to communicate to you the view which His Majesty's Government has taken of the principal question which formed the object of my inquiry during our conference on the 5th instant. The letter of the French Minister for Foreign Affairs to the American minister at Paris of the 9th August, 1810, did not appear to His Majesty's Government to contain such a notification of the repeal of the French decrees of Berlin and Milan as could justify His Majesty's Government in repealing the British orders in council. That letter states "that the decrees of Berlin and Milan are revoked, and that from the 1st of November, 1810, they will cease to be in force; it being understood that *in consequence of this declaration* the English shall revoke their orders in council, and renounce the new principles of blockade which they have attempted to establish."

The purport of this declaration appeared to be that the repeal of the decrees of Berlin and Milan would take effect from the 1st of November, *provided* that Great Britain, antecedently to that day, and in consequence of *this declaration*, should revoke the orders in council, *and* should renounce those principles of blockade which the French Government alleged to be new. A separate condition relating to America seemed also to be contained in this declaration, by which America might understand that the decrees of Berlin and Milan would be actually repealed on the 1st of November, 1810, provided that America should resent any refusal of the British Government to renounce the new principles of blockade, and to revoke the orders in council.

By your explanation it appears that the American Government understands the letter of the French minister as announcing an absolute repeal on the 1st of November, 1810, of the French decrees of Berlin and Milan, which repeal, however, is not to continue in force unless the British Government, within a reasonable time after the 1st of November, 1810, shall fulfil the two conditions stated distinctly in the letter of the French minister. Under this explanation, if nothing more had been required from Great Britain for the purpose of securing the continuance of the repeal of the French decrees than the repeal of our orders in council, I should not have hesitated to declare the perfect readiness of this Government to fulfil that condition. On these terms the British Government has always been sincerely disposed to repeal the orders in council. It appears, however, not only by the letter of the French minister, but by your explanation, that the repeal of the orders in council will not satisfy either the French or the American Government. The British Government is further required by the letter of the French minister to renounce those principles of blockade which the French Government alleges to be new. A reference to the terms of the Berlin decree will serve to explain the extent of this requisition. The Berlin decree states that Great Britain

* This letter was not received till the 3d of January, 1811, at night.

extends the right "of blockade to commercial unfortified towns, and to ports, harbors, and mouths of rivers, which, according to the principles and practice of all civilized nations, is only applicable to fortified places." On the part of the American Government, I understand you to require that Great Britain should revoke her order of blockade of May, 1806. Combining your requisition with that of the French minister, I must conclude that America demands the revocation of that order of blockade as a practical instance of our renunciation of those principles of blockade which are condemned by the French Government. Those principles of blockade Great Britain has asserted to be ancient, and established by the laws of maritime war, acknowledged by all civilized nations, and on which depend the most valuable rights and interests of this nation. If the Berlin and Milan decrees are to be considered as still in force, unless Great Britain shall renounce these established foundations of her maritime rights and interests, the period of time is not yet arrived when the repeal of her orders in council can be claimed from her, either with reference to the promise of this Government, or to the safety and honor of the nation. I trust that the justice of the American Government will not consider that France, by the repeal of her obnoxious decrees under such a condition, has placed the question in that state which can warrant America in enforcing the non-intercourse act against Great Britain, and not against France. In reviewing the actual state of this question, America cannot fail to observe the situation in which the commerce of neutral nations has been placed by many recent acts of the French Government. Nor can America reasonably expect that the system of violence and injustice now pursued by France with unremitting activity (while it serves to illustrate the true spirit of her intentions) should not require some precautions of defence on the part of Great Britain.

Having thus stated my view of the several considerations arising from the letter of the French minister, and from that with which you have honored me, it remains only to express my solicitude that you should correct any interpretation of either which you may deem erroneous. If, either by the terms of the original decree to which the French minister's letter refers, or by any other authentic document, you can prove that the decrees of Berlin and Milan are absolutely repealed, and that no further condition is required of Great Britain than the repeal of her orders in council, I shall receive any such information with most sincere satisfaction, desiring you to understand that the British Government retains an anxious solicitude to revoke *the orders in council* as soon as the Berlin and Milan decrees shall be effectually repealed, without conditions injurious to the maritime rights and honor of the United Kingdom.

I have the honor to be, with great respect and consideration, sir, your most obedient and humble servant,

WELLESLEY.

WM. PINKNEY, Esq.

[Referred to in Mr. Pinkney's despatch of January 17, 1811.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, *January 14, 1811.*

I have received the letter which you did me the honor to address to me on the 29th of last month, and will not fail to transmit a copy of it to my Government. In the mean time, I take the liberty to trouble you with the following reply, which a severe indisposition has prevented me from preparing sooner.

The first paragraph seems to make it proper for me to begin by saying, that the topics introduced into my letter of the 10th of December were intimately connected with its principal subject, and fairly used to illustrate and explain it; and, consequently, that if they had not the good fortune to be acceptable to your lordship, the fault was not mine.

It was scarcely possible to speak with more moderation than my paper exhibits, of that portion of a long list of invasions of the rights of the United States which it necessarily reviewed, and of the apparent reluctance of the British Government to forbear those invasions in future. I do not know that I could more carefully have abstained from whatever might tend to disturb the spirit which your lordship ascribes to His Majesty's Government, if, instead of being utterly barren and unproductive, it had occasionally been visible in some practical result, in some concession either to friendship or to justice. It would not have been very surprising nor very culpable, perhaps, if I had wholly forgotten to address myself to a spirit of conciliation which had met the most equitable claims with steady and unceasing repulsion, which had yielded nothing that could be denied, and had answered complaints of injury by multiplying their causes. With this forgetfulness, however, I am not chargeable; for, against all the discouragements suggested by the past, I have acted still upon a presumption that the disposition to conciliate, so often professed, would finally be proved by some better evidence than a perseverance in oppressive novelties, as obviously incompatible with such a disposition in those who enforce them, as in those whose patience they continue to exercise.

Upon the commencement of the second paragraph, I must observe, that the forbearance which it announces might have afforded some gratification if it had been followed by such admissions as my Government is entitled to expect, instead of a further manifestation of that disregard of all its demands by which it has so long been wearied. It has never been my practice to seek discussions, of which the tendency is merely to irritate; but, I beg your lordship to be assured, that I feel no desire to avoid them, whatever may be their tendency, when the rights of my country require to be vindicated against pretensions that deny and conduct that infringes them.

If I comprehend the other parts of your lordship's letter, they declare, in effect, that the British Government will repeal nothing but the *orders in council*, and that it cannot at present repeal even them, because, in the first place, the French Government has required, in the letter of the Duke of Cadore to General Armstrong of the 5th of August, not only that Great Britain shall revoke those orders, but that she shall renounce certain principles of blockade (supposed to be explained in the preamble to the Berlin decree) which France alleges to be new; and, in the second place, because the American Government has (as you conclude) demanded the revocation of the British order of blockade of May, 1806, as a practical instance of that same renunciation; or, in other words, has made itself a party, not openly, indeed, but indirectly and covertly, to the entire requisition of France, as you understand that requisition.

It is certainly true that the American Government has required as indispensable, in the view of its acts of intercourse and non-intercourse, the annulment of the British blockade of May, 1806; and, further, that it has, through me, declared its confident expectation that other blockades of a similar character (including that of the island of Zealand) will be discontinued. But by what process of reasoning your lordship has arrived at the conclusion that the Government of the United States intended, by this requisition, to become the champion of the edict of Berlin, to fashion its principles by those of France while it affected to adhere to its own, and to act upon some partnership in doctrines which it would fain induce you to acknowledge, but could not prevail upon itself to avow, I am not able to conjecture. The frank and honorable character of the American Government justifies me in saying, that, if it had meant to demand of Great Britain an abjuration of all such principles as the French

Government may think fit to disapprove, it would not have put your lordship to the trouble of discovering that meaning by the aid of combinations and inferences discountenanced by the language of its minister, but would have told you so in explicit terms. What I have to request of your lordship, therefore, is, that you will take our views and principles from our own mouths; and that neither the Berlin decree, nor any other act of any foreign state, may be made to speak for us what we have not spoken for ourselves.

The principles of blockade which the American Government professes, and upon the foundation of which it has repeatedly protested against the order of May, 1806, and the other kindred innovations of these extraordinary times, have already been so clearly explained to your lordship in my letter of the 21st of September, that it is hardly possible to read that letter and misunderstand them. Recommended by the plainest considerations of universal equity, you will find them supported by a strength of argument and a weight of authority of which they scarcely stand in need, in the papers which will accompany this letter, or were transmitted in that of September. I will not recapitulate what I cannot improve, but I must avail myself of this opportunity to call your lordship's attention a second time, in a particular manner, to one of the papers to which my letter of September refers. I allude to the copy of an official note of the 12th of April, 1804, from Mr. Merry to Mr. Madison, respecting a pretended blockade of Martinique and Guadeloupe. No comment can add to the value of that manly and perspicuous exposition of the law of blockade, as made by England herself, in maintenance of rules which have been respected and upheld in all seasons and on all occasions by the Government of the United States. I will leave it, therefore, to your lordship's consideration, with only this remark, that, while that paper exists, it will be superfluous to seek in any *French* document for the opinions of the American Government on the matter of it.

The steady fidelity of the Government of the United States to its opinions on that interesting subject is known to every body. The same principles which are found in the letter of Mr. Madison to Mr. Thornton of the 27th of October, 1803, already before you, were asserted in 1799 by the American minister at this court, in his correspondence with Lord Grenville respecting the blockade of some of the ports of Holland; were sanctioned in a letter of the 20th of September, 1800, from the Secretary of State of the United States to Mr. King, of which an extract is enclosed; were insisted upon in repeated instructions to Mr. Monroe and the special mission of 1806; have been maintained by the United States against others as well as against England, as will appear by the enclosed copy of instructions, dated the 21st of October, 1801, from Mr. Secretary Madison to Mr. Charles Pinckney, then American minister at Madrid; and, finally, were adhered to by the United States, when belligerent, in the case of the blockade of Tripoli.

A few words will give a summary of those principles; and, when recalled to your remembrance, I am not without hopes that the strong grounds of law and right on which they stand will be as apparent to your lordship as they are to me.

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete, with regard to States at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging, in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the Power which attacks them, shall not be considered as shut to neutral trade in articles not contraband of war; that, though it is usual for a belligerent to give notice to neutral nations when he intends to institute a blockade, it is possible that he may not act upon his intention at all, or that he may execute it insufficiently, or that he may discontinue his blockade, of which it is not customary to give any notice; that, consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade at any given period, in like manner as the actual investment of a besieged place is the evidence by which we decide whether the siege, which may be commenced, raised, recommenced, and raised again, is continued or not; that, of course, a mere notification to a neutral minister shall not be relied upon as affecting with knowledge of the actual existence of a blockade either his Government or its citizens; that a vessel, cleared or bound to a blockaded port, shall not be considered as violating, in any manner, the blockade, unless, on her approach towards such port, she shall have been previously warned not to enter it; that this view of the law, in itself perfectly correct, is peculiarly important to nations situated at a great distance from the belligerent parties, and therefore incapable of obtaining other than tardy information of the actual state of their ports; that whole coasts and countries shall not be declared (for they can never be more than *declared*) to be in a state of blockade, and thus the right of blockade converted into the means of extinguishing the trade of neutral nations; and, lastly, that every blockade shall be impartial in its operation, or, in other words, shall not open and shut for the convenience of the party that institutes it, and at the same time repel the commerce of the rest of the world, so as to become the odious instrument of an unjust monopoly instead of a measure of honorable war.

These principles are too moderate and just to furnish any motive to the British Government for hesitating to revoke its orders in council and those analogous orders of blockade, which the United States expect to be recalled. It can hardly be doubted that Great Britain will ultimately accede to them in their fullest extent; but if that be a sanguine calculation, (as I trust it is not,) it is still incontrovertible that a disinclination at this moment to acknowledge them can suggest no rational inducement for declining to repeal at once what *every* principle disowns, and what must be repealed at last.

With regard to the rules of blockade which the French Government expects you to abandon, I do not take upon me to decide whether they are such as your lordship supposes them to be or not. Your view of them may be correct, but it may also be erroneous; and it is wholly immaterial to the case between the United States and Great Britain whether it be the one or the other.

As to such British *blockades* as the United States desire you to relinquish, you will not, I am sure, allege that it is any reason for adhering to *them* that France expects you to relinquish *others*. If our demands are suited to the measure of our own rights, and of your obligations as they respect those rights, you cannot think of founding a rejection of them upon any imputed exorbitance in theories of the French Government, for which we are not responsible, and with which we have no concern. If, when you have done justice to the United States, your enemy should call upon you to go further, what shall prevent you from refusing? Your free agency will in no respect have been impaired. Your case will be better in truth, and in the opinion of mankind, and you will be, therefore, stronger in maintaining it, provided that, in doing so, you resort only to legitimate means, and do not once more forget the rights of others while you seek to vindicate your own. Whether France will be satisfied with what you may do, is not to be known by anticipation, and ought not to be a subject of inquiry. So vague a speculation has nothing to do with your duties to nations at peace, and, if it had, would annihilate them. It cannot serve your interests; for it tends to lessen the number of your friends, without adding to your security against your enemies. You are required, therefore, to do right, and to leave the consequences to the future, when by doing right you have every thing to gain and nothing to lose.

As to the orders in council, which professed to be a reluctant departure from all ordinary rules, and to be justified only as a system of retaliation for a pre-existing measure of France, their foundation (such as it was) is gone

the moment that measure is no longer in operation. But the Berlin decree is repealed; and even the *Milan* decree, the successor of your orders in council, is repealed also. Why is it, then, that your orders have outlived those edicts, and that they are still to oppress and harass as before? Your lordship answers that question explicitly enough, but not satisfactorily. You do not allege that the French decrees are not repealed; but you imagine that the repeal is not to remain in force, unless the British Government shall, in addition to the revocation of its orders in council, abandon its system of blockade. I am not conscious of having stated, as your lordship seems to think, that this is so; and I believe in fact that it is otherwise; even if it were admitted, however, the orders in council ought nevertheless to be revoked. Can "the safety and honor of the British nation" demand that these orders shall continue to outrage the public law of the world, and sport with the undisputed rights of neutral commerce, after the pretext which was at first invented for them is gone? But you are menaced with a revival of the French system, and, consequently, may again be furnished with the same pretext! Be it so; yet still, as the system and the pretext are *at present* at an end, so of course should be your orders.

According to your mode of reasoning, the situation of neutral trade is hopeless indeed. Whether the Berlin decree exists or not, it is equally to justify your orders in council. You issued them before it was any thing but a shadow, and, by doing so, gave to it all the substance it could ever claim. It is at this moment nothing. It is revoked and has passed away, according to your own admission. You choose, however, to look for its re-appearance, and you make your own expectation equivalent to the decree itself. Compelled to concede that there is no anti-neutral French edict in operation upon the ocean, you think it sufficient to say that there *will be* such an edict you know not when; and in the mean time you do all you can to verify your own prediction, by giving to your enemy all the provocation in your power to resume the decrees which he has abandoned.

For my part, my lord, I know not what it is that the British Government requires, with a view to what it calls its safety and its honor, as an inducement to rescind its orders in council. It does not, I presume, imagine that such a system will be suffered to ripen into law. It must intend to relinquish it sooner or later, as one of those violent experiments, for which time can do nothing, and to which submission will be hoped in vain. Yet, even after the professed foundation of this mischievous system is taken away, another and another is industriously procured for it; so that no man can tell at what time, or under what circumstances, it is likely to have an end. When realities cannot be found, possibilities supply their place; and that, which was originally said to be retaliation for actual inquiry, becomes (if such a solecism can be endured or imagined) retaliation for *apprehended* injuries, which the future may or may not produce, but which it is certain have no existence *now*. I do not mean to grant, for I do not think, that the edict of Berlin did at any period lend even a color of equity to the British orders in council with reference to the United States; but it might reasonably have been expected that they, who have so much relied upon it as a justification, would have suffered it and them to sink together. How this is forbidden by your *safety* or your *honor* remains to be explained, and I am not willing to believe that either the one or the other is inconsistent with the observance of substantial justice and with the prosperity and rights of peaceful States.

Although your lordship has slightly remarked upon certain recent acts of the French Government, and has spoken in general terms of "the system of violence and injustice now pursued by France" as requiring "some precautions of defence on the part of Great Britain," I do not perceive that you deduce any consequence from these observations in favor of a perseverance in the orders in council. I am not myself aware of any edicts of France, which, now that the Berlin and Milan decrees are repealed, affect the rights of neutral commerce on the seas. And you will yourselves admit that, if any of the acts of the French Government, resting on territorial sovereignty, have injured, or shall hereafter injure, the United States, it is for them, and for them only, to seek redress. In like manner it is for Great Britain to determine what *precautions of defence* those measures of France, which you denominate unjust and violent, may render it expedient for her to adopt. The United States have only to insist that a sacrifice of their rights shall not be among the number of those precautions.

In reply to that passage of your letter which adverts to the American act of non-intercourse, it is only necessary to mention the proclamation of the President of the United States of the 2d of November last, and the act of Congress, which my letter of the 21st of September communicated; and to add, that it is in the power of the British Government to prevent the non-intercourse from being enforced against Great Britain.

Upon the concluding paragraph of your letter I will barely observe, that I am not in possession of any document, which you are likely to consider as *authentic*, showing that the French decrees are absolutely revoked upon the single condition of the revocation of the British orders in council; but that the information, which I have lately received from the American legation at Paris, confirms what I have already stated, and I think proved, to your lordship, that those decrees are repealed, and have ceased to have any effect. I will now trespass on you no further than to suggest that it would have given me sincere pleasure to be enabled to say as much of the British orders in council, and of the blockades, from which it is impossible to distinguish them.

I have the honor to be, with great respect and consideration,

My lord, your lordship's most obedient, humble servant,

WILLIAM PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY, &c. &c. &c.

[Referred to in Mr. Pinkney's letter of January 17.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, January 14, 1811.

After a lapse of many months since I had the honor to receive and convey to my Government your lordship's repeated assurances, written as well as verbal, (which you declined, however, to put into an official form,) "that it was your intention *immediately* to recommend the appointment of a minister plenipotentiary from the King to the United States," the British Government continues to be represented at Washington by a *chargé d'affaires*, and no steps whatever appear to have been taken to fulfil the expectation which the above-mentioned assurances produced and justified.

In this state of things, it has become my duty to inform your lordship, in compliance with my instructions, that the Government of the United States cannot continue to be represented here by a minister plenipotentiary.

As soon, therefore, as the situation of the King's Government will permit, I shall wish to take my leave and return to America in the United States' frigate *Essex*, now at Plymouth; having first named, as I am specially authorized to do, a fit person to take charge of the affairs of the American legation in this country.

WILLIAM PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY, &c. &c. &c.

[Referred to in Mr. Pinkney's despatch of January 17.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, *January 15, 1811.*

I have the honor to inform you that it has been represented to me that two American vessels, (the schooner Polly and the schooner Mary,) laden with codfish, and bound from Marblehead to Bordeaux, in France, have, since the 1st instant, been captured and brought into Plymouth, as prize, for an imputed breach of the British orders in council.

It is my duty to demand the restoration of these vessels and their cargoes to the American owners, together with compensation for their unjust detention, and liberty to resume the voyages which that detention has interrupted.

I have the honor to be, &c.

WILLIAM PINKNEY.

The Most Noble the MARQUIS OF WELLESLEY, &c. &c.

Extract of a letter from Mr. Pinkney to the Secretary of State of the United States.

LONDON, *February 12, 1811.*

I received, a few hours since, a letter from Lord Wellesley, (a copy of which is enclosed,) in answer to mine of the 14th ultimo, respecting the British orders in council and blockades.

[Referred to in Mr. Pinkney's despatch of February 12, 1811.]

The Marquis of Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, *February 11, 1811.*

The letter which I had the honor to receive from you, under date of the 14th of January, 1811, has been submitted to His Royal Highness the Prince Regent.

In communicating to you the orders which I have received from His Royal Highness on the subject of your letter, I am commanded to abstain from any course of argument, and from any expression, which, however justified by the general tenor of your observations, might tend to interrupt the good understanding which it is the wish of His Royal Highness, on behalf of His Majesty, to maintain with the Government of the United States.

No statement contained in your letter appears to affect the general principles which I had the honor to communicate to you in my letter of the 29th of December, 1810.

Great Britain has always insisted upon her right of self-defence against the system of commercial warfare pursued by France; and the British orders of council were founded upon a just principle of retaliation against the French decrees. The incidental operation of the orders of council upon the commerce of the United States, (although deeply to be lamented,) must be ascribed, exclusively, to the violence and injustice of the enemy, which compelled this country to resort to adequate means of defence. It cannot now be admitted that the foundation of the original question should be changed, and that the measure of retaliation adopted against France should now be relinquished at the desire of the Government of the United States, without any reference to the actual conduct of the enemy.

The intention has been repeatedly declared of repealing the orders of council, whenever France shall actually have revoked the decrees of Berlin and Milan, and shall have restored the trade of neutral nations to the condition in which it stood previously to the promulgation of those decrees. Even admitting that France has suspended the operation of those decrees, or has repealed them with reference to the United States, it is evident that she has not relinquished the conditions expressly declared in the letter of the French minister, under date of the 5th of August, 1810. France, therefore, requires that Great Britain shall not only repeal the orders of council, but renounce those principles of blockade, which are alleged, in the same letter, to be new; an allegation which must be understood to refer to the introductory part of the Berlin decree. If Great Britain shall not submit to those terms, it is plainly intimated in the same letter that France requires America to enforce them. To these conditions His Royal Highness, on behalf of His Majesty, cannot accede. No principles of blockade have been promulgated or acted upon by Great Britain previously to the Berlin decree, which are not strictly conformable to the rights of civilized war, and to the approved usages and law of nations. The blockades established by the orders of council rest on separate grounds, and are justified by the principles of necessary retaliation in which they originated.

The conditions exacted by France would require Great Britain to surrender to the enemy the most important maritime rights and interests of the United Kingdom.

I am commanded to inform you that His Royal Highness cannot consent to blend the question which has arisen upon the orders of council with any discussion of the general principles of blockade.

This declaration does not preclude any amicable discussion upon the subject of any particular blockade, of which the circumstances may appear to the Government of the United States to be exceptionable, or to require explanation.

I have the honor to be, with great respect and consideration,

Sir, your most faithful and humble servant,

WELLESLEY.

Mr. Pinkney to Lord Wellesley.

MY LORD:

LONDON, *February 13, 1811.*

I have had the honor to receive your letter of the 11th instant, and will transmit a copy of it to my Government. I can have no inducement to trouble your lordship any further upon the subjects to which it relates.

I have the honor, &c.

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, *February 16, 1811.*

I received at a very late hour last night two notes from Lord Wellesley, (bearing date "February 15, 1811,") of which copies, marked No. 1, and No. 2, are enclosed. Taken together, (as of course they must be,) they

announce the appointment of Mr. Foster, as envoy extraordinary and minister plenipotentiary to the United States, and set forth the reasons why an appointment has been so long delayed.

You will perceive, in the second and third paragraphs of the unofficial paper, a distinct disavowal of the offensive views which the appointment of a mere *chargé des affaires*, and other circumstances, appeared originally to indicate.

We are now told, in writing, that the delay in appointing a minister plenipotentiary was occasioned, *in the first instance*, not by any such considerations as have been supposed, but "by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two Governments;" that, more recently, "the state of His Majesty's Government rendered it impossible to make the intended appointment;" and that Lord Wellesley was therefore "concerned to find, by my letter of the 14th of January, that the Government of the United States should be induced to suppose that any indisposition could exist, on the part of His Majesty's Government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country."

The two papers are evidently calculated to prevent me from acting upon my late request of an audience of leave; and they certainly seem to put it in my power, if they do not make it my duty, to forbear to act upon it.

I have it under consideration, (looking to the instructions contained in your letter of the 15th of November,) what course I ought to pursue. It is at any rate my intention to return to America in the Essex, as I shall doubtless have the President's permission to do in consequence of my letter to you of the 24th of November.

I have the honor to be, with great respect, &c.

WM. PINKNEY.

The SECRETARY OF STATE of the United States.

[Transmitted by Mr. Pinkney's despatch of 16th February.]

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, February 12, 1811.

The Marquis Wellesley has the honor to inform Mr. Pinkney that His Royal Highness the Prince Regent will receive the foreign ministers at his levee at Carlton House, on Tuesday next, the 19th instant, at two o'clock.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, February 13, 1811.

Referring to my letter of the 14th of last month, I beg to be informed by your lordship at what time His Royal Highness the Prince Regent will do me the honor to give the audience of leave.

I have the honor to be, with the highest consideration, my lord,
your lordship's most obedient, humble servant,

WM. PINKNEY.

[Referred to in Mr. Pinkney's despatch of February 16.]

No. 1.

(Private.)

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, February 15, 1811.

In the various unofficial communications which I have had the honor to make to you, respecting the appointment of a minister plenipotentiary from the King to the United States, I have endeavored to explain to you, in the most distinct manner, the circumstances which had delayed that appointment; and I have expressed my intention to recommend, that it should be carried into effect as soon as the situation of His Majesty's Government might permit.

The delay was occasioned, in the first instance, (as I stated to you repeatedly,) by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two Governments. Since that period of time the state of His Majesty's Government rendered it impossible to make the intended appointment.

I was therefore concerned to find, by your letter of the 14th of January, that the Government of the United States should be induced to suppose that any indisposition could exist, on the part of His Majesty's Government, to place the British mission in America on the footing most acceptable to the United States, as soon as might be practicable, consistently with the convenience of affairs in this country.

In pursuance of the intention, so often declared to you, His Royal Highness the Prince Regent has been pleased, in the name and on behalf of His Majesty, to appoint Mr. Foster (lately charged with His Majesty's affairs in Sweden) to be His Majesty's envoy extraordinary and minister plenipotentiary to the United States; and that appointment will be notified in the next Gazette.

You will of course exercise your own judgment, under these circumstances, respecting the propriety of requiring an audience of leave, on the grounds which you have stated.

I have the honor to be, with great respect and consideration, sir, your most obedient and humble servant,

WELLESLEY. •

[Referred to in Mr. Pinkney's despatch of February 16.]

No. 2.

Lord Wellesley to Mr. Pinkney.

SIR:

FOREIGN OFFICE, February 15, 1811.

Having submitted to His Royal Highness the Prince Regent your desire to have an audience of leave, with a view to your return to America, I am commanded by His Royal Highness to inform you that he will be prepared to receive you at Carlton House, on Tuesday, the 19th instant.

At the same time, I am commanded to inform you that His Royal Highness, in the name and on behalf of His Majesty, has been pleased to appoint Augustus Foster, Esq. (lately charged with His Majesty's affairs in Sweden,) to be His Majesty's envoy extraordinary and minister plenipotentiary to the United States.

I have the honor to be, sir, with great respect and consideration, your most faithful and humble servant,
WELLESLEY.

Mr. Pinkney to the Secretary of State.

SIR:

LONDON, February 18, 1811.

The result of my reflections on Lord Wellesley's two communications of the 15th instant, will be found in my letter to him of yesterday's date, of which I now transmit a copy.

It appeared to me that the appointment of a minister plenipotentiary to the United States was nothing, or rather worse than nothing, if the orders in council were to remain in force, the blockade of May, 1806, to be unrepealed, the affair of the Chesapeake to continue at large, and the other urgent questions between us to remain unsettled.

The "posture of our relations," as you have expressed it in your letter of the 15th of November, would not be "satisfactorily changed" merely by such an appointment; and, of course, my functions could not be resumed upon the sole foundation of it.

I have put it to Lord Wellesley to say explicitly whether full and satisfactory arrangement is intended, before I answer his official letter concerning my audience of leave. If he is prepared to do at once what we require, or to instruct the new minister to do at Washington what does not demand immediate interference here, I shall think it my duty to forbear to take leave on the 26th instant. If he declines a frank reply, or refuses our demands, I shall press for my audience, and put an end to my mission.

I have the honor to be, &c.

WM. PINKNEY.

To the SECRETARY OF STATE of the *United States.*

[Referred to in the preceding.]

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, February 17, 1811.

Before I reply to your official communication of the 15th instant, you will, perhaps, allow me, in acknowledging the receipt of the unofficial paper which accompanied it, to trouble you with a few words.

From the appointment, which you have done me the honor to announce to me, of a minister plenipotentiary to the United States, as well as from the language of your private letter, I conclude that it is the intention of the British Government to seek immediately those adjustments with America, without which that appointment can produce no beneficial effect. I presume that, for the restoration of harmony between the two countries, the orders in council will be relinquished without delay; that the blockade of May, 1806, will be annulled; that the case of the Chesapeake will be arranged in the manner heretofore intended; and, in general, that all such just and reasonable acts will be done as are necessary to make us friends.

My motives will not, I am sure, be misinterpreted, if, anxious to be enabled so to regulate my conduct, in the execution of my instructions, as that the best results may be accomplished, I take the liberty to request such explanations on these heads as your lordship may think fit to give me.

I ought to add, that as the levee of His Royal Highness the Prince Regent has been postponed until Tuesday, the 26th instant, I have supposed that my audience of leave is postponed to the same day, and that I have, on that ground undertaken to delay my reply to your official communication until I receive an answer to this letter.

I have the honor to be, with great respect and consideration, my lord, your lordship's most obedient servant,
WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

SIR:

LONDON, February 24, 1811.

I received last night Lord Wellesley's answer (of which a copy is enclosed) to my letter of the 17th inst. He has marked it *private*, and speaks of my letter to him as being *private* also. My letter, however, was not so marked or intended; and his answer, however marked, is essentially an official communication of great importance.

His letter amounts to an explicit declaration that the orders in council are to be persisted in; and it furnishes no evidence of a disposition to give us any thing but vague and general professions on any subject. I did not, therefore, hesitate to send him a reply, declaring my intention to take leave on Thursday, the 28th, in pursuance of my request of the 13th, and declining to attend the Prince's levee on Tuesday, the 26th. Of this reply a copy is now transmitted.

To mistake the views of this Government is now impossible. They are such as I always believed them to be, and will, I hope, be resisted with spirit and firmness.

In shaping my course on this occasion, I have endeavored to conform to the orders of the President, signified to me in your letter of the 15th of November. With those orders, as I understand them, my own wishes have certainly concurred; but I trust that I have not suffered inclination to influence my interpretation of them.

According to your letter, my functions were to be considered as suspended on the receipt of it, if the British Government had not *then* appointed a minister plenipotentiary to the United States. Such an appointment had not at that time been made, and consequently the suspension took place.

Upon a careful consideration of your letter, it appeared to me to look to a *revival* of my functions in the event of "a satisfactory change in the posture of our relations" with this country. I could not, indeed, find in it any precise provision to that effect, but there was apparently room for such a construction; and I have already informed you that, however anxious to close my mission and retire from the public service, I was disposed to act for a few weeks upon that implication, in case such a change occurred in our relations as I deemed a *satisfactory* one.

It could not be imagined that the appointment of Mr. Foster produced that change; and, supposing it to be left, in some degree at least, to my discretion to determine in what it should consist, I had no difficulty in deciding that the immediate repeal of the orders in council and the blockade of May, 1806, a distinct pledge on the affair of the

Chesapeake, and a manifestation of a disposition to accommodate with us, on principles of justice, on all other concerns, were indispensable ingredients. It followed that, upon receiving Lord Wellesley's letter of yesterday's date, I had no choice but to press for my audience of leave.

It may, perhaps, be thought that I ought not to have refused to appear at Carlton House on the 26th, for the purpose of being presented, with the other foreign ministers, to the Regent. I have not myself any doubt at all upon that point. My appearance at the levee for such a purpose would import that I consider my capacity, as the minister of the United States, to be entire, and would, moreover, encourage the delusion which now prevails concerning the views of the British Government towards America.

I have the honor to be, with great respect and consideration, sir,
your most obedient, humble servant,

WM. PINKNEY.

The SECRETARY OF STATE of the United States.

[Referred to in Mr. Pinkney's despatch of February 24, 1811.]

(Private.)

Lord Wellesley to Mr. Pinkney.

APSLEY HOUSE, February 23, 1811.

SIR:

I have the honor to acknowledge the receipt of your private* letter under date of the 17th instant.

I take the liberty of referring you to my former unofficial letters and communications for an explanation of the motives which have induced this Government, in pursuance of those amicable views which I have uniformly declared, to appoint a minister plenipotentiary to the United States. I have already assured you that the delay of that appointment was occasioned, in the first instance, by an anxious desire to make it in the manner which was likely to prove most acceptable to the United States. The appointment was recently delayed by the state of His Majesty's Government; and it has ultimately taken place, in pursuance of the principles which I have repeatedly stated to you, and not in consequence of any change of system.

It is, perhaps, unnecessary to repeat the desire of this Government to relinquish the orders in council, whenever that measure can be adopted without involving the necessity of surrendering the most important and valuable maritime rights and interests of the United Kingdom.

No objection has ever been stated on the part of this Government to an amicable discussion of the principles of any blockade which may be deemed exceptionable by the United States.

I have expressed to you, without reserve, a desire to arrange the case of the Chesapeake on just and equitable principles; and I trust that no apprehension can be entertained of the general disposition of this Government to adopt every reasonable measure which may be necessary to conciliate the friendship of the United States. But it would be neither candid towards you, nor just towards this Government, to countenance any interpretation which might favor a supposition that it was intended by this Government to relinquish any of the principles which I have so often endeavored to explain to you.

His Royal Highness's levee will take place on Tuesday, the 26th instant; but I have received his commands to signify to such of the foreign ministers as may desire to have private audiences, that His Royal Highness will receive them on Thursday, the 28th instant. The foreign ministers, however, will all be presented to His Royal Highness on Tuesday, the 26th instant, on which day I shall attend for that purpose.

I have the honor to be, with great respect and consideration, sir,
your most obedient and humble servant,

WELLESLEY.

Mr. Pinkney to Lord Wellesley.

MY LORD:

GREAT CUMBERLAND PLACE, February 23, 1811.

I have had the honor to receive your private letter of this day's date.

It only remains for me to inform your lordship that I have transmitted to the Secretary of State of the United States a copy of your official communication of the 15th instant, and of the unofficial paper which accompanied it; and that I will avail myself of the disposition of His Royal Highness the Prince Regent to give me an audience of leave on Thursday next, the 28th of February, in pursuance of the request contained in my letter of the 13th inst., which referred to my letter of the 14th of January.

I take the liberty to add, that until the time appointed for my audience, I will not trespass on His Royal Highness for the purpose of being presented to him.

I have the honor to be, with great respect and consideration, my lord,
your lordship's most obedient, humble servant,

WM. PINKNEY.

Extract.—Mr. Pinkney to Mr. Smith.

LONDON, March 1, 1811.

I had my audience of leave at Carlton House yesterday. In the course of the short address which the occasion required, I stated to the Prince Regent the grounds upon which it had become my duty to take my leave, and to commit the business of the legation to a chargé d'affaires; and I concluded by expressing my regret that my humble efforts, in the execution of the instructions of my Government, to set to rights the embarrassed and disjointed relations of the two countries, had wholly failed, and that I saw no reason to expect that the great work of their reconciliation was likely to be accomplished through any other agency.

The Prince's reply was, of course, general; but I ought to say that, exclusively of phrases of courtesy, it contained explicit declarations of the most amicable views and feelings towards the United States. Lord Wellesley was the only person present at this audience.

While I was in the outer room, waiting until the Prince Regent was ready to receive me, Lord Wellesley told me that they intended to send out Mr. Foster immediately.

* N. B. This is a mistake. Mr. Pinkney's letter was not marked *private*, nor intended to be so.

WM. PINKNEY.

Extract:—Mr. Pinkney to the Secretary of State of the United States.

COWES, May 7, 1811.

I enclose duplicate copies (more legible than those transmitted in my letter of the 13th of March) of Mr. Russell's communications to me of the 1st, 11th, 27th, and 30th of December last. They are necessary to account for, not the general character or substance of my late correspondence with Lord Wellesley, but the particular part of the last paragraph of my letter to that nobleman of the 14th of January, 1811, which is contained in the following words: "The information which I have lately received from the American legation at Paris confirms what I have already stated, and, I think, proved to your lordship, that those decrees are repealed, and have ceased to have any effect."

I have the honor to be, sir, &c.

[Referred to in Mr. Pinkney's despatch of May 7, 1811.]

Mr. Russell to Mr. Pinkney.

SIR:

PARIS, December 1, 1810.

Nothing has transpired here of sufficient importance to be communicated by a special messenger, and no safe private conveyance has hitherto presented itself till now to acknowledge the receipt of your letters under date of the 7th and 28th of October.

No event within my knowledge has occurred, either before or since the 1st of November, to vary the construction given by us to the very positive and precise assurances of the Duke of Cadore, on the 5th of August, relative to the revocation of the Berlin and Milan decrees. That these decrees have not been executed for an entire month, on any vessel arriving, during that time, in any of the ports of France may, when connected with the terms in which their revocation was announced, fortify the presumption that they have ceased to operate. I know of no better evidence than this which the negative character of the case admits, or how the non-existence of an edict can be proved except by the promulgation of its repeal, and its subsequent non-execution.

Our attention here is now turned towards England and the United States. The performance of one of the conditions on which the revocation of one of the decrees was predicated, and which is essential to render it permanent, is anxiously expected; and it is devoutly to be wished that England, by evincing the sincerity of her former professions, may save the United States from the necessity of resorting to the measure which exclusively depends on them.

I need not suggest to you the importance of transmitting hither as early as possible any information of a decided character which you may possess relative to this subject, as an impatience is already betrayed here to learn that one or the other of the conditions has been performed.

I have the honor to be, &c.

JONATHAN RUSSELL.

[Referred to in Mr. Pinkney's despatch of May 7.]

Mr. Russell to Mr. Pinkney.

SIR:

PARIS, December 11, 1810.

I have had the pleasure to receive your letter of the 22d ultimo, by Mr. Page, and I thank you most sincerely for the papers which accompanied it. It is nowhere more necessary than at Paris to hear both sides of a question, in order to give a near guess at the truth. The way in which the story is told on your side of the channel will enable me to correct many errors which it contains as told here. The obligations you confer on me this way I shall endeavor to discharge in kind.

I wrote you, a few days since, by the way of Dieppe, and gave you the best statement of affairs here that the truth would warrant, in hopes that you might derive some advantage from it. I assure you I have felt disappointed and grieved at the conduct of the British ministry. If they distrusted the sincerity of their enemies with regard to the revocation of the decrees here, still it would have been good policy to have appeared to believe them, and to have acted accordingly. By pursuing a different course, they have missed a golden opportunity of honorably repealing their offending orders, and, in so doing, to have proved at once their own sincerity, and conciliated the good opinion of the United States. If the frigate *Essex*, which arrived on the 4th instant at L'Orient, in twenty-eight days from Norfolk, has brought the President's proclamation in pursuance of the law of the 1st of May, the British ministry will be placed in an awkward situation. They will have to persevere in the orders, at the expense of their veracity, and at the hazard of war with the United States, or to withdraw them under very equivocal circumstances, which will give to their conduct the appearance of being rather the result of necessity than the dictate of principle. That the frigate has brought this proclamation there is good cause to suppose, from the time when she left the United States, being a few days subsequent to the period when the Berlin and Milan decrees were to cease to operate. If she has brought this proclamation, it will, without doubt, render absolute the revocation of those decrees, whatever uncertainty might have before attended it. There are probably, then, but a few days left in which the repeal of the British orders can appear to be the spontaneous act of the ministry; and I sincerely hope that, by properly improving this short period, they may do with a good grace what cannot be done afterwards in a way either to save their pride or deserve our friendship.

Agreeably to your request, I shall change the file of the *Journal de l'Empire*, which I intended for you, for that of the *Moniteur*.

I am, sir, very truly and respectfully, your obedient, humble servant,

JOHN RUSSELL.

His Excellency WILLIAM PINKNEY.

[Enclosed in Mr. Pinkney's despatch of May 7, 1811.]

Mr. Russell to Mr. Pinkney.

SIR:

PARIS, December 27, 1810.

I have received your letters of the 5th and 6th of this month by Mr. Bowdoin and Mr. Wells.

The vessel you mention, the *Charles*, having on board a large quantity of turpentine, which is considered here as naval stores, will probably be condemned for carrying contraband of war to an enemy, without any reference to the Berlin and Milan decrees.

On the other hand, the American vessels which have been permitted to land their outward cargoes in the ports of France, and to take in return cargoes to the United States, are, as far as I can learn, but two in number, and, in fact, arrived before the 1st of November, and to them the decrees were not applicable. The other vessels which have taken away cargoes arrived here in ballast, and were recommended by special circumstances to the consideration of this Government.

Nothing can therefore be inferred, either for or against the revocation of the French edicts, from the facts referred to in your letter of the 6th instant.

Since I last wrote, however, I have learned the seizure and capture of two or three American vessels; but the course which this Government will pursue in relation to them being marked out by the letters of the Minister of Justice to the President of the Council of Prizes, and from the Minister of Finance to the Director General of the Customs, which you will find in the Moniteurs which I herewith send to you, it is unnecessary to enter into a particular detail of the circumstances which attended these cases.

I am willing to believe that what this Government has done, although it may not be entirely satisfactory to the United States, will at least be sufficient to procure from the British Government a repeal of the orders in council, and the restoration of all American property taken under them since the 1st of November.

It is possible that the French cruisers may hereafter continue their depredations, but abuses of this kind are very distinct from the operation of the Berlin and Milan decrees, and cannot, by the most extravagant construction of the law of retaliation, afford a pretext for the continuance of the British orders.

I am, &c.

JONATHAN RUSSELL.

His Excellency WILLIAM PINKNEY, &c.

[Referred to in Mr. Pinkney's despatch of May 7, 1811.]

Mr. Russell to Mr. Pinkney.

SIR:

PARIS, December 30, 1810.

A gentleman called on me last evening, from the Duke of Cadore, to inform me that the American schooner, the Grace Ann Greene, had been released. This vessel arrived at Marseilles since the 1st of November, and was last from Gibraltar, where she had remained some time. As she came clearly within the Berlin and Milan decrees, her release may be considered as conclusive evidence of their revocation.

I am, sir, &c.

JONATHAN RUSSELL.

His Excellency WILLIAM PINKNEY.

Extract of a letter from J. S. Smith, Esq., Chargé d'Affaires of the United States at London, to the Secretary of State.

LONDON, May 25, 1811.

I had yesterday, for the first time, an interview with Lord Wellesley. I presented to him the letters of introduction that Mr. Pinkney had given me, and he received me in the most polite manner.

Mr. Smith, Chargé d'Affaires at London, to the Marquis Wellesley.

MY LORD:

LONDON, May 27, 1811.

I have the honor to inform your lordship, from official information this day received by me from Paris, that all the American vessels which have voluntarily arrived in France since the 1st of November have been admitted. This, if any additional evidence of the repeal of the Berlin and Milan decrees were wanting, will sufficiently establish the fact of their revocation, as most of the vessels now admitted would otherwise have been subject to their operation.

I have the honor to be, with the greatest respect, your lordship's most obedient servant,

J. S. SMITH.

Mr. Smith, Chargé d'Affaires at London, to the Secretary of State of the United States.

SIR:

LONDON, June 6, 1811.

I have the honor to enclose a report of the trial of the Fox and others. The John Adams will leave Cowes this week. The messenger goes down to-morrow evening.

I have the honor, &c.

J. S. SMITH.

The Hon. the SECRETARY OF STATE, &c.

COURT OF ADMIRALTY, }
Thursday, May 30, 1811. } Fox and others.

Judgment.

SIR WILLIAM SCOTT.—This was the case of an American vessel which was taken on the 15th of November, 1810, on a voyage from Boston to Cherbourg. It is contended, on the part of the captors, that, under the order in council of 26th April, 1809, this ship and cargo, being destined to a port of France, are liable to confiscation. On the part of the claimants, it has been replied, that the ship and cargo are not confiscable under the orders in council; first, because these orders have in fact become extinct, being professedly founded upon measures which the enemy had retracted; and secondly, that if the orders in council are to be considered as existing, there are circumstances of equity in the present case, and in the others that follow, which ought to induce the court to hold them exonerated from the penal effect of these orders.

In the course of the discussion a question has been started, what would be the duty of the court, under orders in council that were repugnant to the law of nations? It has been contended on one side, that the court would at all events be bound to enforce the orders in council; on the other, that the court would be bound to apply the rule

of the law of nations applying to the particular case, in disregard of the orders in council. I have not observed, however, that these orders in council, in their retaliatory character, have been described in the argument as at all repugnant to the law of nations, however liable to be so described, if merely original and abstract; and therefore it is rather to correct possible misapprehension on the subject, than from the sense of any obligation which the present discussion imposes upon me, that I observe, that this court is bound to administer the law of nations to the subjects of other countries in the different relations in which they may be placed towards this country and its Government. This is what other countries have a right to demand for their subjects, and to complain if they receive it not. This is its unwritten law, evidenced in the course of its decisions, and collected from the common usage of civilized States. At the same time, it is strictly true, that by the constitution of this country, the King in council possesses legislative rights over this court, and has power to issue orders and instructions which it is bound to obey and enforce; and these constitute the written law of this court. These two propositions, that the court is bound to administer the law of nations, and that it is bound to enforce the King's orders in council, are not at all inconsistent with each other; because these orders and instructions are presumed to conform themselves, under the given circumstances, to the principles of its unwritten law. They are either directory applications of those principles to the cases indicated in them—cases which, with all the facts and circumstances belonging to them, and which constitute their legal character, could be but imperfectly known to the court itself; or they are positive regulations, consistent with those principles, applying to matters which require more exact and definite rules than those general principles are capable of furnishing.

The constitution of this court, relatively to the legislative power of the King in council, is analogous to that of the courts of common law relatively to that of the Parliament of this kingdom. Those courts have their unwritten law, the approved principles of natural reason and justice; they have likewise the written or statute law in acts of Parliament, which are directory applications of the same principles to particular subjects, or positive regulations consistent with them, upon matters which would remain too much at large if they were left to the imperfect information which the courts could extract from mere general speculations. What would be the duty of the individuals who preside in those courts, if required to enforce an act of Parliament which contradicted those principles, is a question which I presume they would not entertain *a priori*, because they will not entertain *a priori* the supposition that any such will arise. In like manner this court will not let itself loose into speculations as to what would be its duty under such an emergency, because it cannot, without extreme indecency, presume that any such emergency will happen; and it is the less disposed to entertain them, because its own observation and experience attest the general conformity of such orders and instructions to its principles of unwritten law. In the particular case of the orders and instructions which give rise to the present question, the court has not heard it at all maintained in argument, that as retaliatory orders they are not conformable to such principles; for retaliatory orders they are. They are so declared in their own language, and in the uniform language of the Government which has established them. I have no hesitation in saying, that they would cease to be just if they ceased to be retaliatory; and they would cease to be retaliatory, from the moment the enemy retracts in a sincere manner those measures of his which they were intended to retaliate.

The first question is, what is the proper evidence for this court to receive, under all the circumstances that belong to the case, in proof of the fact that he has made a *bona fide* retraction of those measures? Upon that point it appears to me that the proper evidence for the court to receive is, the declaration of the State itself which issued these retaliatory orders, that it revokes them in consequence of such a change having taken place in the conduct of the enemy. When the State, in consequence of gross outrages upon the law of nations committed by its adversary, was compelled by a necessity which it laments, to resort to measures which it otherwise condemns, it pledged itself to the revocation of those measures as soon as the necessity ceases. And till the State revokes them, this court is bound to presume that the necessity continues to exist; it cannot, without extreme indecency, suppose that they would continue a moment longer than the necessity which produced them, or that the notification that such measures were revoked, would be less public and formal than their first establishment. Their establishment was doubtless a great and signal departure from the ordinary administration of justice in the ordinary state of the exercise of public hostility, but was justified by that extraordinary deviation from the common exercise of hostility in the conduct of the enemy. It would not have been within the competency of the court itself to have applied originally such rules, because it was hardly possible for this court to possess that distinct and certain information of the facts, to which alone such extraordinary rules were justly applicable. It waited, therefore, for the communication of the facts; it waited likewise for the promulgation of the rules that were to be practically applied. For the State might not have thought fit to act up to the extremity of its rights on this extraordinary occasion; it might, from motives of forbearance, or even of policy unmixt with any injustice to other States, have adopted a more indulgent rule than the law of nations would authorize, though it is not at liberty ever to apply a harsher rule than that law warrants. In the case of the Swedish convoy, which has been alluded to, no order or instruction whatever was issued, and the court, therefore, was left to find its way to that legal conclusion which its judgment of the principles of the law led it to adopt. But certainly if the State had issued an order that a rule of less severity should be applied, this court would not have considered it as any departure from its duty to act upon the milder rule which the prudence of the State was content to substitute in support of its own rights. In the present case it waited for the communication of the fact and the promulgation of the rule. It is its duty, in like manner, to wait for the notification of the fact that these orders are revoked, in consequence of a change in the conduct of the enemy.

The edicts of the enemy themselves, obscure and ambiguous in their usual language, and most notoriously and frequently contradicted by his practice, would hardly afford it a satisfactory evidence of any such change having actually and sincerely taken place. This State has pledged itself to make such a notification when the fact happens; it is pledged so to do by its public declarations; by its acknowledged interpretations of the law of nations; by every act which can excite a universal expectation and demand, that it shall redeem such a pledge. Is such an expectation peculiar to this court? Most unquestionably not. It is universally felt and universally expressed. What are the expectations signified by the American Government in the public correspondence referred to? Not that these orders would become silently extinct under the interpretations of this court, but that the State would rescind and revoke them. What is the expectation expressed in the numerous private letters exhibited to the court amongst the papers found on board this class of vessels? Not that the British orders had expired of themselves, but that they would be removed and repealed by public authority. If I took upon myself to annihilate them by interpretation, I should act in opposition to the apprehension and judgment of all parties concerned, of the individuals whose property is in question, and of the American Government itself, which is bound to protect them.

Allusion has been made to two or three cases, in which this court is said to have exercised a power of qualifying and moderating the general terms of an order in council, as in the case of the *Lucy*, *Taylor*, in which the general terms of the order subjected to confiscation all ships transferred by the enemy to neutrals during the war; and yet this court held that these general terms did not extend to prize ships so transferred by the enemy.

But what was the ground of that interpretation? It was this: the rule itself was adopted from the rule of the enemy, and upon a principle of exact retaliation; for it was declared, in the express terms of the preamble of the order, that it was just to apply the same rule to the enemy which he was in the habit of applying to this country. And when the court found, upon satisfactory evidence, that the enemy did not apply any such rule to prize ships, but specially exempted them, it would have pronounced in direct contradiction to the avowed principle of the order itself, if it had not followed the enemy in this acknowledged distinction. It has likewise been urged that cases may be found in which the court has presumed a revocation, though no such revocation has been promulgated. And it is certainly true that where an essential change in the circumstances that occasioned the order has, in effect, extinguished its subject-matter, and that change of circumstances has been publicly declared by the State, the court has not thought it necessary to wait for a formal revocation itself. In the case of the Baltic order, by which, in compliance with the wishes of its allies in the war, the Government of this country granted an immunity from the molestation of capture in that sea; the court held that order to be revoked when the State had declared that most of those States to whose applications, as allies, that indulgence had been granted, had changed the character of allies for that of enemies. It was quite unnecessary to wait for such special revocation, when, by the general declaration of war, all hostilities had been authorized against them.

Admitting, however, that there may be cases of presumed revocation, does it follow that this is, with any propriety, to be considered as one of those cases? The novelty of these orders in council, the magnitude, the complexity, the extraordinary nature of the facts to which they owe their origin, the attention which they called for and excited both at home and abroad, the pledges given by this State and accepted by other States, all disqualify this court from taking upon itself to apply a presumed revocation in any such case.

Supposing, however, that the court felt itself at liberty to accept as satisfactory other evidence of a sincere retraction of the French decrees, what is the amount of the evidence offered? No edict, no public declaration of repeal, no reference to cases in which the courts of that country have acted upon any such revocation. The only case mentioned was that of the New Orleans Packet, and it was brought forward in such a way, so void of all authenticity, and of all accurate detail of particulars, as to make it hardly possible for me to allude to it with any propriety, and much less with any legal effect. What the circumstances of that case were, in what form, and under what authority, and on what account released, did not at all appear; whether at all applicable to the present question, whether a mere irregularity, or what was its real character, the court could not learn. This, however, is matter of notoriety, that these decrees are pronounced fundamental laws of the French empire; that they were declared so in their original formation; and that they have been since so declared repeatedly and recently, long since the date of the present transactions. The declaration of the person styling himself Duke de Cadore imports no revocation; for that declaration imports only a conditional retraction, and this upon conditions known to be impossible to be complied with. It has been urged that the American Government has considered it otherwise, and has so declared it for the regulation of the conduct of the people of that country. If such is the fact, it is not for me to lose sight of that respect which is due to the acts of a foreign Government, so far as to question the propriety of any interpretation which they may have given to such an instrument. But when the effect of such an instrument is pressed upon me for the purpose of calling for my decision, I must be allowed to interpret it for myself, and to act upon that interpretation. And to me it appears, that the declaration, clogged as it is with stipulations known to be beyond the reach of all rational hope of any possible compliance, is in effect a renunciation of any serious purpose of repealing those decrees. I think I might invoke the authority of the Government of the United States for denying to this French declaration the effect of an absolute repeal, when I observe that the period which they have allowed to the British Government for revoking our orders in council extends to the 2d of February; an allowance which could hardly have been made if the revocation on the part of France had really taken place at the time to which that declaration purports to refer.

In the absence of any declaration of the British Government to such an effect, there is a total failure of all other evidence (if the court were at liberty to accept other evidence as satisfactory) that the French decrees had been revoked. If I were driven to decide upon that evidence, independent of all evidence to be regularly furnished by the Government under whose authority I sit, I think I am bound to pronounce that no such revocation has taken place, and, therefore, that the orders in council subsist in perfect justice as well as in complete authority.

It is incumbent upon me, I think, to take notice of an objection of Dr. Herbert's to the *existence* of the orders in council—namely, that British subjects are, notwithstanding, permitted to trade with France, and that a blockade which excludes the subjects of all other countries from trading with ports of the enemy, and at the same time permits any access to those ports to the subjects of the State which imposes it, is irregular, illegal, and null. And I agree to the position, that a blockade, imposed for the purpose of obtaining a commercial monopoly for the private advantage of the State which lays on such blockade, is illegal and void, on the very principle upon which it is founded. But, in the first place, (though that is matter of inferior consideration,) I am not aware that any such trade between the subjects of this country and France is *generally* permitted. Licenses have been granted, certainly, in no inconsiderable numbers; but it never has been argued that particular licenses would vitiate a blockade. If it were material in the present case, it might be observed that many more of these licenses had been granted to foreign ships than to British ships, to go from this country to France, and to return here from thence, with cargoes. But, secondly, what still more clearly and generally takes this matter out of the reach of the objection, is the particular nature and character of this blockade of France, if it is so to be characterized. It is not an original independent act of blockade, to be governed by the common rules that belong simply to that operation of war. It is in this instance a counteracting reflex measure, compelled by the act of the enemy, and, as such, subject to other considerations arising out of its peculiarly distinctive character. France declared that the subjects of other states should have no access to England; England, on that account, declared that the subjects of other states should have no access to France. So far this retaliatory blockade (if blockade it is to be called) is co-extensive with the principle: neutrals are prohibited to trade with France, because they are prohibited by France from trading with England. England acquires the right, which it would not otherwise possess, to prohibit that intercourse, by virtue of the act of France. Having so acquired it, it exercises it to its full extent, with entire competence of legal authority; and, having so done, it is not for other countries to inquire how far this country may be able to relieve itself further from the aggressions of that enemy. The case is settled between them and itself by the principle on which the intercourse is prohibited. If the convenience of this country, before this prohibition, required some occasional intercourse with the enemy, no justice that is due to other countries requires that such an intercourse should be suspended on account of any prohibition imposed upon them on a ground so totally unconnected with the ordinary principles of a common measure of blockade, from which it is thus distinguished by its retaliatory character.

The last question is, are there any circumstances, addressed to equitable consideration, that can relieve the claimants from the penal effects of these orders? Certainly, if any could be urged that arose from the conduct of the British Government itself, they might be urged with a powerful and even irresistible effect; but if they found

themselves in the fraud of the enemy, or in the misapprehensions of the American Government induced by the fraud of the enemy, they found no claim on the British Government or on British tribunals. In the one case they must resort for redress to a quarter where, I fear, it is not to be found—to the Government of the enemy; in the other, where, I presume, it is to be found—to the Government of their own country.

Upon the declaration of the American Government I have already said as much as consists with the respect which I am bound to pay to the declaration of a foreign Government professedly neutral. The custom-houses of that country, say the claimants, cleared us out for France publicly, and without reserve. They did so; but they left the claimants to pursue all requisite measures for their own security, in expectation, I presume, that they would inform themselves, by legal inquiry, whether the blockade continued to exist, if its continuance was uncertain. That it was perfectly uncertain, in their own apprehensions, is clear, from the tenor of these letters of instructions to the different masters of these vessels. In these letters, which are numerous, all is problematical between hope and fear—a contest between the desire of getting first to a tempting market on the one side, and the possible hazard of British capture on the other; and it is to be regretted that the eagerness of mercantile speculation has prevailed over the sense of danger. In such a state of mind, acting upon circumstances, the party must understand that he takes the chance of events—of advantage if the event which he hopes for has taken place, and of loss if it has not. It is his own adventure, and he must take profit or loss as the event may throw it upon him. He cannot take the advantage without the hazard of loss, unless by resorting to British ports in the channel, where certain information may be obtained, on the truth of which all prospects of loss or profit may be safely suspended. On the British Government no responsibility can be charged. They were bound to revoke as soon as they were satisfied of the sincere revocation of the French decrees. Such satisfaction they have not signified, and I am bound to presume that no such satisfaction is felt. With respect to the demand of warning, the orders themselves are full warning. They are the most formal admonitions that could be given, and, being given and unrevoked, they require no subsidiary notice.

On the grounds of the present evidence, I therefore see no reason to hold the claimants discharged; but I do not proceed to an ultimate decision upon their interests till I see the effect of that additional evidence which is promised to be produced upon the fact of the French retraction of their decrees, said to have been very recently received from Paris by the American chargé d'affaires in this country. Having no official means of communication with foreign ministers, I shall hope to receive the information in a regular manner, through the transmission of the British offices of state.

Final adjudication suspended.

Extract:—Mr. John S. Smith to the Secretary of State.

LONDON, June 8, 1811.

Enclosed is the copy of a letter which I addressed to Lord Wellesley on the 5th instant. I had delayed making this communication, in the hope that I should do it at the interview which he had promised me, and which I again requested on the 3d instant. I did not consider it necessary to enter at length into a subject which has been so often and so ably discussed, and on which nothing has been left to add. I shall, however, enter into any explanations that may be necessary when I again see his lordship.

[Enclosed in the preceding.]

Mr. John Spear Smith to Lord Wellesley.

MY LORD:

18, BENTINCK STREET, June 5, 1811.

I have the honor to communicate to your lordship the copy of an act passed during the last session of Congress, which, though it renews certain parts of the non-intercourse law against this country, yet it carefully gives to the President the authority to repeal it, "when Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States." In this, as well as in other provisions of the act, His Majesty's Government cannot fail to observe the invariable disposition of the United States to preserve harmony with Great Britain, and to re-establish that happy intercourse between the two nations which it is so much the interest of both to cultivate; and the President confidently expects that His Majesty will not hesitate to abandon a system, always urged to be merely retaliatory, now that its causes have ceased to exist.

I have the honor to inform your lordship that the gentleman who will be the bearer of my despatches to the United States in the John Adams, will leave town on Friday evening, and that I shall be happy to forward, by the same occasion, any despatches that your lordship may wish to send to the United States.

I have the honor to be, &c.

J. S. SMITH.

The Most Noble the MARQUIS OF WELLESLEY.

Extract:—Mr. J. S. Smith to the Secretary of State.

LONDON, June 16, 1811.

On the 9th instant, the day after Mr. Hamilton left town with my despatches, I received the enclosed note from Lord Wellesley, appointing Tuesday the 11th to see me at his house. I immediately wrote to Captain Dent to detain the frigate until he heard from me again, but he had gone to sea before my letter reached Cowes, and I am now compelled to send this by another opportunity.

I waited on Lord Wellesley according to his appointment. He commenced the conversation by observing, that, whenever there was any thing of importance to be communicated, it was better to do it in writing, as, when merely verbal, it was liable to be misunderstood; that he did not mean any thing personal to me; that the same rule was observed with the other foreign agents here, and was customary. I replied that I was ready to pursue this system; that, in the note which I had written him, enclosing the non-importation act, I had not gone into a lengthy discussion, as that, whatever I might say, would be only a recapitulation of what had so often been written. I, however, proceeded to explain the new act, and to remark to him the particularly amicable nature of the second section of it; that I conceived this to be a most favorable opportunity for Great Britain to abandon her system of restrictions, and particularly at this moment, when I had communicated practical instances of the repeal of the obnoxious measures of France. He said that he did not think they would do any thing before they heard from Mr. Foster, who had full instructions upon this and the other points in dispute.

I turned the conversation to the subject of your letter of the 22d of January, and asked him if Mr. Pinkney had given any explanations about the taking possession of West Florida? He replied, that the first he had heard of it was through Mr. Morier, though he had reason to expect something from Mr. Pinkney; that Mr. Foster, however, was instructed on this point; and asked if East Florida was included in these instructions? I replied that it was. I then communicated to him the substance of your letter, and explained with frankness the intentions of the United States. He expressed his wish that this, as well as the other subjects, should lay over until they heard from America.

I showed him the letter of the President to His Majesty, containing Mr. Pinkney's permission to return. He said that it would be proper that I should write him a note, enclosing this letter, and requesting him to present it to the Prince Regent.

The vessels detained here under the orders in council have not yet been finally condemned, and I represented to Lord Wellesley how important it was that they should be released, or that they should be still suspended. He said that he desired it also, but that, private rights being concerned, it was difficult for Government to interfere for their longer suspension.

I am induced to believe that they will wait until they hear from Mr. Foster.

John Spear Smith, Esq. to the Secretary of State of the United States.

LONDON, June 27, 1811.

I have the honor to enclose a copy of the final decision of Sir William Scott in the case of the Fox and others.

The court, on Tuesday last, the 25th instant, condemned the remaining American vessels captured under the orders in council. As soon as I can procure a correct list of them, I will have the honor to forward it. The seamen who are left destitute by these condemnations will be taken care of by General Lyman. They are of course numerous.

FOX, PORTER.—*Judgment resumed.*

SIR WILLIAM SCOTT.—As the claimants have failed to produce any evidence of the revocation of the French decrees, and have nothing to offer as the foundation of a demand for further time, I must conform to what I declared on a former day, and proceed to make the decree effectual. I should certainly have been extremely glad to have received any authentic information tending to show that the decrees of France, to which these orders in council are retaliatory, had been revoked; and it was upon a suggestion, offered on the part of the claimants, that despatches had been very recently received from Paris by the American minister in this country, by which the fact might be ascertained, that the court on the former day deferred its final judgment. It would have been unwilling to proceed to the condemnation of these vessels, without giving the proprietors the opportunity of showing that the French decrees, on which our orders in council are founded, had been revoked. But they admit that they have no such evidence to produce; the property of the ships and cargoes is daily deteriorating; and it is my duty to delay no longer the judgment which is called for on the part of the captors.

From every thing that must have preceded, and from every thing that must have followed, the revocation of the French decrees, if such revocation had taken place, I think I am justified in pronouncing that no such event has ever occurred. The only document referred to on behalf of the claimants is the letter of the person styling himself Duc de Cadore. That letter is nothing more than a conditional revocation: it contains an alternative proposed, either that Great Britain shall not only revoke her orders in council, but likewise renounce her principles of blockade—principles founded upon the ancient and established law of nations; or that America shall cause her neutral rights to be respected; in other words, that she shall join France in a compulsive confederation against this country. It is quite impossible that England should renounce her principles of blockade, to adopt the now-fangled principles of the French Government, which are absolute novelties in the law of nations; and I hope it is equally impossible that America should lend herself to a hostile attempt to compel this country to renounce those principles on which it has acted, in perfect conformity to ancient practice and the known law of nations, upon the mere demand of the person holding the Government of France. The *casus federus*, therefore, if it may be so called, does not exist: the conditions on which alone France holds out a prospect of retracting the decrees, neither are nor can be fulfilled. Looking at the question, therefore, *a priori*, it cannot be presumed that the revocation has passed. On the other hand, what must have followed if such had been the fact? Why, that the American minister in this country must have been in possession of most decisive evidence upon the subject, for I cannot but suppose that the first step of the American minister at Paris would have been to apprise the American minister at this court of so momentous a circumstance, with a view to protect the American ships and cargoes which had been brought in under the British orders in council. If no such information has been received by him, there never was a case in which the rule "*de non apparentibus et non existentibus eadem est ratio*" can more satisfactorily apply. For it is quite impossible that such a revocation can have taken place without being attended with a clear demonstration of evidence that such was the fact.

I am, therefore, upon every view of the case, of opinion that the French decrees are, at this moment, unrevoked. But if, by any possibility, it can have happened that an actual revocation has taken place against the manifest import of the only public French declaration referred to, and without having been yet communicated to the American minister in this country, who was so much concerned to know it, for the benefit of the persons for whose protection it must have been principally meant, the parties will have the advantage of the fact, if they can show, upon an appeal, that those decrees have been revoked at a time and in a manner that could justly be applied to the determination of these causes—revoked at a period which would reach the dates of this capture, and in a manner unencumbered with stipulations which it was well known this country could never accept, and to which there was every reason to presume that the justice of America could never permit her to accede, upon the refusal of Great Britain. On such a state of evidence the claimants will carry up with them to the superior court the principle that might entitle them to protection, according to the view which this court has taken of the subject. But things standing as they do before me—all the parties having acted in a manner that leads necessarily to the conclusion that no *bona fide* revocation of the Berlin and Milan decrees has taken place—I must consider these cases as falling within the range of the British orders in council, and, as such, they are liable to condemnation.

Extract:—Mr. J. S. Smith to the Secretary of State.

LONDON, July 10, 1811.

Enclosed is a list of the American vessels that have been condemned at the late sittings of the Court of Admiralty; two only of them have not yet been decided upon. They will, however, share the same fate as the others. Vessels and cargoes will be sold, and the money deposited in court to await, for twelve months, the appeal of the captured, from which very little is, I fear, to be expected.

[Referred to in the despatch of J. S. Smith, of July 10, 1811.]

Vessel's name.	Captain.	From whence.	Cargo.	ESTIMATED COST.	
				Vessel.	Cargo.
*Brig Fox,	Porter,	Boston,	Colonial produce, &c.	\$12,000	
*Schooner Betsey,	Lindsey,	Marblehead,	Fish and oil,	3,500	\$4,500
*Schooner Mary,	Devereux,	Marblehead,	Fish (green)	2,000	1,800
*Schooner Polly,	Vickery,	Marblehead,	Fish (green)	2,000	1,800
*Schooner Ann,	Dolliber,	Marblehead,	Fish (green)	2,000	1,800
*Schooner Woodbridge,	Kimman,	Boston,	Fish, oil, colonial produce, &c.	3,500	7,000
*Ship Danube,	Pierce,	New York,	Cotton, rice, colonial produce,	20,000	35,000
*Brig Matilda,	Lee,	Boston,	Cotton, fish, tobacco, teas, nankeens.	12,000	25,000
*Brig Eliza,	Corgie,	Philadelphia,	Peltry and cotton,	8,000	38,000
*Ship Adolphus,	Brevort,	New York,	Tobacco, peltry, &c.	20,000	45,000
*Schooner Two Sisters,	Bridges,	Marblehead,	Fish (green)	2,000	1,800
*Brig Garland,	Haff,	New York,	Cotton, ivory, dyewood,	8,000	30,000
*Ship Betsey,	Milwood,	Norfolk,	Tobacco,	8,000	21,500
*Brig Java,	Stacy,	Boston,	Fish (dry)	12,800	7,500
*Ship Projector,	Brown,	New York,	Cotton, ivory, &c.	8,000	30,000
*Brig Beauty,	Morris,	Philadelphia,	Cotton, colonial produce, &c.	17,000	20,000
*Ship Charleston Packet,	Weeks,	Philadelphia,	Cotton, peltry, &c.	10,000	25,000
*Ship Rebecca,	Tobey,	New York,	Cotton, sugar, coffee,	15,000	30,000
†Ship Andrew,	Coggins,	Bayonne,	Brandy, wine, dry-goods,	12,000	25,000
†Ship Rose in Bloom,	Aliot,	Bayonne,	1800 galls. brandy, 21 pack. dry-goods, with American seamen.	8,000	15,000
‡Schooner Lydia,	Kelham,	Bordeaux,	Brandy, wine, silks,	3,500	14,000
‡Ship Eleanor,	Kempton,	Savannah,	Cotton, rice, tobacco,	8,000	20,000
‡Schooner Helen,	Elkins,	Marblehead,	Fish and oil,	3,500	4,000
‡Brig Telemachus,	Berry,	Bordeaux,	Brandy, wine, silks,	4,000	6,000
‡Schooner Lark,	Cloutman,	Marblehead,	Fish (green)	2,000	1,800
‡Ship Golden Fleece,	Silliman,	Charleston,	Cotton, rice, wax,	25,000	45,000
Ship Louisiana,	Richards,	New York,	Cotton,	7,500	15,000
Brig Fox,	Gooday,	New York,	Cotton, coffee, sugar, &c.	15,000	50,000

* Condemned June 18, 1811. † Condemned June 21, 1811. ‡ Condemned July 5, 1811. The two last have not had a trial.

Mr. John Spear Smith, Chargé d'Affaires of the United States, to the Secretary of State.

SIR:

LONDON, July 22, 1810.

I have the honor to enclose a copy of Mr. Russell's letter to me of the 14th instant, which contains the agreeable intelligence of the release of three of the captured American vessels. I shall communicate its substance to this Government without the formality of an official note, supposing that Mr. Foster is fully instructed on the subject of the orders in council, and that any thing I might, under these circumstances, offer, would be attended with no advantage. I enclose also a letter from Mr. Russell of the 5th instant.*

I have the honor to be, &c.

J. S. SMITH.

Extract:—Mr. John S. Smith to the Secretary of State of the United States.

LONDON, August 5, 1811.

I have the honor to transmit to you Lord Wellesley's answer to my note, covering Mr. Russell's letter of the 14th July, and also another note from his lordship on the same subject, which I received last evening.*

Mr. Monroe to Mr. Russell.

SIR:

DEPARTMENT OF STATE, July 27, 1811.

This letter will be delivered to you by Mr. Barlow, who is appointed to represent the United States at Paris, as their minister plenipotentiary. You will deliver to him the papers in your possession, and give him all the information in your power, relative to our affairs with the French Government.

The President has instructed me to communicate to you his approbation of your conduct in the discharge of the duties which devolved on you, as chargé d'affaires at Paris, after the departure of General Armstrong, which I execute with pleasure. As an evidence of his confidence and favorable disposition, he has appointed you to the same trust in London, for which I enclose you a commission. It is hoped that it may suit your convenience to repair to that court, and to remain there until a minister shall be appointed, which will be done as soon as the Congress convenes. The frigate which takes Mr. Barlow to France will pass on to some port in Holland to execute a par-

* The papers enclosed in these letters make part of the enclosures in Mr. Monroe's letter to Mr. Foster of the 17th October, and are printed with it.—See page 446.

ticular instruction, from the Secretary of the Treasury, relative to our debt in that country. She will then return to France, and take you to such English port as may be most convenient to you.

Your services in France will have given you such knowledge of your duties at London, that I shall not go into detail in this communication respecting them. It is wished and expected that you and Mr. Barlow will communicate fully on the subject of your respective duties, and co-operate together in the measures which are deemed necessary to promote the just objects of the United States with the countries in which you will respectively represent them.

You will receive a copy of the notes of Mr. Foster on several important topics, and my answers to them, particularly on the British orders in council; the possession taken by the United States of certain parts of West Florida; and the late encounter between the United States' frigate the President and the British sloop of war the Little Belt. It is hoped that the British Government will proceed to revoke its orders in council, and thus restore, in all respects, the friendly relation which would be so advantageous to both countries. The papers relative to West Florida show the ground on which that question rests. The affair of the Little Belt cannot excite much feeling, as it is presumed, in England; the chase was begun by the British captain; he fired the first shot and the first broadside; to which it may be added that the occurrence took place near our coast, which is sometimes infested by vessels from the West Indies, without commissions, and even for piratical purposes. It seems to be a right, inseparable from the sovereignty of the United States, to ascertain the character and nation of the vessels which hang on their coast. An inquiry is ordered into Commodore Rodgers's conduct, at his request, for the purpose of establishing all the facts appertaining to this occurrence.

You will be allowed an outfit for Paris, and half an outfit to take you to London.

Should you, by any circumstance, be unable to proceed to London, which would be a cause of regret, you will be so good as to transmit, by a special messenger, the papers forwarded for you to Mr. Smith, who, in that event, will remain there.

You will receive, enclosed, a letter to Mr. Smith, to be delivered to him, in case you go to London, as it is wished that your removal to London should not be imputed to a want of due respect for him.

I have the honor, &c.

JAMES MONROE.

JONATHAN RUSSELL, Esq. &c.

Extract:—Mr. Russell to the Secretary of State.

LONDON, November 22, 1811.

I have the honor to inform you that I reached London on the 12th of this month, and on the 15th waited on the Marquis Wellesley, in pursuance of his appointment. His lordship said it was very uncertain when he should be able to present me to the Prince Regent, as His Royal Highness had, the day before, met with an accident at Oatlands, which might prevent his return to town for some time.

Our conversation was of a very general character, and did not embrace with precision any of the questions in agitation between the two countries. His lordship once observed that he hoped, in the course of five or six weeks, we might have some amicable discussion with each other.

Until I am otherwise instructed, I shall confine myself here to the exercise of the ordinary duties of the legation. After the proof which has been already produced of the revocation of the French decrees, it would probably do no good for me to make a statement on that subject, especially as I have nothing new to offer. Enough has already been said to convince those who were not predisposed to resist conviction.

The Constitution left Portsmouth on the 21st instant for Cherbourg.

Extract:—Mr. Monroe, Secretary of State, to Mr. Russell.

DEPARTMENT OF STATE, November 27, 1812.

I had lately the honor to transmit to you a copy of the President's message to Congress at the commencement of the session, and of the documents which accompanied it, so far as they were then printed. In the papers now sent, you will receive a complete copy of that highly interesting communication.

You will see by these documents the ground which has been taken by the Executive, in consequence of the new ground taken by Great Britain. The orders in council are considered as war on our commerce, and to continue until the continental market is opened to British products, which may not be pending the present war in Europe. The United States cannot allow Great Britain to regulate their trade, nor can they be content with a trade to Great Britain only, whose markets are already surcharged with their productions.

The United States are, therefore, reduced to the dilemma either of abandoning their commerce, or of resorting to other means more likely to obtain a respect for their rights. Between these alternatives, there can be little cause for hesitation.

It will be highly satisfactory to learn that a change in the policy of Great Britain shall have taken place, and it is expected that you will avail yourself of every opportunity, and particularly of the return of this vessel, to communicate the most full and correct information on the subject.

The Hornet will land a messenger in France, who takes despatches to our minister in Paris, after which she will proceed to England, and land there a messenger with despatches to you. It is desired that you will hurry her return to France, with the greatest expedition possible, from whence she will hasten to the United States.

Extract:—Mr. Russell to the Secretary of State.

LONDON, December 23, 1811.

Since I wrote to you on the 22d ult. nothing new, in relation to the United States, has occurred here.

Every thing remains in doubt with regard to a change of ministers, and much more so with regard to a change of measures.

I have not heard from Mr. Barlow since I left France, and do not know if the Constitution has yet left that country.

The newspapers which I transmit you herewith contain the late occurrences, and to those I beg leave to refer you.

Extract:—Mr. Russell to the Secretary of State.

LONDON, January 10, 1812.

Mr. Tayloe, the messenger by the United States' ship *Hornet*, arrived in town on the 3d of this month, and delivered your despatches. I regret that I have nothing of a satisfactory nature to communicate to you, in return, relative to a change of system here. I have detained Mr. Tayloe a few days, as the opening of Parliament and the early debates might indicate the spirit and develop the views of the ministry with regard to us.

I have announced to the Marquis Wellesley that the messenger will leave London on the 14th instant; and while I offered to take charge of any despatches which his lordship might wish to transmit by him, I availed myself of the occasion to state the high satisfaction it would afford me to be able to communicate to the American Government, by the same opportunity, the repeal, or such modification of the orders in council violating the rights of the United States, as would remove the great obstacle to free intercourse and perfect harmony between the two countries. I do not, however, flatter myself that this suggestion will produce any effect.

Extract:—Mr. Russell to Mr. Monroe.

LONDON, January 14, 1812.

Since I had the honor to address you, *via* Liverpool, on the 10th of this month, I have received no communication from this Government.

The expectation of a change of ministry, which was confidently entertained a few weeks since, appears to have vanished and a hope of the extinguishment of the orders in council is very much diminished.

Extract:—Mr. Russell to the Secretary of State.

LONDON, January 14, 1812.

I have the honor to acknowledge the receipt of your two letters of the 27th of November last.

It would have afforded me the highest satisfaction to have been able to communicate to you, by the return of the *Hornet*, the revocation of the orders in council. Hitherto, however, there has been exhibited here no disposition to repeal them.

Mr. Russell to the Secretary of State.

SIR:

LONDON, January 14, 1812.

I lament that it is not in my power to announce to you, by the return of Mr. Tayloe, the adoption of a system here towards the United States more just and reasonable than that of which we now complain. No intimation has been given to me of an intention to abandon the offending orders in council. I have not hitherto made any representation in regard to these orders; and if they are to be persisted in, as Mr. Foster declares, not only until the Berlin and Milan decrees be entirely abrogated, but until we compel the French Government to admit us in France with the manufactures and produce of Great Britain and her colonies, it must be useless to say any thing upon the subject. The revolting extravagance of these pretensions is too manifest to be the subject of argument; and the very attempt to reason them down would admit that they are not too absurd for refutation.

Should Mr. Barlow furnish me with any new evidence of the discontinuance of the French edicts, so far as they were in derogation of our rights, I shall present it to this Government; and, *once more*, however unnecessary it may appear, afford it an opportunity of revoking its orders, which can no longer be pretended to rest on our acquiescence in decrees of its enemy, from the unrighteous operation of which we are specially exempted.

I have, &c.

JONATHAN RUSSELL.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, January 22, 1812.

Yesterday I understood the case of the *Female*, one of the vessels captured under the orders in council, came to trial before Sir William Scott. He rejected a motion for time to produce evidence of the revocation of the Berlin and Milan decrees *in relation to the United States*, and suggested that there would be a question of law, if such revocation, when shown, would be considered by the British Government as sufficient to require the repeal of the orders in council; at any rate, that he was bound to consider these orders to be in force until their repeal should be notified to him by this Government. The *Female* was condemned.

I have the honor, &c.

JONATHAN RUSSELL.

HON. JAMES MONROE, &c.

Extract:—Mr. Russell to the Secretary of State.

LONDON, January 25, 1812.

Since I had the honor to address you on the 14th instant by the *Hornet*, I have received no communication either from Washington or Paris.

The *Hornet* did not leave Cowes until the 18th, owing, I presume, to the indisposition of the captain, whom I understand to have been very ill. I dismissed Mr. Tayloe here on the 14th.

Extract:—Mr. Russell to Mr. Monroe.

LONDON, February 3, 1812.

Since I had the honor to address you on the 25th ultimo, I have received your communications of the 20th December, through the good offices of Mr. Foster.

While I lament the necessity, as I most sincerely do, of the course indicated by the proceedings of Congress, yet it is gratifying to learn that it will be pursued with vigor and unanimity. I am persuaded that this Government has presumed much on our weakness and divisions, and that it continues to believe that we have not energy and union enough to make efficient war.

I have this moment learned that the *Hornet* has returned from Cherbourg to Cowes; and I understand by a letter from the consul there, that there is a Mr. Porter on board with despatches from Mr. Barlow for this legation, but he has not yet made his appearance here. I am obliged to close this letter without waiting for him, as I understand the next post may not arrive at Liverpool in season for the *Orbit*.

Mr. Russell to the Secretary of State.

SIR:

LONDON, February 9, 1812.

I have the honor to transmit to you, enclosed, a copy of a letter, dated the 29th ult. from Mr. Barlow, and a copy of the note in which I yesterday communicated that letter to the Marquis Wellesley.

Although the proof of the revocation of the French decrees contained in the letter of Mr. Barlow, is, when taken by itself, of no very conclusive character, yet it ought, when connected with that previously exhibited to this Government, to be admitted as satisfactorily establishing that revocation, and in this view I have thought it to be my duty to present it here. I have the honor to be, &c.

JONATHAN RUSSELL.

[Enclosed in Mr. Russell's letter of February 9th, 1812.]

Mr. Barlow to Mr. Russell.

SIR:

PARIS, January 29, 1812.

The ship *Acastus*, Captain Coffee, from Norfolk, bound to Tonningen with tobacco, had been boarded by an English frigate, and was taken by a French privateer, and brought into Fécamp for the fact of having been so boarded. This was in November last. On the 2d of December I stated the facts to the Duke of Bassano; and in a few days after the ship and cargo were ordered by the Emperor to be restored to the owners, on condition that she had not violated the French navigation laws, which latter question was sent to the council of prizes to determine. The council determined that no such violation had taken place, and the ship and cargo were definitively restored to Captain Coffee.

To the above fact I can add, that since my residence here, several American vessels with cargoes have arrived and been admitted in the ports of France, after having touched in England, the fact being declared; and there is no instance within that period of a vessel, in either of the cases of the Berlin and Milan decrees being detained or molested by the French Government. I have the honor to be, &c.

J. BARLOW.

[Enclosed in Mr. Russell's letter of February 9th, 1812.]

Mr. Russell to the Marquis Wellesley.

MY LORD:

LONDON, February 8, 1812.

I have the honor herewith to hand to your lordship a copy of a letter addressed to me, on the 29th of last month, by Mr. Barlow, the American minister at Paris.

I have felt some hesitation in communicating this letter to your lordship, lest my motive might be mistaken, and an obligation appear to be admitted, on the part of the United States, to furnish more evidence of the revocation of the Berlin and Milan decrees than has already been furnished, or than has been necessary to their own conviction. I trust, however, that my conduct on this occasion will be ascribed alone to an earnest desire to prevent the evils which a continued diversity of opinion on this subject might unhappily produce.

The case of the *Acastus* necessarily implies that American vessels, captured by the cruisers of France, are adjudged by the French navigation laws only, and that the Berlin and Milan decrees make no part of these laws; the *Acastus* being acquitted, notwithstanding the fact of her having been boarded by an English vessel of war.

To the declaration of Mr. Barlow, that since his residence at Paris there had been no instance of a vessel, under either the Berlin or Milan decrees, being detained or molested by the French Government, I beg leave to add that previous to his residence and subsequent to the 1st of November, 1810, these decrees were not executed in violation of the neutral or national rights of the United States.

Whatever doubts might have been entertained of the efficient nature of the revocation of those decrees, on account of the form in which that measure was announced, these doubts ought surely now to yield to the uniform experience of fifteen months, during which period not a single fact has occurred to justify them.

I do not urge, in confirmation of this revocation, the admission of American vessels with cargoes arrived in the ports of France after having touched in England, as stated by Mr. Barlow, and as accords with what occurred during my residence at Paris, because such admission is evidence only of the cessation of the municipal operation of the decrees in relation to the United States, of which it cannot be presumed that the British Government requires an account.

I cannot forbear to persuade myself that the proof now added to the mass which was already before your lordship will satisfactorily establish, in the judgment of His Britannic Majesty's Government, the revocation of the decrees in question, and lead to such a repeal of the orders in council, in regard to the United States, as will restore the friendly relations and commercial intercourse between the two countries.

I have the honor to be, &c.

JONATHAN RUSSELL.

Mr. Russell to the Secretary of State.

SIR:

LONDON, February 21, 1812.

I regret that, in announcing to you the cessation of the restrictions on the regency here, I cannot at the same time apprise you of the adoption of a more just and enlightened policy in favor of the United States than has hitherto prevailed.

The partial changes in the ministry will probably produce no change of its character, or lead to an abandonment of the existing system in relation to us. I have the honor to be, &c.

JONATHAN RUSSELL.

The Hon. JAMES MONROE, *Secretary of State of the United States.*

Mr. Russell to Mr. Monroe.

SIR:

LONDON, *February 22, 1812.*

I have the honor to hand you, enclosed, a copy of a letter to me from the Earl of Liverpool, relating to a person by the name of Bowman, said to be a British subject, and forcibly detained on board the United States' ship *Hornet*, together with copies of the deposition of Elizabeth Eleanor Bowman, which accompanied it, and of my reply.

I have the honor to be, &c.

JONATHAN RUSSELL.

The Hon. JAMES MONROE, &c.

[Referred to in Mr. Russell's despatch of February 22.]

The Earl of Liverpool to Mr. Russell.

SIR:

FOREIGN OFFICE, *February 20, 1812.*

I have the honor to transmit to you the copy of an affidavit, sworn at Portsmouth, by Elizabeth Eleanor Bowman, stating herself to be the wife of William Bowman, one of His Majesty's subjects, now detained against his will on board the United States' sloop *Hornet*, at present in Cowes road.

You cannot but be aware of the urgent necessity of putting the facts alleged in this document into an immediate train of investigation, and I am to request that you will communicate, without loss of time, with the commanding officer of the *Hornet*, in order that he may afford you all information in his power, and that the vessel may not put to sea before the result of the inquiry shall be ascertained in a manner satisfactory to yourself and to this Government.

You must likewise be aware that this Government has no power to prevent the issuing of a writ of *habeas corpus* by the friends of Bowman, and that in that case it would be impossible to impede or delay its execution, and the consequent removal of this question out of the hands of the two Governments into those of the legal force and authorities of this country.

Anxious to prevent any such proceeding, the inconveniences of which, even if they did not involve the possibility of a forcible execution of the legal process, might yet be considerable, I request your immediate attention to this communication; and I confidently hope that you will, by affording the means of an amicable investigation, supersede the necessity in which the friends of Bowman may otherwise feel themselves of taking the course to which I have before alluded.

I have the honor to be, &c.

LIVERPOOL.

BOROUGH OF PORTSMOUTH, *in the county of Southampton:*

Elizabeth Eleanor Bowman, of Kingston, near Portsmouth, in the said county, maketh oath that she was married to William Bowman, late of Portsmouth, shipwright, about six years ago; that he was employed in the dock-yard there, which he quitted about three years ago, and sailed from hence in the *Edward Fork*, a transport, which was wrecked on the island of Cuba; that she was informed by her husband that he got from Cuba to New York in an American ship, and, about the 4th of June last, having got in liquor, he found himself in the American rendezvous there, and that he was compelled against his inclination to go on board the *Hornet*, an American sloop of war, being conducted on board her by a file of soldiers; that the *Hornet* having arrived lately at Cowes, she received a letter from her husband, requesting her to come on board to see him; that she accordingly went on board her, but was kept alongside the sloop about half an hour before the officer would admit her on board; that the permission to remain on board was for half an hour, but the officers would not afterwards permit her to quit the ship until the following Friday: that her husband told her that the officer threatened to punish him for having informed her where he was; and he also told her there were a great many English on board, several of whom would be glad to quit her; also, that some men on board much wished her away from this country, but that she does not know the names of any of the parties: that the said William Bowman, who passed on board the *Hornet* by the name of William Elby, is now detained on board her against his will, and is very anxious to quit the American sloop *Hornet*, and to return to his native country.

The mark × of ELIZABETH E. BOWMAN.

Sworn at Portsmouth, in the said county, the 25th day of January, 1812, before me, the same having been first read, and she having set her mark thereto in my presence.

E. H. AMAND,

One of His Majesty's Justices of the Peace for the county of Southampton.

[Enclosed in Mr. Russell's despatch of February 22.]

Mr. Russell to the Earl of Liverpool.

MY LORD:

LONDON, *February 21, 1812.*

I have the honor to inform your lordship that the United States' sloop *Hornet* left Cowes on the 13th of this month. The statement of this fact does away, I presume, the necessity of a more particular reply to your lordship's note of yesterday concerning William Bowman, a seaman on board that ship.

I have the honor to be, &c.

JONATHAN RUSSELL.

The Right Hon. the EARL OF LIVERPOOL.

Extract:—Mr. Russell to Mr. Monroe.

LONDON, *March 4, 1812.*

Many American vessels which had for a considerable time been wind-bound in the ports of this country were at length released on the 29th ultimo by an easterly wind, and took their departure for the United States. By some of those vessels, particularly the *Friends*, you will have received many letters from me, and you will have

learned as nearly as it was in my power to inform you, what in your letter of the 18th of January you desire to know, namely, "the precise situation of our affairs with England."

Since my letters of the 19th and 22d ultimo, which I trust will have extinguished all expectation of any change here, the motion of Lord Lansdowne on the 28th February, and that of Mr. Brougham yesterday, have been severally debated in the respective Houses of Parliament. I attended the discussions on both, and if any thing was wanting to prove the inflexible determination of the present ministry to persevere in the orders in council without modification or relaxation, the declarations of the leading members of the administration on these occasions must place it beyond the possibility of doubt. In both Houses these leaders expressed a disposition to forbear to canvass, in the present state of our relations, the conduct of the United States towards England, as it could not be done without reproaching her in a manner to increase the actual irritation, and to do away what Lord Bathurst stated to be the *feeble* hopes of preventing war.

In the House of Commons Mr. Rose virtually confessed that the orders in council were maintained to promote the trade of England at the expense of neutrals, and as a measure of commercial rivalry with the United States. When Mr. Canning inveighed against this new (he must have meant newly acknowledged) ground of defending these orders, and contended that they could be justified only on the principle of retaliation, on which they were avowedly instituted, and that they were intended to produce the effects of an actual blockade, and liable to all the incidents of such blockade, (that is, that they were meant only to distress the enemy, and that Great Britain had no right to defeat this operation by an intercourse with that enemy which she denied to neutrals,) Mr. Perceval replied, "that the orders were still supported on the principle of retaliation, but that this very principle involved the license trade; for as France by her decrees had said that no nation should trade with her which traded with England, England retorted that no country should trade with France but through England." He asserted that "neither the partial nor even the total repeal of the Berlin and Milan decrees, as they related to America, or to any other nation, or to all other nations, could form any claim on the British Government while the *continental system*, so called, continued in operation. He denied that this system, or any part of the Berlin and Milan decrees, was merely *municipal*. They had not been adopted in time of peace with a view to internal regulations, but in a time of war with a hostile purpose towards England. Every clause and particle of them were to be considered of a nature entirely belligerent, and, as such, requiring resistance, and authorizing retaliation on the part of Great Britain. It was idle and absurd to suppose that Great Britain was bound, in acting on the principle of retaliation in these times, to return exactly and in form, *like for like*, and to choose the object and fashion the mode of executing it precisely by the measures of the enemy. In adopting these measures, France had broken through all the restraints imposed by the laws of nations, and trodden under foot the great conventional code received by the civilized world as prescribing rules for its conduct in war as well as in peace. In this state of things, England was not bound any longer to shackle herself with this code, and by so doing become the unresisting victim of the violence of her enemy, but she was herself released from the laws of nations, and left at liberty to resort to any means within her power to injure and distress that enemy, and to bring it back to an observance of the *jus gentium* which it had so egregiously and wantonly violated. Nor was England to be restricted any more in the *extent* than in the *form* of retaliation; but she had a right, both as to the quantity and manner, to inflict upon the enemy all the evil in her power, until this enemy should retrace its steps, and renounce, not only verbally but practically, its decrees, its continental system, and every other of its belligerent measures incompatible with the old acknowledged laws of nations. Whatever neutrals might suffer from the retaliatory measures of England was purely incidental, and, as no injustice was intended to them, they had a right to complain of none; and he rejoiced to observe that no charge of such injustice had that night been brought forward in the House. As England was contending for the defence of her maritime rights, and for the preservation of her national existence, which essentially depended on the maintenance of those rights, she could not be expected, in the prosecution of this great and primary interest, to arrest or vary her course to listen to the pretensions of neutral nations, or to remove the evils, however they might be regretted, which the imperious policy of the times indirectly and unintentionally extended to them."

As the newspapers of this morning give but a very imperfect report of this speech of Mr. Perceval, I have thought it to be my duty to present you with a more particular account of the doctrines which were maintained in it, and which so vitally affect the rights and interests of the United States.

I no longer entertain a hope that we can honorably avoid war.

Extract:—Mr. Russell to the Secretary of State.

LONDON, March 20, 1812.

I had the honor to address you on the 4th instant, giving a brief account of the debate in the House of Commons on the preceding evening. Since then, no change in relation to us has taken place here.

Extract:—Mr. Russell to the Secretary of State.

LONDON, March 28, 1812.

Since I had the honor to address you a few days since, nothing has occurred here to induce a hope of any change in our favor.

Extract:—Mr. Russell to the Secretary of State.

LONDON, April 9, 1812.

Since my last respects to you, nothing of importance to us has occurred here.

Mr. Russell to Lord Castlereagh.

MY LORD:

18 BENTINCK STREET, April 25, 1812.

I have the honor to acknowledge the receipt of the note which your lordship addressed to me on the 21st of this month, enclosing, by the command of His Royal Highness the Prince Regent, a copy of a declaration, accompanying an order in council, which had that day been passed.

It would have afforded me the highest satisfaction, in communicating that declaration and order to my Government, to have represented them as conceived in the true spirit of conciliation, and with a due regard to the honor

and interests of the United States. I regret, however, that so far from being able to perceive in them any evidence of the amicable sentiments which are professed to animate the councils of His Royal Highness, I am compelled to consider them as an unequivocal proof of the determination of His Britannic Majesty's Government to adhere to a system, which, both as to principle and fact, originated, and has been continued, in error; and against which the Government of the United States, so long as it respects itself and the essential rights of the nation over which it is placed, cannot cease to contend.

The United States have never considered it their duty to inquire, nor do they pretend to decide, whether England or France was guilty, in relation to the other, of the first violation of the public law of nations; but they do consider it their most imperious duty to protect themselves from the unjust operation of the unprecedented measures of retaliation professed by both Powers to be founded on such violation. In this operation, by whichever party directed, the United States have never for a moment acquiesced, nor by the slightest indication of such acquiescence afforded a pretext for extending to them the evils by which England and France affect to retaliate on each other. They have, in no instance, departed from the observance of that strict impartiality which their peaceful position required, and which ought to have secured to them the unmolested enjoyment of their neutrality. To their astonishment, however, they perceived that both these belligerent Powers, under the pretence of annoying each other, adopted and put in practice new principles of retaliation, involving the destruction of those commercial and maritime rights, which the United States regard as essential and inseparable attributes of their independence. Although alive to all the injury and injustice of this system, the American Government resorted to no measures to oppose it, which were not of the most pacific and impartial character, in relation to both the aggressors. Its remonstrances, its restrictions of commercial intercourse, and its overtures for accommodation, were equally addressed to England and France; and if there is now an equality in the relations of the United States with these countries, it can only be ascribed to England herself, who rejected the terms proffered to both, while France accepted them; and who continues to execute her retaliatory edicts on the high seas, while those of France have there ceased to operate.

If Great Britain could not be persuaded, by considerations of universal equality, to refrain from adopting any line of conduct, however unjust, for which she might discover a precedent in the conduct of her enemy, or to abandon an attempt of remotely and uncertainly annoying that enemy through the immediate and sure destruction of the vital interests of a neutral and unoffending State, yet it was confidently expected that she would be willing to follow that enemy, also, in his return towards justice, and, from a respect to her own declarations, to proceed *pari passu* with him in the revocation of the offending edicts. This just expectation has, however, been disappointed; and an exemption of the flag of the United States from the operation of the Berlin and Milan decrees has produced no corresponding modification of the British orders in council. On the contrary, the fact of such exemption on the part of France, appears, by the declaration and order in council of the British Government on the 21st of this month, to be denied; and the engagement of the latter to proceed, step by step, with its enemy, in the work of repeal and relaxation, to be disowned or disregarded.

That France has repealed her decrees, so far as they concerned the United States, has been established by declarations and facts satisfactory to them, and which, it was presumed, should have been equally satisfactory to the British Government. A formal and authentic declaration of the French Government, communicated to the minister plenipotentiary of the United States at Paris, on the 5th of August, 1810, announced that the decrees of Berlin and Milan were revoked, and should cease to operate on the 1st of the succeeding November, provided that a condition presented to England, or another condition presented to the United States, should be performed. The condition presented to the United States was performed; and this performance rendered absolute the repeal of the decrees. So far, therefore, from this repeal depending on conditions in which Great Britain could not acquiesce, it became absolute, independently of any act of Great Britain, the moment the act proposed for the performance of the United States was accomplished. Such was the construction given to this measure by the United States from the first; and that it was a correct one, has been sufficiently evinced by the subsequent practice of France.

Several instances of the acquittal of American vessels and cargoes, to which the decrees would have attached, if still in force against the United States, have, from time to time, been presented to His Britannic Majesty's Government. That these cases have been few, is to be ascribed to the few captures, in consequence of this repeal, made by French cruisers; and should no other such case occur, it will be owing to the efficacy of this repeal, and to the exact observance of it, even by the most wanton and irregular of those cruisers.

From the 1st of November, 1810, to the 29th of January of the present year, as appears by a note which I had the honor to address to the predecessor of your lordship, on the 8th of February last, the Berlin and Milan decrees had not been applied to American property; nor have I heard that such application has since been made.

But against the authentic act of the French Government of the 5th of August, 1810, and the subsequent conduct of that Government, mutually explaining each other, and confirming the construction adopted by the United States, a report, said to be communicated by the French Minister of Foreign Affairs to the Conservative Senate, is opposed. Without pretending to doubt the genuineness of that report, although it has reached this country only in a newspaper, yet it is to be lamented that as much form and evidence of authenticity have not been required in an act considered as furnishing cause for the continuance of the orders in council, as an act which, by the very terms of those orders, challenged their revocation. The act of the 5th of August, 1810, emanating from the Sovereign of France, officially communicated to the British Government, and satisfactorily expounded and explained by the practical comments of more than eighteen months, is denied to afford convincing evidence of the repeal of the French decrees, while full proof of their continuance is inferred from a report, which, from its very nature, must contain the mere opinions and speculations of a subject, which is destitute of all authority until acted upon by the body to which it was presented, which has found its way hither in no more authentic shape than the columns of the *Moniteur*, and for the proper understanding of which not a moment has been allowed. But even were the value thus assigned to the report just, it is still difficult to discover what inference can be fairly deduced from it incompatible with the previous declarations and conduct of the French Government, exempting the United States from the operation of its decrees. The very exception in that report, with regard to nations which do not suffer their flag to be *denationalized*, was undoubtedly made with a reference to the United States, and with a view to reconcile the general tenor of that report with the good faith with which it became France to observe the conventional repeal of those decrees in their favor. However novel may be the terms employed, or whatever may be their precise meaning, they ought to be interpreted to accord with the engagements of the French Government, and with justice and good faith.

Your lordship will, I doubt not, the more readily acknowledge the propriety of considering the report in this light, by a reference to similar reports made to the same Conservative Senate, on the 13th of December, 1810, by the Duke of Cadore, (the predecessor of the present French Minister of Exterior Relations,) and by the Count de Simonville. In these reports, they say to the Emperor, (which sufficiently proves that such reports are not to be considered as dictated by him,) "Sire, as long as England shall persist in her orders in council, so long your

Majesty will persist in your decrees;" and, "the decrees of Berlin and Milan are an answer to the orders in council; the British cabinet has, thus to speak, dictated them to France. Europe receives them for her code, and this code shall become the palladium of the liberty of the seas." Surely this language is as strong as that of the report of the 10th of March, and still more absolute, for there is no qualification in it in favor of any nation; yet this language has, both by an explanation from the Duke of Cadore to me at the time, and by the uniform conduct of the French Government since, been reconciled with the repeal of these decrees, so far as they concerned the United States.

Had the French decrees originally afforded an adequate foundation for the British orders, and been continued after these reports, in their full force and extent, surely, during a period in which above a hundred American vessels and their cargoes have fallen a prey to these orders, some one solitary instance of capture and confiscation must have happened under those decrees. That no such instance has happened incontrovertibly proves, either that those decrees are of themselves harmless, or that they have been repealed; and, in either case, they can afford no rightful plea or pretext to Great Britain for these measures of pretended retaliation, whose sole effect is to lay waste the neutral commerce of America.

With the remnant of those decrees, which is still in force, and which consists of municipal regulations, confined in their operation within the proper and undeniable jurisdiction of the States where they are executed, the United States have no concern. Nor do they acknowledge themselves to be under any particular obligation either to examine into the ends proposed to be attained by the surviving portion of the continental system, or to oppose their accomplishment. Whatever may be intended to be done, in regard to other nations, by this system, cannot be imputed to the United States; nor are they to be made responsible, while they religiously observe the obligations of their neutrality, for the mode in which belligerent nations may choose to exercise their power for the injury of each other. When, however, these nations exceed the just limits of their power, by the invasion of the rights of peaceful States on the ocean, which is subject to the common and equal jurisdiction of all nations, the United States cannot remain indifferent, and, by quietly consenting to yield up their share of this jurisdiction, abandon their maritime rights. France has respected these rights, by the discontinuance of her edicts on the high seas; leaving no part of these edicts in operation, to the injury of the United States, and, of course, no part in which they can be supposed to acquiesce, or against which they can be required to contend. They ask of Great Britain, by a like respect for their rights, to exempt them from the operation of her orders in council. Should such exemption involve the total practical extinction of these orders, it will only prove that they were exclusively applied to the commerce of the United States, and that they had not a single feature of resemblance to the decrees against which they are professed to retaliate.

It is with patience and confidence that the United States have expected this exemption, and to which they believed themselves to be entitled by all these considerations of right and promise, which I have feebly stated to your lordship. With what disappointment, therefore, must they learn that Great Britain, in professing to do away their dissatisfaction, explicitly avows her intention to persevere in her orders in council, until some authentic act, hereafter to be promulgated by the French Government, shall declare the Berlin and Milan decrees to be expressly and unconditionally repealed! To obtain such an act, can the United States interfere? Would such an interference be compatible either with a sense of justice, or with what is due to their own dignity? Can they be expected to falsify the repeated declarations of their satisfaction with the act of the 5th of August, 1810, confirmed by abundant evidence of its subsequent observance, and, by now affecting to doubt of the sufficiency of that act, to demand another, which, in its form, its mode of publication, and its import, shall accord with the requisitions of Great Britain? And can it be supposed that the French Government would listen to such a proposal, made under such circumstances, and with such a view?

While, therefore, I can perceive no reason, in the report of the French minister of the 10th of March, to believe that the United States erroneously assumed the repeal of the French decrees to be complete, in relation to them, while aware that the condition on which the revocation of the orders in council is now distinctly made to depend, is the total repeal of both the Berlin and Milan decrees, instead, as formerly, of the Berlin decree only, and while I feel that to ask the performance of this condition from others is inconsistent with the honor of the United States, and to perform it themselves beyond their power, your lordship will permit me frankly to avow that I cannot accompany the communication to my Government of the declaration and order in council of the 21st of this month, with any felicitation on the prospect which this measure presents of an accelerated return of amity and mutual confidence between the two States.

It is with real pain that I make to your lordship this avowal; and I will seek still to confide in the spirit which your lordship, in your note and in the conversation of this morning, has been pleased to say actuates the councils of His Royal Highness in relation to America, and still to cherish a hope that this spirit will lead, upon a review of the whole ground, to measures of a nature better calculated to attain its object; and that this object will no longer be made to depend on the conduct of a third Power, or upon contingencies over which the United States have no control, but alone upon the rights of the United States, the justice of Great Britain, and the common interests of both.

I have the honor to be, my lord, your lordship's most obedient servant,

JONATHAN RUSSELL.

The Right Hon. LORD VISCOUNT CASTLEREAGH, &c. &c. &c.

Mr. Russell to the Secretary of State.

SIR:

LONDON, April 26, 1812.

I beg leave to hand you, herewith, a declaration and an order in council of this Government of the 21st of this month, and a copy of a note* from Lord Castlereagh, accompanying the communication of them to me. I have already transmitted to you other copies of these documents, and have now to add a copy of the note which I have addressed in reply to that of his lordship.

I have, &c.

JONATHAN RUSSELL.

The Hon. JAMES MONROE, &c. &c. &c.

DECLARATION.

The Government of France having, by an official report, communicated by its Minister for Foreign Affairs to the Conservative Senate, on the 10th day of March last, removed all doubts as to the perseverance of that Government in the assertion of the principles, and in the maintenance of a system not more hostile to the maritime

* This note was accidentally omitted in this despatch, but was forwarded by that of May 2; see page 431.

rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations; and having thereby plainly developed the inordinate pretensions which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce; His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, deems it proper, upon this formal and authentic republication of the principles of those decrees, thus publicly to declare His Royal Highness's determination still firmly to resist the introduction and establishment of this arbitrary code, which the Government of France openly avows its purpose to impose, by force, upon the world as the law of nations.

From the time that the progressive injustice and violence of the French Government made it impossible for His Majesty any longer to restrain the exercise of the rights of war within their ordinary limits, without submitting to consequences not less ruinous to the commerce of his dominions than derogatory to the rights of his crown, His Majesty has endeavored, by a restricted and moderate use of those rights of retaliation, which the Berlin and Milan decrees necessarily called into action, to reconcile neutral States to those measures, which the conduct of the enemy had rendered unavoidable, and which His Majesty has at all times professed his readiness to revoke, so soon as the decrees of the enemy which gave occasion to them should be formally and unconditionally repealed, and the commerce of neutral nations be restored to its accustomed course.

At a subsequent period of the war, His Majesty, availing himself of the then situation of Europe, without abandoning the principle and object of the orders in council of November, 1807, was induced so to limit their operation, as materially to alleviate the restrictions thereby imposed upon neutral commerce. The order in council of April, 1809, was substituted in the room of those of November, 1807, and the retaliatory system of Great Britain acted no longer on every country in which the aggressive measures of the enemy were in force, but was confined in its operation to France, and to the countries upon which the French yoke was most strictly imposed, and which had become virtually a part of the dominions of France.

The United States of America remained, nevertheless, dissatisfied; and their dissatisfaction has been greatly increased by an artifice too successfully employed on the part of the enemy, who has pretended, that the decrees of Berlin and Milan were repealed, although the decree effecting such repeal has never been promulgated; although the notification of such pretended repeal distinctly described it to be dependent on conditions in which the enemy knew Great Britain could never acquiesce, and although abundant evidence has since appeared of their subsequent execution.

But the enemy has at length laid aside all dissimulation; he now publicly and solemnly declares, not only that those decrees still continue in force, but that they shall be rigidly executed until Great Britain shall comply with additional conditions, equally extravagant; and he further announces the penalties of those decrees to be in full force against all nations which shall suffer their flag to be, as it is termed in this new code, "denationalized."

In addition to the disavowal of the blockade of May, 1806, and of the principles on which that blockade was established, and in addition to the repeal of the British orders in council, he demands an admission of the principles, that the goods of an enemy carried under a neutral flag shall be treated as neutral; that neutral property under the flag of an enemy shall be treated as hostile; that arms and warlike stores alone (to the exclusion of ship timber and other articles of naval equipment) shall be regarded as contraband of war; and that no ports shall be considered as lawfully blockaded, except such as are invested and besieged, in the presumption of their being taken, (*en prévention d'être pris,*) and into which a merchant ship cannot enter without danger.

By these and other demands, the enemy, in fact, requires that Great Britain and all civilized nations shall renounce, at his arbitrary pleasure, the ordinary and indisputable rights of maritime war; that Great Britain, in particular, shall forego the advantages of her naval superiority, and allow the commercial property, as well as the produce and manufactures of France and her confederates to pass the ocean in security, whilst the subjects of Great Britain are to be in effect proscribed from all commercial intercourse with other nations; and the produce and manufactures of these realms are to be excluded from every country in the world to which the arms or the influence of the enemy can extend.

Such are the demands to which the British Government is summoned to submit, to the abandonment of its most ancient, essential, and undoubted maritime rights. Such is the code by which France hopes, under the cover of a neutral flag, to render her commerce unassailable by sea, whilst she proceeds to invade or to incorporate with her own dominions all States that hesitate to sacrifice their national interests at her command, and, in abdication of their just rights, to adopt a code, by which they are required to exclude, under the mask of municipal regulation, whatever is British from their dominions.

The pretext for these extravagant demands is, that some of these principles were adopted by voluntary compact in the treaty of Utrecht; as if a treaty once existing between two particular countries, founded on special and reciprocal considerations, binding only on the contracting parties, and which in the last treaty of peace between the same Powers had not been revived, were to be regarded as declaratory of the public law of nations.

It is needless for His Royal Highness to demonstrate the injustice of such pretensions. He might otherwise appeal to the practice of France herself, in this and in former wars, and to her own established codes of maritime law. It is sufficient that these new demands of the enemy form a wide departure from those conditions on which the alleged repeal of the French decrees was accepted by America, and upon which alone, erroneously assuming that repeal to be complete, America has claimed a revocation of the British orders in council.

His Royal Highness, upon a review of all these circumstances, feels persuaded that so soon as this formal declaration, by the Government of France, of its unabated adherence to the principles and provisions of the Berlin and Milan decrees, shall be made known in America, the Government of the United States, actuated not less by a sense of justice to Great Britain than by what is due to its own dignity, will be disposed to recall those measures of hostile exclusion, which, under a misconception of the real views and conduct of the French Government, America has exclusively applied to the commerce and ships of war of Great Britain.

To accelerate a result so advantageous to the true interests of both countries, and so conducive to the re-establishment of perfect friendship between them, and to give a decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's Government, by revoking the orders in council whenever the French decrees shall be actually and unconditionally repealed, His Royal Highness the Prince Regent has been this day pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's privy council, to order and declare:

That if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the order in council of the 7th day of January, 1807, and the order in council of the 26th day of April, 1809, shall, without any further order be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked; and further, that the full benefit of this order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French decrees, although, antecedent to such repeal, such ship or vessel shall have commenced, and shall be in the prosecution of a voyage which, under the said orders in council, or one of them,

would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured or brought to adjudication, on account of any alleged breach of either of the said orders in council, at any time subsequent to such authentic act of repeal by the French Government, shall, without any further order or declaration on the part of His Majesty's Government on this subject, be at liberty to give in evidence in the High Court of Admiralty or any Court of Vice-Admiralty, before which such ship or cargo shall be brought for adjudication, that such repeal by the French Government had been by such authentic act promulgated prior to such capture; and upon proof thereof, the voyage shall be deemed and taken to have been as lawful as if the said orders in council had never been made; saving, nevertheless, to the captors, such protection and indemnity as they may be equitably entitled to, in the judgment of the said court, by reason of their ignorance or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by His Majesty's Government at the time of such capture.

His Royal Highness, however, deems it proper to declare, that, should the repeal of the French decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy, and should the restrictions thereof be still practically enforced or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

WESTMINSTER, *April 21, 1812.*

At the court at Carlton House, the 21st of April, 1812: Present, His Royal Highness the Prince Regent in council.

Whereas, the Government of France has, by an official report, communicated by its Minister for Foreign Affairs to the Conservative Senate, on the 10th of March last, removed all doubts as to the perseverance of that Government in the assertion of principles, and in the maintenance of a system not more hostile to the maritime rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations, and has thereby plainly developed the inordinate pretensions which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce:

And whereas His Majesty has invariably professed his readiness to revoke the orders in council adopted thereupon, as soon as the said decrees of the enemy should be formally and unconditionally repealed, and the commerce of neutral nations restored to its accustomed course:

His Royal Highness the Prince Regent, anxious to give the most decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's Government, is pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's privy council, to order and declare, and it is hereby ordered and declared, That if, at any time hereafter, the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the order in council of the seventh day of January, one thousand eight hundred and seven, and the order in council of the twenty-sixth day of April, one thousand eight hundred and nine, shall, without any further order, be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked: And further, that the full benefit of this order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French decrees, although, antecedent to such repeal, such ship or vessel shall have commenced, and shall be in the prosecution of a voyage which, under the said orders in council, or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo, which shall be captured or brought to adjudication, on account of any alleged breach of either of the said orders in council, at any time subsequent to such authentic act of repeal by the French Government, shall, without any further order or declaration on the part of His Majesty's Government on this subject, be at liberty to give in evidence in the High Court of Admiralty, or any Court of Vice-Admiralty before which such ship or cargo shall be brought for adjudication, that such repeal by the French Government had been, by such authentic act, promulgated prior to such capture; and, upon proof thereof, the voyage shall be deemed and taken to have been as lawful as if the said orders in council had never been made; saving, nevertheless, to the captors such protection and indemnity as they may be equitably entitled to in the judgment of the said court, by reason of their ignorance, or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by His Majesty's Government at the time of such capture.

His Royal Highness, however, deems it proper to declare, that, should the repeal of the French decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy, and should the restrictions thereof be still practically enforced or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and the Judges of the Courts of Vice-Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

CHETWYND.

Mr. Russell to the Secretary of State.

LONDON, *May 2, 1812.*

SIR:

After closing the duplicate of my letter to you of the 26th ult., I discovered the copy of the note of Lord Castlereagh to me of the 21st had been left out by mistake. I take the liberty, therefore, of now handing it to you.

I am, with the highest consideration, &c.

JONATHAN RUSSELL.

THE HON. JAMES MONROE, &c.

[Enclosed in Mr. Russell's letter of 2d May, 1812.]

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *April 21, 1810.*

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, is commanded by His Royal Highness the Prince Regent to transmit to Mr. Russell, *chargé d'affaires* of the Government of the United States of America, the enclosed copy of a declaration, accompanying an order in council, which has been this day passed by His Royal Highness the Prince Regent in council.

The undersigned is commanded by the Prince Regent to request that Mr. Russell, in making this communication to his Government, will represent this measure as conceived in the true spirit of conciliation, and with a due regard, on the part of His Royal Highness, to the honor and interests of the United States; and the undersigned ventures to express his confident hope that this decisive proof of the amicable sentiments which animate the councils of His Royal Highness towards America may accelerate the return of amity and mutual confidence between the two States. The undersigned avails himself of this opportunity to repeat to Mr. Russell the assurances of his high consideration.

JONATHAN RUSSELL, Esq. &c.

CASTLEREAGH.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, May 25, 1812.

I have the honor to hand you herein a copy of my note of the 20th of this month, communicating to Lord Castlereagh a decree of the French Government, dated the 28th of February, 1811, and of two letters of the French ministers of the 25th of December, 1810. I also send you copies of that decree, and of a note from his lordship acknowledging the receipt of my communication, and engaging to submit the documents above mentioned to His Royal Highness the Prince Regent.

I have the honor, &c.

JONATHAN RUSSELL.

The Hon. JAMES MONROE, Esq. &c.

[Enclosed in Mr. Russell's despatch of May 25.]

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET, May 20, 1812.

The undersigned, chargé d'affaires of the United States of America, has the honor to transmit to Lord Castlereagh authentic copies of a decree purporting to be passed by the Emperor of the French, on the 28th of April, 1811, of a letter addressed by the French Minister of Finance to the Director General of the Customs on the 28th December, 1810, and of another letter of the same date, from the French Minister of Justice to the President of the Council of Prizes.

As these acts explicitly recognise the revocation of the Berlin and Milan decrees, in relation to the United States, and distinctly make this revocation to take effect from the 1st November, 1810, the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to His Britannic Majesty's Government, remove all doubt with respect to the revocation in question; and, joined with the all powerful considerations of justice and expediency—so often suggested, lead to like repeal of the British orders in council, and thereby to a renewal of that perfect amity and unrestricted intercourse between this country and the United States, which the obvious interests of both nations require.

The undersigned avails himself, &c.

JONATHAN RUSSELL.

[TRANSLATION.]

PALACE OF ST. CLOUD, April 28, 1811.

NAPOLEON, Emperor of the French, &c.

On the report of our Minister of Foreign Relations:

Seeing by a law passed on the 2d March, 1811, the Congress of the United States has ordered the execution of the provisions of the act of non-intercourse which prohibits the vessels and merchandise of Great Britain, her colonies, and dependencies, from entering into the ports of the United States:

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British orders in council, and a formal refusal to adhere to a system invading the independence of neutral Powers and of their flag; we have ordered and do decree as follows:

The decrees of Berlin and Milan are definitively, and to date from 1st November last, considered as not existing in regard to American vessels.

NAPOLEON.

By the Emperor:

The Minister Secretary of State,

THE COUNT DARA.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, May 23, 1812.

Lord Castlereagh presents his compliments to Mr. Russell, and has the honor to acknowledge the receipt of his official note of the 20th instant, transmitting copies of two official letters of the French ministers, and of a decree of the French Government, bearing date the 28th of April, 1811. Lord Castlereagh will immediately lay these documents before His Royal Highness the Prince Regent, and avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

JONATHAN RUSSELL, Esq.

Mr. Russell to the Secretary of State.

SIR:

LONDON, June 26, 1812.

I have the honor to hand to you, herein, an order of council of the 23d of this month, revoking the orders in council of the 7th of January, 1807, and of the 26th of April, 1809.

To this decree I have added copies of two notes of the same date from Lord Castlereagh, accompanying the communication of it to me, and also a copy of my answer.

With great respect and consideration, I am, &c.

JONATHAN RUSSELL.

At the court at Carlton House, June 23, 1812: Present, His Royal Highness the Prince Regent in council.

Whereas His Royal Highness the Prince Regent was pleased to declare, in the name and on the behalf of His Majesty, on the 21st day of April, 1812, "that if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the order in council of the 7th of January, 1807, and the order in council of the 26th of April, 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked:

And whereas the chargé des affaires of the United States of America, resident at this court, did, on the 20th day of May last, transmit to Lord Viscount Castlereagh, one of His Majesty's principal Secretaries of State, a copy of a certain instrument then for the first time communicated to this court, purporting to be a decree passed by the Government of France on the 28th day of April, 1811, by which the decrees of Berlin and Milan are declared to be definitively no longer in force in regard to American vessels:

And whereas His Royal Highness the Prince Regent, although he cannot consider the tenor of the said instrument as satisfying the conditions set forth in the said order of the 21st day of April last, upon which the said orders were to cease and determine, is nevertheless disposed on his part to take such measures as may tend to re-establish the intercourse between neutral and belligerent nations upon its accustomed principles. His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, is therefore pleased, by and with the advice of His Majesty's privy council, to order and declare, and it is hereby ordered and declared, that the order in council bearing date the 7th day of January, 1807, and the order in council bearing date the 26th day of April, 1809, be revoked, so far as may regard American vessels, and their cargoes, being American property, from the 1st day of August next:

But whereas, by certain acts of the Government of the United States of America, all British armed vessels are excluded from the harbors and waters of the said United States, the armed vessels of France being permitted to enter therein, and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored, His Royal Highness the Prince Regent is pleased hereby further to declare, in the name and on the behalf of His Majesty, that if the Government of the said United States shall not, as soon as may be after this order shall have been duly notified by His Majesty's minister in America to the said Government, revoke, or cause to be revoked, the said acts, this present order shall, in that case, after due notice signified by His Majesty's minister in America to the said Government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels, and their cargoes, being American property, that shall have been captured subsequently to the 20th day of May last, for a breach of the aforesaid orders in council alone, and which shall not have been actually condemned before the date of this order, and that all ships and cargoes, as aforesaid, that shall henceforth be captured under the said orders prior to the 1st day of August next, shall not be proceeded against to condemnation till further orders; but shall, in the event of this order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expenses on the part of the captors as shall have been justly incurred.

Provided that nothing in this order contained, respecting the revocation of the orders herein mentioned, shall be taken to revive wholly or in part the orders in council of the 11th of November, 1807, or any other order not herein mentioned, or to deprive parties of any legal remedy to which they may be entitled under the order in council of the 21st April, 1812.

His Royal Highness is hereby pleased further to declare, in the name and on the behalf of His Majesty, that nothing in this present order contained shall be understood to preclude His Royal Highness the Prince Regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the 7th of January, 1807, and the 26th of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy as may appear to His Royal Highness to be just and necessary.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and the Judges of the Courts of Vice-Admiralty, are to take the necessary measures herein as to them may respectively appertain.

JAMES BULLER.

Lord Castlereagh to Mr. Russell.

SIR:

FOREIGN OFFICE, June 23, 1812.

I am commanded by the Prince Regent to transmit to you, for your information, the enclosed printed copy of an order in council which His Royal Highness, acting in the name and on the behalf of His Majesty, was this day pleased to issue for the revocation (on the conditions therein specified,) of the orders in council of the 17th January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st August next.

I have the honor to be, &c.

CASTLEREAGH.

Lord Castlereagh to Mr. Russell.

SIR:

FOREIGN OFFICE, June 23, 1812.

In communicating to your Government the order in council of this date, revoking (under certain conditions therein specified) those of January 7th, 1807, and of April 26th, 1809, I am to request that you will at the same time acquaint them, that the Prince Regent's ministers have taken the earliest opportunity, after the resumption of the Government, to advise His Royal Highness to the adoption of a measure grounded upon the document communicated by you to this office on the 20th ultimo; and His Royal Highness hopes that this proceeding, on the part of the British Government, may accelerate a good understanding on all points of difference between the two States.

I shall be happy to have the honor of seeing you at the Foreign Office at 2 o'clock to-morrow, and beg to apprise you that one of His Majesty's vessels will sail for America with the despatches of the Government in the course of the present week.

I have the honor to be, &c.

CASTLEREAGH.

Mr. Russell to Lord Castlereagh.

MY LORD:

18, BENTINCK STREET, *June 26, 1812.*

I have the honor to acknowledge the receipt of the two notes addressed to me by your lordship on the 23d of this month, enclosing an order in council, issued that day by His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty, for the revocation (on the conditions therein specified) of the orders in council of the 7th of January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

In communicating this document to my Government, I shall, with much satisfaction, accompany it with the hopes which you state to be entertained by His Royal Highness the Prince Regent, that it may accelerate a good understanding on all points of difference between the two States. I am the more encouraged to believe that these hopes will not be disappointed, from the assurance which your lordship was pleased to give me, in the conversation of this morning, that, in the opinion of your lordship, the blockade of the 16th May, 1806, had been merged in the orders in council, now revoked, and extinguished with them; and that no condition contained in the order of the 23d instant is to be interpreted to restrain the Government of the United States from the exercise of its right to exclude British armed vessels from the harbors and waters of the United States, whenever there shall be special and sufficient cause for so doing, or whenever such exclusion shall, from a general policy, be extended to the armed vessels of the enemies of Great Britain. This assurance, I am happy to consider as evidence of a conciliatory spirit, which will afford, on every other point of difference, an explanation equally frank and satisfactory.

I am, &c.

JONATHAN RUSSELL.

Mr. Russell to the Secretary of State.

SIR:

LONDON, *July 2, 1812.*

I avail myself of the opportunity afforded by the British packet, to transmit to you a copy of a note from Lord Castlereagh, of the 29th ultimo, which I trust will put at rest the blockade of 1806.

I acknowledged the receipt of this note, as you will observe by the enclosed copy of my reply, without a comment.

I did not think it useful to enter into a discussion at this moment concerning the legality of that blockade, which, as no new doctrine appears to be assumed, is made to depend on the fact—the application of an adequate force.

In like manner I have forbore to notice his lordship's observations concerning the exclusion from our ports of British vessels of war. As such exclusion is required to accord with the obligations of strict neutrality only, the conduct and character of the Government of the United States furnish security against any question arising on that subject.

I have to honor to be, &c.

JONATHAN RUSSELL.

*Lord Castlereagh to Mr. Russell.*FOREIGN OFFICE, *June 29, 1812.*

Lord Castlereagh has the honor to acknowledge the receipt of Mr. Russell's communication of the 26th inst.

That no mistake may prevail upon the explanation given in conversation by Lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, Lord Castlereagh begs leave to re-state to Mr. Russell, with respect to the blockade of May, 1806, that, in point of fact, this particular blockade has been discontinued for a length of time; the general retaliatory blockade of the enemy's ports, established under the orders in council of November, 1807, having rendered the enforcement of it by His Majesty's ships of war no longer necessary; and that His Majesty's Government have no intention of recurring to this or to any other blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the order in council, without a new notice to neutral Powers in the usual forms.

With respect to the provision of the order of the 23d instant, which refers to the admission of British ships of war into the harbors and waters of the United States, Lord Castlereagh informs Mr. Russell that this claim is made in consequence of His Majesty's ships being now excluded, whilst those of the enemy are admitted. It is the partial admission of one of the belligerents of which Great Britain feels herself entitled to complain, as a preference in favor of the enemy incompatible with the obligations of strict neutrality. Were the exclusion general, the British Government would consider such a measure, on the part of America, as matter of discussion between the two States, but not as an act of partiality of which they had in the first instance a right to complain.

Lord Castlereagh avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

*Mr. Russell to Lord Castlereagh.*18, BENTINCK STREET, *July 1, 1812.*

Mr. Russell has the honor to acknowledge the receipt of the note of Lord Castlereagh, dated the 29th ultimo, containing explanations relative to the two points referred to in Mr. Russell's note of the 26th of that month, and will take the earliest opportunity of communicating it to his Government.

Mr. Russell begs leave to avail himself of this occasion to repeat to Lord Castlereagh the assurances of his high consideration.

II. CORRESPONDENCE BETWEEN THE BRITISH MINISTER AT WASHINGTON AND THE SECRETARY OF STATE.

Mr. Foster Envoy Extraordinary and Minister Plenipotentiary of Great Britain, to James Monroe, Secretary of State of the United States.

WASHINGTON, July 2, 1811.

SIR:

I have the honor to inform you that I have received the special commands of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, to make an early communication to you of the sentiments which His Royal Highness was pleased, on the part of His Majesty, to express to Mr. Pinkney, upon the occasion of his audience of leave.

His Royal Highness signified to Mr. Pinkney the deep regret with which he learned that Mr. Pinkney conceived himself to be bound by the instructions of his Government to take his departure from England.

His Royal Highness informed Mr. Pinkney that one of the earliest acts of his Government, in the name and on the behalf of His Majesty, was to appoint an envoy extraordinary and minister plenipotentiary to the Government of the United States; and added that this appointment had been made in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His Royal Highness further declared to Mr. Pinkney that he was most sincerely and anxiously desirous, on the part of His Majesty, to cultivate a good understanding with the United States, by every means consistent with the preservation of the maritime rights and interests of the British empire.

His Royal Highness particularly desired that Mr. Pinkney would communicate these declarations to the United States in the manner which might appear best calculated to satisfy the President of His Royal Highness's solicitude to facilitate an amicable discussion with the Government of the United States upon every point of difference which had arisen between the two Governments.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, July 3, 1811.

SIR:

I have had the honor of stating to you, verbally, the system of defence to which His Majesty has been compelled to resort, for the purpose of protecting the maritime rights and interests of his dominions against the new description of warfare that has been adopted by his enemies. I have presented to you the grounds upon which His Majesty finds himself still obliged to continue that system, and I conceive that I shall best meet your wishes, as expressed to me this morning, if in a more formal shape I should lay before you the whole extent of the question as it appears to His Majesty's Government to exist between Great Britain and America.

I beg leave to call your attention, sir, to the principles on which His Majesty's orders in council were originally founded. The decree of Berlin was directly and expressly an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise, although France had not the means of imposing an actual blockade in any degree adequate to such a purpose. The immediate and professed object of this hostile decree was the destruction of all British commerce, through means entirely un sanctioned by the law of nations, and unauthorized by any received doctrine of legitimate blockade.

This violation of the established law of civilized nations in war, would have justified Great Britain in retaliating upon the enemy by a similar interdiction of all commerce with France and with such other countries as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain was not, however, the destruction of trade, but its preservation, under such regulations as might be compatible with her own security, at the same time that she extended an indulgence to foreign commerce which strict principles would have entitled her to withhold. The retaliation of Great Britain was not, therefore, urged to the full extent of her right; our prohibition of French trade was not absolute, but modified; and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all commerce with France, but all such commerce with France as should not be carried on through Great Britain.

It was evident that this system must prove prejudicial to neutral nations: this calamity was foreseen and deeply regretted. But the injury to the neutral nation arose from the aggression of France, which had compelled Great Britain, in her own defence, to resort to adequate retaliatory measures of war. The operation on the American commerce of those precautions which the conduct of France had rendered indispensable to our security, is therefore to be ascribed to the unwarrantable aggression of France, and not to those proceedings on the part of Great Britain which that aggression had rendered necessary and just.

The object of our system was merely to counteract an attempt to crush the British trade; Great Britain endeavored to permit the continent to receive as large a portion of commerce as might be practicable through Great Britain; and all her subsequent regulations, and every modification of her system by new orders or modes of granting or withholding licenses, have been calculated for the purpose of encouraging the trade of neutrals through Great Britain, whenever such encouragement might appear advantageous to the general interests of commerce, and consistent with the public safety of the nation.

The justification of His Majesty's orders in council, and the continuance of that defence, have always been rested upon the existence of the decrees of Berlin and Milan, and on the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the continent; and it has always been declared, on the part of His Majesty's Government, that whenever France should have effectually repealed the decrees of Berlin and Milan, and should have restored neutral commerce to the condition in which it stood previously to the promulgation of those decrees, we should immediately repeal our orders in council.

France has asserted that the decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French Government has insisted that our system of blockade, as it existed previously to the decree of Berlin, was a manifest violation of the received law of nations. We must, therefore, sir, refer to the articles of the Berlin decree to find the principles of our system of blockade, which France considers to be new, and contrary to the law of nations.

By the fourth and eighth articles, it is stated, as a justification of the French decree, that Great Britain "extends to unfortified towns and commercial ports, to harbors, and to the mouths of rivers, those rights of blockade, which, by reason and the usage of nations, are applicable only to fortified places; and that the rights of blockade ought to be limited to fortresses really invested by a sufficient force."

It is added, in the same articles, that Great Britain "has declared places to be in a state of blockade before which she has not a single ship of war, and even places which the whole British force would be insufficient to blockade, entire coasts and a whole empire."

Neither the practice of Great Britain nor the law of nations has ever sanctioned the rule now laid down by France, that no place, excepting fortresses in a complete state of investiture, can be deemed lawfully blockaded by sea.

If such a rule were to be admitted, it would become nearly impracticable for Great Britain to attempt the blockade of any part of the continent; and our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime States.

It was evident that the blockade of May, 1806, was the principal pretended justification of the decree of Berlin, though neither the principles on which that blockade was founded, nor its practical operation, afforded any color for the proceedings of France.

In point of date the blockade of May, 1806, preceded the Berlin decree; but it was a just and legal blockade according to the established law of nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast, described in the notification, and, consequently, to enforce the blockade.

Great Britain has never attempted to dispute that, in the ordinary course of the law of nations, no blockade can be justifiable or valid unless it be supported by an adequate force destined to maintain it, and to expose to hazard all vessels attempting to evade its operation. The blockade of May, 1806, was notified by Mr. Secretary Fox on this clear principle; nor was that blockade announced until he had satisfied himself, by a communication with His Majesty's Board of Admiralty, that the Admiralty possessed the means, and would employ them, of watching the whole coast, from Brest to the Elbe, and of effectually enforcing the blockade.

The blockade of May, 1806, was, therefore, (according to the doctrine maintained by Great Britain,) just and lawful in its origin, because it was supported, both in intention and fact, by an adequate naval force. This was the justification of that blockade until the period of time when the orders in council were issued.

The orders in council were founded on a distinct principle—that of defensive retaliation. France had declared a blockade of all the ports and coasts of Great Britain and her dependencies, without assigning, or being able to assign, any force to support that blockade. Such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force to that service. Since the promulgation of the orders in council, the blockade of May, 1806, has been sustained and extended by the more comprehensive system of defensive retaliation, on which those regulations are founded. But if the orders in council should be abrogated, the blockade of May, 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France in asserting that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May, 1806, as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin decree respecting the rights of blockade are not directly asserted by the American Government, Mr. Pinkney's correspondence would appear to countenance the principles on which those doctrines are founded. The objection directly stated by America against the blockade of May, 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual, and that, therefore, it was necessarily irregular, and could not possibly be maintained in conformity to the law of nations.

Reviewing the course of this statement, it will appear that the blockade of May, 1806, cannot be deemed contrary to the law of nations, either under the objections urged by the French, or under those declared or insinuated by the American Government, because that blockade was maintained by a sufficient naval force; that the decree of Berlin was not therefore justified, either under the prettexts alleged by France, or under those supported by America; that the orders in council were founded on a just principle of defensive retaliation against the violation of the law of nations committed by France, in the decree of Berlin; that the blockade of May, 1806, is now included in the more extensive operation of the orders in council; and, lastly, that the orders in council will not be continued beyond the effectual duration of the hostile decrees of France, nor will the blockade of May, 1806, continue after the repeal of the orders in council, unless His Majesty's Government shall think fit to sustain it by the special application of a sufficient naval force. This fact will not be suffered to remain in doubt; and if the repeal of the orders in council should take place, the intention of His Majesty's Government respecting the blockade of May, 1806, will be notified at the same time.

I need not recapitulate to you the sentiments of His Majesty's Government, so often repeated, on the subject of the French minister's note to General Armstrong, dated the 5th of last August. The studied ambiguity of that note has since been amply explained by the conduct and language of the Government of France, of which one of the most remarkable instances is to be found in the speech of the chief of the French Government, on the 17th of last month, to certain deputies from the free cities of Hamburg, Bremen, and Lubeck, wherein he declares that the Berlin and Milan decrees shall be the public code of France as long as England maintains her orders in council of 1806 and 1807; thus pronouncing, as plainly as language will admit, that the system of violence and injustice, of which he is the founder, will be maintained by him until the defensive measures of retaliation to which they gave rise on the part of Great Britain shall be abandoned.

If other proofs were necessary to show the continued existence of those obnoxious decrees, they may be discovered in the imperial edict dated at Fontainebleau, on October 19, 1810, that monstrous production of violence, in which they are made the basis of a system of general and unexampled tyranny and oppression over all countries subject to, allied with, or within reach of, the power of France; in the report of the French Minister for Foreign Affairs, dated last December; and in the letter of the French Minister of Justice to the president of the Council of Prizes. To this latter, sir, I would wish particularly to invite your attention; the date is the 25th of December; the authority it comes from most unquestionable; and you will there find, sir, the Duke of Massa, in giving his instructions to the Council of Prizes, in consequence of the President of the United States' proclamation of November 3d, most cautiously avoiding to assert that the French decrees were repealed, and ascribing not to such repeal, but to the ambiguous passage which he quotes at length from Mr. Champagny's letter of August 5th, the new attitude taken by America; and you will also find an evidence in the same letter of the continued capture of American ships after November 1st, and under the Berlin and Milan decrees, having been contemplated by the French Government, since there is a special direction given for judgment on such ships being suspended, in consequence of the American proclamation, and for their being kept as pledges for its enforcement.

Can, then, sir, those decrees be said to have been repealed at the period when the proclamation of the President of the United States appeared, or when America enforced her non-importation act against Great Britain?

Are they so at this moment? To the first question the state papers which I have referred to appear to give a sufficient answer; for, even supposing that the repeal had since taken place, it is clear that on November 3d there was no question as to that not being then the case; the capture of the ship *New Orleans Packet*, seized at Bordeaux, and of the *Grace Ann Greene*, seized at or carried into Marseilles, being cases arising under the French decrees of Berlin and Milan, as is very evident. Great Britain might therefore complain of being treated with injustice by America, even supposing that the conduct of France had since been unequivocal.

America contends that the French decrees are revoked as it respects her ships upon the high seas; and you, sir, inform me that the only two American ships taken under their maritime operation, as you are pleased to term it, since November 1st, have been restored; but may not they have been restored in consequence of the satisfaction felt in France at the passing of the non-importation act in the American Congress, an event so little to be expected: for otherwise, having been captured in direct contradiction to the supposed revocation, why were they not restored immediately?

The fears of the French navy, however, prevent many cases of the kind occurring on the ocean under the decrees of Berlin and Milan; but the most obnoxious and destructive parts of those decrees are exercised with full violence, not only in the ports of France, but in those of all other countries to which France thinks she can commit injustice with impunity.

Great Britain has a right to complain that neutral nations should overlook the very worst features of those extraordinary acts, and should suffer their trade to be made a medium of an unprecedented, violent, and monstrous system of attack upon her resources, a species of warfare unattempted by any civilized nation before the present period. Not only has America suffered her trade to be moulded into the means of annoyance to Great Britain, under the provisions of the French decrees, but, construing those decrees as extinct, upon a deceitful declaration of the French cabinet, she has enforced her non-importation act against Great Britain.

Under these circumstances, I am instructed by my Government to urge to that of the United States the injustice of thus enforcing that act against His Majesty's dominions; and I cannot but hope that a spirit of justice will induce the United States' Government to reconsider the line of conduct they have pursued, and at least to re-establish their former state of strict neutrality.

I have only to add, sir, that, on my part, I shall ever be ready to meet you on any opening which may seem to afford a prospect of restoring complete harmony between the two countries, and that it will at all times give me the greatest satisfaction to treat with you on the important concerns so interesting to both.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe, Secretary of State, to Mr. Foster.

SIR:

DEPARTMENT OF STATE, July 6, 1811.

I have had the honor to receive your letter of the 2d instant, in which you express the regret of His Royal Highness the Prince Regent at the departure of the American minister from Great Britain, and state that it was one of the first acts of his Government to appoint an envoy extraordinary and minister plenipotentiary to the Government of the United States, with a view of maintaining the subsisting relations of friendship between the two countries, and that he was solicitous to facilitate an amicable discussion with the Government of the United States, upon every point of difference which had arisen between the two Governments.

I am instructed by the President to acknowledge to you the great satisfaction which he has derived from the communication which you have made of the disposition of His Royal Highness the Prince Regent to cultivate friendship with the United States, and to assure you that the prompt and friendly measure which he adopted, by the appointment of an envoy extraordinary and minister plenipotentiary to this country, to maintain the relations of friendship, and facilitate an amicable discussion on every point of difference that had arisen between the two Governments, is considered as a favorable and interesting proof of that disposition.

I am also instructed by the President to state his ready disposition to meet in a similar spirit these frank and friendly assurances of the Prince Regent, and that nothing will be wanting on his part, consistent with the rights of the United States, that may be necessary to promote the re-establishment, in all respects, of that good understanding between the two countries which he considers to be highly important to the interests of both.

Permit me to add, sir, that if, as the organ of my Government, I can be in any degree instrumental, in concert with you, in promoting such a result, I shall derive from it a very great and sincere satisfaction.

I have the honor to be, &c.

AUGUSTUS J. FOSTER, Esq. &c.

JAMES MONROE.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, July 7, 1811.

I beg leave to acknowledge the receipt of your letter, dated yesterday, in answer to mine of the 2d instant, and to assure you that it gives me very sincere pleasure to have to transmit, for the purpose of being laid before His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, so satisfactory a testimony of the amicable manner in which the President of the United States has received the instances and assurances of a friendly disposition on the part of His Royal Highness towards the United States, which, by command of His Royal Highness, I had the honor to communicate to the President through you.

The assurances which you have added, sir, of the gratification that you would yourself derive, if, as the organ of your Government, you could be instrumental towards re-establishing a good understanding between both our countries, are too congenial with my own feelings on the subject not to be received with very high satisfaction.

I have the honor to be, with the highest consideration and respect, sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

To the Hon. JAMES MONROE, Secretary of State.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, July 11, 1811.

In consequence of our conversation of yesterday, and the observations which you made respecting that part of my letter to you of the 3d instant, wherein I have alluded to the principle on which His Majesty's orders in council

were originally founded, I think it right to explain myself, in order to prevent any possible mistake as to the present situation of neutral trade with His Majesty's enemies.

It will only be necessary for me to repeat, what has already long since been announced to the American Government, namely, that His Majesty's order in council of April 26, 1809, superseded those of November, 1807, and relieved the system of retaliation adopted by His Majesty against his enemies from what was considered in this country as the most objectionable part of it—the option given to neutrals to trade with the enemies of Great Britain through British ports on payment of a transit duty.

This explanation, sir, will, I trust, be sufficient to do away any impression that you may have received to the contrary from my observations respecting the effects which His Majesty's orders in council originally had on the trade of neutral nations. Those observations were merely meant as preliminary to a consideration of the question now at issue between the two countries.

The Hon. JAMES MONROE, Esq. &c.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Foster to Mr. Monroe.

WASHINGTON, July 14, 1811.

SIR:

His Majesty's packet-boat having been so long detained, and a fortnight having elapsed since my arrival at this capital, His Royal Highness the Prince Regent will necessarily expect that I should have to transmit to His Royal Highness some official communication as to the line of conduct the American Government mean to pursue. I trust you will excuse me, therefore, sir, if, without pressing for a detailed answer to my note of the 3d instant, I anxiously desire to know from you what is the President's determination with respect to suspending the operation of the late act of Congress prohibiting all importation from the British dominions.

There have been repeated avowals lately made by the Government of France, that the decrees of Berlin and Milan are still in full force, and the acts of that Government have corresponded with those avowals.

The measures of retaliation pursued by Great Britain against those decrees are, consequently, to the great regret of His Royal Highness, still necessarily continued.

I have had the honor to state to you the light in which His Royal Highness the Prince Regent viewed the proclamation of the President of last November, and the surprise with which he learned the subsequent measures of Congress against the British trade.

American ships seized under His Majesty's orders in council, even after that proclamation appeared, were not immediately condemned, because it was believed that the insidious professions of France might have led the American Government and the merchants of America into an erroneous construction of the intentions of France.

But when the veil was thrown aside, and the French ruler himself avowed the continued existence of his invariable system, it was not expected by His Royal Highness that America would have refused to retrace the steps she had taken.

Fresh proofs have since occurred of the resolution of the French Government to cast away all consideration of the rights of nations in the unprecedented warfare they have adopted.

America, however, still persists in her injurious measures against the commerce of Great Britain, and His Royal Highness has in consequence been obliged to look to means of retaliation against those measures which His Royal Highness cannot but consider as most unjustifiable.

How desirable would it not be, sir, if a stop could be put to any material progress in such a system of retaliation, which, from step to step, may lead to the most unfriendly situation between the two countries.

His Majesty's Government will necessarily be guided in a great degree by the contents of my first despatches as to the conduct they must adopt towards America.

Allow me then, sir, to repeat my request to learn from you whether I may not convey to His Royal Highness what I know would be most grateful to His Royal Highness's feelings, namely, the hope that he may be enabled, by the speedy return of America from her unfriendly attitude towards Great Britain, to forget altogether that he ever was obliged to have any other object in view besides that of endeavoring to promote the best understanding possible between the two countries.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, July 15, 1811.

SIR:

The reasoning and scope of the two letters I have had the honor to receive from you, dated on the 3d and 14th instant, rest essentially on a denial that the French decrees of Berlin and Milan are repealed. These decrees comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

In order to understand distinctly and fully the tenor of your communications, you will pardon the request I have the honor to make, of an explanation of the precise extent in which a repeal of the French decrees is made a condition of the repeal of the British orders; and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports, in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to or from British ports, or that they have on board British productions or manufactures.

I have the honor to be, &c.

JAMES MONROE.

Mr. Foster to Mr. Monroe.

WASHINGTON, July 16, 1811.

SIR:

I had the honor to receive the letter which you addressed to me under yesterday's date, requesting an explanation from me, in consequence of my letters of the 3d and 14th instant, of the precise extent in which a repeal of the French decrees is, by His Majesty's Government, made a condition of the repeal of the British orders, and particularly whether the condition embraces the seizure of vessels and merchandise entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their

cargoes, on the mere allegation that they are bound to or from British ports, or that they have on board British productions or manufactures; as also stating that, in your view of the French decrees, they comprise regulations essentially different in their principles, some of them violating the neutral rights of the United States, others opposing against Great Britain without any such violation.

You will permit me, sir, for the purpose of answering your questions as clearly and concisely as possible, to bring into view the French decrees themselves, together with the official declarations of the French minister which accompanied them.

In the body of those decrees, and in the declarations alluded to, you will find, sir, express avowals that the principles on which they were founded, and the provisions contained in them, are wholly new, unprecedented, and in direct contradiction to all ideas of justice and the principles and usages of all civilized nations.

The French Government did not pretend to say that any one of the regulations contained in those decrees was a regulation which France had ever been in the previous practice of.

They were consequently to be considered, and were, indeed, allowed by France herself to be, all of them parts of a new system of warfare, unauthorized by the established laws of nations.

It is in this light, in which France herself has placed her decrees, that Great Britain is obliged to consider them.

The submission of neutrals to any regulations made by France, authorized by the laws of nations, and practised in former wars, will never be complained of by Great Britain; but the regulations of the Berlin and Milan decrees do, and are declared to, violate the laws of nations and the rights of neutrals, for the purpose of attacking, through them, the resources of Great Britain. The ruler of France has drawn no distinction between any of them, nor has he declared the cessation of any one of them in the speech which he so lately addressed to the deputation from the free imperial Hanse Towns, which was, on the contrary, a confirmation of them all.

Not until the French decrees, therefore, shall be effectually repealed, and thereby neutral commerce be restored to the situation in which it stood previously to their promulgation, can His Royal Highness conceive himself justified, consistently with what he owes to the safety and honor of Great Britain, in foregoing the just measures of retaliation which His Majesty, in his defence, was necessitated to adopt against them.

I trust, sir, that this explanation, in answer to your inquiries, will be considered by you sufficiently satisfactory; should you require any further, and which it may be in my power to give, I shall, with the greatest cheerfulness, afford it.

I sincerely hope, however, that no further delay will be thought necessary by the President in restoring the relations of amity which should ever subsist between America and Great Britain, as the delusions attempted by the Government of France have now been made manifest, and the perfidious plans of its ruler exposed, by which, while he adds to and aggravates his system of violence against neutral trade, he endeavors to throw all the odium of his acts upon Great Britain, with a view to engender discord between the neutral countries and the only Power which stands up as a bulwark against his efforts at universal tyranny and oppression.

Excuse me, sir, if I express my wish as early as possible to despatch His Majesty's packet-boat with the result of our communications, as His Majesty's Government will necessarily be most anxious to hear from me. Any short period of time, however, which may appear to you to be reasonable, I will not hesitate to detain her.

I have the honor to be, &c.

AUGUSTUS. J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, July 23, 1811.

I have submitted to the President your several letters of the 3d and 16th of this month, relative to the British orders in council, and the blockade of May, 1806, and I have now the honor to communicate to you his sentiments on the view which you have presented of those measures of your Government.

It was hoped that your communication would have led to an immediate accommodation of the differences subsisting between our countries, on the ground on which alone it is possible to meet you. It is regretted that you have confined yourself to a vindication of the measures which produced some of them.

The United States are as little disposed now as heretofore to enter into the question concerning the priority of aggression by the two belligerents, which could not be justified by either, by the priority of those of the other. But as you bring forward that plea in support of the orders in council, I must be permitted to remark that you have yourself furnished a conclusive answer to it, by admitting that the blockade of May, 1806, which was prior to the first of the French decrees, would not be legal unless supported through the whole extent of the coast, from the Elbe to Brest, by an adequate naval force. That such a naval force was actually applied, and continued, in the requisite strictness, until that blockade was comprised in and superseded by the orders of November of the following year, or even until the French decree of the same year, will not, I presume, be alleged.

But waiving this question of priority, can it be seen, without both surprise and regret, that it is still contended that the orders in council are justified by the principle of retaliation, and that this principle is strengthened by the inability of France to enforce her decrees? A retaliation is, in its name, and its essential character, a returning a like for like. Is the deadly blow of the orders in council against one-half of our commerce a return of like for like to an empty threat in the French decrees against the other half? It may be a vindictive hostility as far as its effect falls on the enemy. But when falling on a neutral, who, on no pretext, can be liable for more than the measure of injury received through such neutral, it would not be a retaliation, but a positive wrong, by the plea on which it is founded.

It is to be further remarked that the orders in council went even beyond the plea, such as this has appeared to be, in extending its operation against the trade of the United States, with nations which, like Russia, had not adopted the French decrees, and with all nations which had merely excluded the British flag; an exclusion resulting, as matter of course, with respect to whatever nation with which Great Britain might happen to be at war.

I am far from viewing the modification originally contained in these orders, which permits neutrals to prosecute their trade with the continent, through Great Britain, in the favorable light in which you represent it. It is impossible to proceed to notice the effect of this modification, without expressing our astonishment at the extravagance of the political pretension set up by it: a pretension which is utterly incompatible with the sovereignty and independence of other States. In a commercial view it is not less objectionable, as it cannot fail to prove destructive to neutral commerce. As an enemy, Great Britain cannot trade with France; nor does France permit a neutral to come into her ports from Great Britain. The attempt of Great Britain to force our trade through her ports would have, therefore, the commercial effect of depriving the United States altogether of the market of her enemy

for their productions, and of destroying their value in her market by a surcharge of it. Heretofore it has been the usage of belligerent nations to carry on their trade through the intervention of neutrals, and this had the beneficial effect of extending to the former the advantages of peace while suffering under the calamities of war. To reverse the rule, and to extend to nations at peace the calamities of war, is a change as novel and extraordinary as it is at variance with justice and public law.

Against this unjust system the United States entered, at an early period, their solemn protest. They considered it their duty to evince to the world their high disapprobation of it, and they have done so by such acts as were deemed most consistent with the rights and the policy of the nation. Remote from the contentious scene which desolates Europe, it has been their uniform object to avoid becoming a party to the war. With this view they have endeavored to cultivate friendship with both parties, by a system of conduct which ought to have produced that effect. They have done justice to each party in every transaction in which they have been separately engaged with it. They have observed the impartiality which was due to both as belligerents standing on equal ground, having, in no instance, given a preference to either at the expense of the other. They have borne, too, with equal indulgence, injuries from both, being willing, while it was possible, to impute them to casualties inseparable from a state of war, and not to a deliberate intention to violate their rights. And even when that intention could not be mistaken, they have not lost sight of the ultimate object of their policy. In the measures to which they have been compelled to resort, they have, in all respects, maintained pacific relations with both parties. The alternative presented by their late acts was offered equally to both, and could operate on neither, no longer than it should persevere in its aggressions on our neutral rights. The embargo and non-intercourse were pacific measures. The regulations which they imposed on our trade were such as any nation might adopt in peace or war, without offence to any other nation. The non-importation is of the same character; and if it makes a distinction at this time in its operation between the belligerents, it necessarily results from a compliance of one with the offer made to both, and which is still open to the compliance of the other.

In the discussions which have taken place on the subject of the orders in council and blockade of May, 1806, the British Government, in conformity to the principle on which the orders in council are said to be founded, declared that they should cease to operate as soon as France revoked her edicts. It was stated also that the British Government would proceed *pari passu* with the Government of France in the revocation of her edicts. I will proceed to show that the obligation on Great Britain to revoke her orders is complete, according to her own engagement, and that the revocation ought not to be longer delayed.

By the act of May 1, 1810, it is provided that, if either Great Britain or France should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation, and the other party should not, within three months thereafter, revoke or modify its edicts in like manner, that then certain sections in a former act, interdicting the commercial intercourse between the United States and Great Britain and France and their dependencies, should, from and after the expiration of three months from the date of the proclamation, be revived, and have full force against the former, its colonies, and dependencies, and against all articles the growth, produce, or manufacture of the same.

The violations of neutral commerce, alluded to in this act, were such as were committed on the high seas. It was in the trade between the United States and the British dominions that France had violated the neutral rights of the United States by her blockading edicts. It was in the trade with France and her allies that Great Britain had committed similar violations by similar edicts. It was the revocation of those edicts, so far as they committed such violations, which the United States had in view when they passed the law of May 1, 1810.

On the 5th August, 1810, the French Minister of Foreign Affairs addressed a note to the minister plenipotentiary of the United States at Paris, informing him that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st November following; that the measure had been taken by his Government in confidence that the British Government would revoke its orders, and renounce its new principle of blockade, or that the United States would cause their rights to be respected, conformably to the act of May 1, 1810.

This measure of the French Government was founded on the law of May 1, 1810, as is expressly declared in the letter of the Duke of Cadore announcing it. The edicts of Great Britain, the revocation of which were expected by France, were those alluded to in that act; and the means by which the United States should cause their rights to be respected, in case Great Britain should not revoke her edicts, were likewise to be found in the same act. They consisted merely in the enforcement of the non-importation act against Great Britain in that unexpected and improbable contingency.

The letter of the 5th August, which announced the revocation of the French decrees, was communicated to this Government, in consequence of which the President issued a proclamation on the 2d November, the day after that on which the repeal of the French decrees was to take effect, in which he declared that all the restrictions imposed by the act of May 1, 1810, should cease and be discontinued in relation to France and her dependencies. It was a necessary consequence of this proclamation, also, that, if Great Britain did not revoke her edicts, the non-importation law would operate against her at the end of three months. This actually took place. She declined the revocation, and, on the 2d of February last, that law took effect. In confirmation of the proclamation, an act of Congress was passed on the 2d March following.

Great Britain still declines to revoke her edicts, on the pretension that France has not revoked hers. Under that impression, she infers that the United States have done her injustice by carrying into effect the non-importation law against her.

The United States maintain that France has revoked her edicts, so far as they violated their neutral rights and were contemplated by the law of May 1, 1810, and have, on that ground, particularly claimed and do expect of Great Britain a similar revocation.

The revocation announced officially by the French Minister of Foreign Affairs to the minister plenipotentiary of the United States at Paris, on the 5th August, 1810, was in itself sufficient to justify the claim of the United States to a correspondent measure from Great Britain. She had declared that she would proceed *pari passu* in the repeal with France, and, the day being fixed when the repeal of the French decrees should take effect, it was reasonable to conclude that Great Britain would fix the same day for the repeal of her orders. Had this been done, the proclamation of the President would have announced the revocation of the edicts of both Powers at the same time, and, in consequence thereof, the non-importation law would have gone into operation against neither. Such, too, is the natural course of proceeding in transactions between independent States, and such the conduct which they generally observe towards each other. In all compacts between nations, it is the duty of each to perform what it stipulates, and to presume on the good faith of the other for a like performance. The United States, having made a proposal to both belligerents, were bound to accept a compliance from either; and it was no objection to the French compliance, that it was in a form to take effect at a future day, that being a form not unusual in laws and other public acts. Even when nations are at war, and make peace, this obligation of mutual confidence exists, and must be respected. In treaties of commerce, by which their future intercourse is to be governed, the obligation is the same.

If distrust and jealousy are allowed to prevail, the moral tie which binds nations together in all their relations, in war as well as in peace, is broken.

What would Great Britain have hazarded by a prompt compliance in the manner suggested? She had declared that she had adopted the restraints imposed by her orders in council with reluctance, because of their distressing effect on neutral Powers. Here, then, was a favorable opportunity presented to her to withdraw from that measure with honor, be the conduct of France afterwards what it might. Had Great Britain revoked her orders, and France failed to fulfil her engagement, she would have gained credit at the expense of France, and could have sustained no injury by it, because the failure of France to maintain her faith would have replaced Great Britain at the point from which she had departed. To say that a disappointed reliance on the good faith of her enemy would have reproached her foresight, would be to set a higher value on that quality than on consistency and good faith, and would sacrifice to a mere suspicion towards an enemy the plain obligations of justice towards a friendly Power.

Great Britain has declined proceeding *pari passu* with France in the revocation of their respective edicts. She has held aloof, and claims of the United States proof, not only that France has revoked her decrees, but that she continues to act in conformity with the revocation.

To show that the repeal is respected, it is deemed sufficient to state that not one vessel has been condemned by French tribunals, on the principle of those decrees, since the 1st of November last. The New Orleans Packet from Gibraltar to Bordeaux was detained, but never condemned. The Grace Ann Greene, from the same British port to Marseilles, was likewise detained, but afterwards delivered up unconditionally to the owner, as was such part of the cargo of the New Orleans Packet as consisted of the produce of the United States. Both these vessels, proceeding from a British port, carried cargoes, some articles of which, in each, were prohibited by the laws of France, or admissible by the sanction of the Government alone. It does not appear that their detention was imputable to any other cause. If imputable to the circumstance of passing from a British to a French port, or on account of any part of their cargoes, it affords no cause of complaint to Great Britain as a violation of our neutral rights. No such cause would be afforded, even in a case of condemnation. The right of complaint would have belonged to the United States.

In denying the revocation of the decrees, so far as it is a proper subject of discussion between us, it might reasonably be expected that you would produce some examples of vessels taken at sea in voyages to British ports or on their return home, and condemned under them by a French tribunal. None such have been afforded by you; none such are known to this Government.

You urge only, as an evidence that the decrees are not repealed, the speech of the Emperor of France to the deputies from the free cities of Hamburg, Bremen, and Lubeck; the imperial edict, dated at Fontainebleau on the 19th October, 1810; the report of the French Minister of Foreign Affairs, dated in December last; and a letter of the Minister of Justice to the President of the Council of Prizes of the 25th of that month.

There is nothing in the first of these papers incompatible with the revocation of the decrees, in respect to the United States. It is distinctly declared by the Emperor, in his speech to the deputies of the Hanse Towns, that the blockade of the British islands shall cease when the British blockades cease, and that the French blockade shall cease in favor of those nations in whose favor Great Britain revokes hers, or who support their rights against her pretension, as France admits the United States will do by enforcing the non-importation act. The same sentiment is expressed in the report of the Minister of Foreign Affairs. The decree of Fontainebleau, having no effect on the high seas, cannot be brought into this discussion. It evidently has no connexion with neutral rights. The letter from the Minister of Justice to the President of the Council of Prizes is of a different character. It relates in direct terms to this subject, but not in the sense in which you understand it. After reciting the note from the Duke of Cadore of the 5th August last, to the American minister at Paris, which announced the repeal of the French decrees, and the proclamation of the President in consequence of it, it states that all causes arising under those decrees after the 1st November, which were then before the court, or might afterwards be brought before it, should not be judged by the principles of the decrees, but be suspended until the 2d February, when the United States having fulfilled their engagement, the captures shall be declared void, and the vessels and their cargoes delivered up to their owners. This paper appears to afford an unequivocal evidence of the revocation of the decrees, so far as relates to the United States. By instructing the French tribunal to make no decision until the 2d February, and then to restore the property to the owners on a particular event, which has happened, all cause of doubt on that point seems to be removed. The United States may justly complain of delay in the restitution of that property, but that is an injury which affects them only. Great Britain has no right to complain of it. She was interested only in the revocation of the decrees, by which neutral rights would be secured from future violation; or, if she had been interested in the delay, it would have afforded no pretext for more than a delay in repealing her orders till the 2d February. From that day, at furthest, the French decrees would cease. At the same day ought her orders to have ceased. I might add to this statement, that every communication received from the French Government, either through our representative there, or its representative here, are in accord with the actual repeal of the Berlin and Milan decrees, in relation to the neutral commerce of the United States. But it will suffice to remark, that the best and only adequate evidence of their ceasing to operate is the defect of evidence that they do operate. It is a case where the want of proof against the fulfilment of a pledge is proof of the fulfilment. Every case occurring, to which, if the decrees were in force, they would be applied, and to which they are not applied, is a proof that they are not in force. And if these proofs have not been more multiplied, I need not remind you that a cause is to be found in the numerous captures under your orders in council, which continue to evince the rigor with which they are enforced, after a failure of the basis on which they were supposed to rest.

But Great Britain contends, as appears by your last letter, that she ought not to revoke her orders in council, until the commerce of the continent is restored to the state on which it stood before the Berlin and Milan decrees issued; until the French decrees are repealed, not only as to the United States, but so as to permit Great Britain to trade with the continent. Is it then meant that Great Britain should be allowed to trade with all the Powers with whom she traded at that epoch? Since that time, France has extended her conquests to the north, and raised enemies against Great Britain where she then had friends. Is it proposed to trade with them, notwithstanding the change in their situation? Between the enemies of one date, and those of another no discrimination can be made. There is none in reason, nor can there be any of right, in practice. Or do you maintain the general principle, and contend that Great Britain ought to trade with France and her allies? Between enemies there can be no commerce; the vessels of either, taken by the other, are liable to confiscation, and are always confiscated; the number of enemies or extent of country which they occupy cannot affect the question. The laws of war govern the relation which subsists between them, which, especially in the circumstance under consideration, are invariable. They were the same in times the most remote that they now are. Even if peace had taken place between Great Britain and the Powers of the continent, she could not trade with them without their consent. Or does Great Britain contend that the United States, as a neutral Power, ought to open the continent to her commerce on such terms as she may designate? On what principle can she set up such a claim? No example of it can be found in the history of past wars, nor is it

founded in any recognised principle of war, or in any semblance of reason or right. The United States could not maintain such a claim in their own favor, though neutral. When advanced in favor of an enemy, it would be the most preposterous and extravagant claim ever heard of. Every Power, where not restrained by treaty, has a right to regulate its trade with other nations in such manner as it finds most consistent with its interest; to admit, and on its own conditions, or to prohibit the importation of such articles as are necessary to supply the wants, or encourage the industry of its people. In what light would Great Britain view an application from the United States for the repeal, of right, of any act of her Parliament which prohibited the importation of any article from the United States, such as their fish or their oil? or which claimed the diminution of the duty on any other, such as their tobacco, on which so great a revenue is raised? In what light would she view a similar application, made at the instance of France, for the importation into England of any article the growth or manufacture of that Power, which it was the policy of the British Government to prohibit?

If delays have taken place in the restitution of American property, and in placing the American commerce in the ports of France on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States alone are interested. As they do not violate the revocation by France of her edicts, they cannot impair the obligation of Great Britain to revoke hers, nor change the epoch at which the revocation ought to have taken place. Had that duly followed, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British Government of the practical revocation of the French decrees, might not have occurred.

Every view which can be taken of this subject increases the painful surprise at the innovations on all the principles and usages heretofore observed, which are so unreservedly contended for in your letters of the 3d and 16th instant, and which, if persisted in by your Government, present such an obstacle to the wishes of the United States for a removal of the difficulties, which have been connected with the orders in council. It is the interest of belligerents to mitigate the calamities of war, and neutral Powers possess ample means to promote that object, provided they sustain, with impartiality and firmness, the dignity of their station. If belligerents expect advantage from neutrals, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by the desolation it has spread throughout Europe. It is highly important that it should assume at least a milder character. By the revocation of the French edicts, so far as they respected the neutral commerce of the United States, some advance is made towards that most desirable and consoling result. Let Great Britain follow the example. The ground thus gained will soon be enlarged by the concurring and pressing interests of all parties; and whatever is gained, will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 3d instant, which is viewed in a more favorable light. The President has received with great satisfaction the communication, that, should the orders in council of 1807 be revoked, the blockade of May of the preceding year would cease with them, and that any blockade which should be afterwards instituted should be duly notified and maintained by an adequate force. This frank and explicit declaration, worthy of the prompt and amicable measure adopted by the Prince Regent in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries; and, when followed by the revocation of the orders in council, will, as I am authorized to inform you, produce an immediate termination of the non-importation law, by an exercise of the power vested in the President for that purpose.

I conclude with remarking, that if I have confined this letter to the subjects brought into view by yours, it is not because the United States have lost sight in any degree of the other very serious causes of complaint, on which they have received no satisfaction, but because the conciliatory policy of this Government has thus far separated the case of the orders in council from others; and because, with respect to these others, your communication has not afforded any reasonable prospect of resuming them at this time with success. It is presumed that the same liberal view of the true interests of Great Britain, and friendly disposition towards the United States, which induced the Prince Regent to remove so material a difficulty as had arisen in relation to a repeal of the orders in council, will lead to a more favorable further consideration of the remaining difficulties on that subject; and that the advantages of an amicable adjustment of every question depending between the two countries will be seen by your Government in the same light as they are by that of the United States.

I have the honor to be, &c.

JAS. MONROE.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, July 24, 1811.

Having been unable to ascertain distinctly, from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan decrees, which you believe has taken place, so as to see no reason in the conduct of France for altering the relations between this country and Great Britain, by exercising his power of suspending the operation of the non-importation act, allow me to repeat my question to you on this point, as contained in my letter of the 14th instant, before I proceed to make any comments on your answer.

I have the honor to be, with distinguished consideration, sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, *Secretary of State.*

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, July 26, 1811.

I had the honor to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you, in my letter of the 23d instant, that, under existing circumstances, it was impossible for the President to terminate the operation of the non-importation law of the 2d March last; that France having accepted the proposition made by a previous law equally to Great Britain and to France, and having revoked her decrees violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this Government to fulfil its engagement, and to declare the non-importation law in force against Great Britain.

This state of affairs has not been sought by the United States. When the proposition contained in the law of May 1, 1810, was offered equally to both Powers, there was cause to presume that Great Britain would have accepted it; in which event the non-importation law would not have operated against her.

It is in the power of the British Government, at this time, to enable the President to set the non-importation law aside, by rendering to the United States an act of justice. If Great Britain will cease to violate their neutral rights by revoking her orders in council, on which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of this law.

It is presumed that the communications which I have had the honor to make to you, of the revocation by France of her decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your Government a different view of the subject from that which it had before taken, and produce in its councils a corresponding effect.

I have the honor to be, &c.

JAS. MONROE.

AUGUSTUS J. FOSTER, Esq. &c.

Mr. Foster to Mr. Monroe.

WASHINGTON, July 26, 1811.

SIR:

I have had the honor to receive your letter of July 23d, in answer to mine of the 3d and 14th instant, which, give me leave to say, were not merely relative to His Majesty's orders in council, and the blockade of May, 1806, but also to the President's proclamation of last November, and to the subsequent act of Congress of March 2, as well as to the just complaints which His Royal Highness the Prince Regent had commanded me to make to your Government with respect to the proclamation and to that act.

If the United States' Government had expected that I should have made communications which would have enabled them to come to an accommodation with Great Britain on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France, I am at a loss to discover from what source they could have derived those expectations; certainly not from the correspondence between the Marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments that are brought forward by you to show that the decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret, my meaning.

And first in regard to the blockade of May, 1806, I must aver that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the *unqualified* inference, that should the orders in council of 1807 be revoked, the blockade of May, 1806, would cease with them. It is most material that on this point no mistake should exist between us. From your letter it would appear as if, on the question of blockade which America had so unexpectedly connected with her demand for a repeal of our orders in council, Great Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of His Majesty's Government at the United States having taken up the view which the French Government presented of our just and legitimate principles of blockade which are exemplified in the blockade of May, 1806, the whole ground taken by His Majesty's Government was at once abandoned. When I had the honor to exhibit to you my instructions, and to draw up, as I conceived, according to your wishes and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorize such a conclusion, and I now beg most unequivocally to disclaim it. The blockade of May, 1806, will not continue after the repeal of the orders in council, unless His Majesty's Government shall think fit to sustain it by the special application of a sufficient naval force; and the fact of its being so continued or not will be notified at the time. If, in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' Government waiving all further reference to that blockade when they can be justified in asking a repeal of the orders, and I may communicate this to my Government, it will undoubtedly be very satisfactory; but I beg distinctly to disavow having made any acknowledgment that the blockade would cease merely in consequence of a revocation of the orders in council; whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstrued my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain such as you say excited a painful surprise in your Government. There is no new pretension set up by His Majesty's Government. In answer to questions of yours as to what were the decrees or regulations of France which Great Britain complained of, and against which she directed her retaliatory measures, I brought distinctly into your view the Berlin and Milan decrees; and you have not denied, because, indeed, you could not, that the provisions of those decrees were new measures of war on the part of France, acknowledged as such by her ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, and the desolation it spreads through Europe, I willingly agree with you; but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honorable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have also to regret that my meaning should have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous. But Great Britain does contend against the system of terror put in practice by France, by which, usurping authority wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries as well as individuals that they should possess articles, however acquired, which may have been once the produce of English industry or of the British soil. Against such an abominable and extravagant pretension every feeling must revolt, and the honor no less than the interest of Great Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority relative to the French decrees or British orders in council. It was clearly proved that the blockade of May, 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles; and I have not heard that it was considered in a contrary light when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavor to have it considered otherwise. Why America took up the view the French Government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England.

Your remarks on the modifications at various times of our system of retaliation will require the less reply from the circumstance of the order in council of April, 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original orders on neutral commerce; the incidental effect of those orders on neutrals having been always sincerely regretted by His Majesty's Government; but when it was found that neutrals objected to them they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self-defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America, in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country as exemplified in the non-importation law, I lament to say I cannot agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the President's proclamation of November 2d, and, consequently, to dispute the justice of the proclamation itself.

You urge, sir, that the British Government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so, and she means to keep to that declaration.

I have stated to you that we could not consider the letter of August 5th, declaring the repeal of the French edicts, provided we revoked our orders in council, or America resented our not doing so, as a step of that nature; and the French Government knew that we could not; their object was evidently, while their system was adhered to in all its rigor, to endeavor to persuade the American Government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented that they have but too well succeeded; for the United States' Government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees, without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the act of Congress of May, 1810. I readily believe, indeed, that such cases are rare, but it is owing to the preponderance of the British navy that they are so. When scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of their occurrence. But I have always believed, and my Government has believed, that the American Legislatures had in view, in the provisions of their law as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her Government which infringed their neutral rights.

We have had no evidence as yet of any of those pretensions being abandoned. To the ambiguous declaration in Mr. Champagny's note is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that there is nothing incompatible with the revocation of the decrees in respect to the United States, in his expressions to the deputies from the free cities of Hamburg, Bremen, and Lubeck; that it is distinctly stated in that speech that *the blockade of the British islands shall cease when the British blockades cease*; and that the French blockade shall cease in favor of those nations in whose favor Great Britain revokes hers, or who support their rights against her pretensions.

It is to be inferred from this, and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade which are those unauthorized by the established law of nations, France will still maintain her decrees of Berlin and Milan, which, indeed, the speech in question declares to be the fundamental laws of the French empire.

I do not, I confess, conceive how these avowals of the ruler of France can be said to be compatible with the repeal of his decrees, in respect to the United States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war practised by her, then, indeed, they may avoid the operation of the French decrees; but otherwise, according to this document, it is very clear that they are still subjected to them.

The decree of Fontainebleau is confessedly founded on the decrees of Berlin and Milan, dated the 19th October, 1810, and proves their continued existence. The report of the French minister of December 8, announcing the perseverance of France in her decrees, is still further in confirmation of them, and a repudiation of the letter of the Minister of Justice of the 25th of last December confirms me in the inference I drew from it; for otherwise why should that minister make the prospective restoration of American vessels taken after the 1st November to be a consequence of the non-importation law and not of the French revocation. If the French Government had been sincere, they would have ceased infringing on the neutral rights of America after the 1st November; that they violated them, however, after that period, is notorious.

Your Government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself to speak in ambiguous language? The subjects and citizens of either country would in the end be the victims, as many are already, in all probability, who, from a misconstruction of the meaning of the French Government, have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her cabinet, by which she fills her coffers at the expense of independent nations. A similar construction of proceeding *pari passu* might lead to such decrees as those of Rambouillet or of Bayonne, to the system of exclusion or of licenses, all measures of France against the American commerce; in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France, on the principles of her decrees, since the 1st November. You allow, however, that there have been some detained since that period, and that such part of the cargoes as consisted of goods not the produce of America was seized, and the other part, together with the vessel itself, only released after the President's proclamation became known in France. These circumstances surely only prove the difficulties that France is under in reconciling her anti-commercial and anti-neutral system with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan decrees, but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe, sir, through the whole range of your argument, and, on reviewing the course of it, I think I may securely say that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious decrees of France; but, on the contrary, that it appears they continue in full force; consequently, that no grounds exist on which you can with justice demand of Great Britain a revocation of her orders in council. That we have a right to complain of the conduct of the American Government in enforcing the provisions of the act of

May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose, though it was notorious, at the time, that France still continued her aggressions upon American commerce, and had recently promulgated anew her decrees, suffering no trade from this country but through licenses publicly sold by her agents; and that all the suppositions you have formed of innovations on the part of Great Britain, or of her pretensions to trade with her enemies, are wholly groundless. I have also stated to you the view His Majesty's Government has taken of the question of the blockade of May, 1806, and it now only remains that I urge afresh the injustice of the United States' Government persevering in their union with the French system for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy, or interest can suggest, there appears to be such a call upon America to give up this system, which favors France to the injury of Great Britain, that I cannot, however little satisfactory your communications, as yet abandon all hopes that even before the Congress meet a new view may be taken of the subject by the President, which will lead to a more happy result.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, *October 1, 1811.*

I have had the honor to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter, it is proper that I should notice a complaint that I had omitted to reply in mine of the 23d of July to your remonstrance against the proclamation of the President of November last, and to the demand which you had made, by the order of your Government, of the repeal of the non-importation act of March 2d of the present year.

My letter has certainly not merited this imputation.

Having shown the injustice of the British Government in issuing the orders in council, on the pretext assigned, and its still greater injustice in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing, in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your Government accommodated in nothing, the United States should relinquish the ground which, by a just regard to the public rights and honor, they had been compelled to take. Propositions tending to degrade a nation can never be brought into discussion by a Government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter, which involved the claim of the United States, on the principles of justice, to the revocation of the orders in council. Your demand, however, was neither unnoticed nor unanswered. In laying before you the complete, and, as was believed, irresistible proof on which the United States expected and called for the revocation of the orders in council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint, that I misunderstood that passage which claimed, as a condition of the revocation of the orders in council, that the trade of Great Britain with the continent should be restored to the state in which it was before the Berlin and Milan decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and, with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade, in British property, with British vessels, directly with your enemies. Such a claim, you admit, would be preposterous. But you do insist, by necessary implication, that France has no right to inhibit the importation into her ports of British manufactures, or the produce of the British soil, when the property of neutrals; and that, until France remove that inhibition, the United States are to be cut off by Great Britain from all trade whatever with her enemies.

On such a pretension it is almost impossible to reason. There is, I believe, no example of it in the history of past wars. Great Britain, the enemy of France, undertakes to regulate the trade of France. Nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretension would not be set up, nor even thought of. Has Great Britain then acquired, in this respect, by war, rights which she has not in peace? And does she announce to neutral nations, that, unless they consent to become the instruments of this policy, their commerce shall be annihilated, their vessels shall be shut up in their own ports?

I might ask whether French goods are admitted into Great Britain, even in peace; and if they are, whether it be of right, or by the consent and policy of the British Government?

That the property would be neutralized does not affect the question. If the United States have no right to carry their own productions into France without the consent of the French Government, how can they undertake to carry there those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what powers, the trade to the continent is prohibited. If the Powers who prohibit it are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act; and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation and under the influence of France, the most that can be said is, that it justifies reprisal against them by a similar measure. On no principle whatever can it be said to give any sanction to the conduct of Great Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France, and of the continent generally, with manufactures, and to comprise in the supply those of Great Britain, provided those Powers will consent to it. But they cannot undertake to force such supplies on France, or on any other Power, in compliance with the claim of the British Government, on principles incompatible with the rights of every independent nation; and they will not demand in favor of another Power what they cannot claim for themselves.

All that Great Britain could with reason complain of was, the inhibition, by the French decrees, of the lawful trade of neutrals with the British dominions. As soon as that inhibition ceased, her inhibition of our trade with France ought, in like manner, to have ceased. Having pledged herself to proceed *pari passu* with France, in the revocation of their respective acts, violating neutral rights, it has afforded just cause of complaint, and even of astonishment, to the United States, that the British Government should have sanctioned the seizure and condemnation of American vessels, under the orders in council, after the revocation of the French decrees was announced, and even in the very moment when your mission, avowed to be conciliatory, was to have its effect. I will only add, that had it appeared, finally, that France had failed to perform her engagement, it might at least have been expected that Great Britain would not have molested such of the vessels of the United States as might be entering the ports of France, on the faith of both Governments, until that failure was clearly proved.

To many insinuations in your letter I make no reply, because they sufficiently suggest the only one that would be proper.

If it were necessary to dwell on the impartiality which has been observed by the United States towards the two belligerents, I might ask, whether, if Great Britain had accepted the condition which was offered equally to her and France, by the act of May 1st, 1810, and France had rejected it, there is cause to doubt that the non-importation act would have been carried into effect against France? No such doubt can possibly exist, because, in a former instance, when the Government, trusting to a fulfilment by yours of an arrangement which put an end to a non-intercourse with Great Britain, the non-intercourse was continued against France, who had not then repealed her decrees, as it was not doubted that England had done. Has it not been repeatedly declared to your Government, that if Great Britain would revoke her orders in council, the President would immediately cause the non-importation act to cease? You well know that the same declaration has been often made to yourself, and that nothing is wanting to the removal of the existing obstructions to the commerce between the two countries, than a satisfactory assurance, which will be received with pleasure from yourself, that the orders in council are at an end.

By the remark in your letter of the 3d of July, that the blockade of May, 1806, had been included in the more comprehensive system of the orders in council of the following year, and that, if that blockade should be continued in force after the repeal of the orders in council, it would be in consequence of the special application of a sufficient naval force, I could not but infer your idea to be, that the repeal of the orders in council would necessarily involve the repeal of the blockade of May. I was the more readily induced to make this inference, from the consideration, that, if the blockade was not revoked by the repeal of the orders in council, there would be no necessity for giving notice that it would be continued, as by the further consideration, that, according to the decision of your Court of Admiralty, a blockade instituted by proclamation does not cease by the removal of the force applied to it, nor without a formal notice by the Government to that effect.

It is not, however, wished to discuss any question relative to the mode by which that blockade may be terminated. Its actual termination is the material object for consideration.

It is easy to show, and it has already been abundantly shown, that the blockade of May, 1806, is inconsistent, in any view that may be taken of it, with the law of nations. It is also easy to show that, as now expounded, it is equally inconsistent with the sense of your Government when the order was issued; and this change is a sufficient reply to the remarks which you have applied to me personally.

If you will examine the order, you will find that it is, strictly, little more than a blockade of the coast from the Seine to Ostend. There is an express reservation in it, in favor of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral Powers are permitted by it to take from their own ports every kind of produce without distinction, as to its origin, and to carry it to the continent, under that limitation, and with the exception only of contraband of war and enemies' property, and to bring thence to their own ports in return whatever articles they think fit. Why were contraband of war and enemies' property excepted, if a commerce even in those articles would not otherwise have been permitted under the reservation? No order was necessary to subject them to seizure; they were liable to it by the law of nations, as asserted by Great Britain.

Why, then, did the British Government institute a blockade which, with respect to neutrals, was not vigorous, as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great Britain, you will find the answer. A controversy had taken place between our Governments on a different topic, which was still depending. The British Government had interfered with the trade between France and her allies in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your Government, professing its willingness to make a satisfactory arrangement of it, issued the order, which allowed trade, without making any concession as to the principle; reserving that for the adjustment by treaty. It was in this light that I viewed, and in this sense that I represented, that order to my Government; and in no other did I make any comment on it.

When you reflect that this order, by allowing the trade of neutrals in colonial productions to all that portion of the coast which was not rigorously blockaded, afforded to the United States an accommodation in a principal point then at issue between our Governments, and of which their citizens extensively availed themselves; that that trade and the question of blockade, and every other question in which the United States and Great Britain were interested, were then in a train of amicable negotiation, you will, I think, see the cause why the minister who then represented the United States with the British Government did not make a formal complaint against it. You have appealed to me, who happened to be that minister, and urged my silence as an evidence of my approbation of, or at least, acquiescence in, the blockade. An explanation of the cause of that supposed silence is not less due to myself than to the true character of the transaction. With the minister with whom I had the honor to treat, I may add, that an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document is no proof that the measure was approved by me, or that no complaint was made. In recalling to my mind, as this incident naturally does, the manly character of that distinguished and illustrious statesman, and the confidence with which he inspired all those with whom he had to treat, I shall be permitted to express, as a slight tribute of respect to his memory, the very high consideration in which I have always held his great talents and virtues.

The United States have not, nor can they approve the blockade of an extensive coast. Nothing, certainly, can be inferred from any thing that has passed relative to the blockade of May, 1806, to countenance such an inference.

It is seen with satisfaction that you still admit that the application of an adequate force is necessary to give a blockade a legal character, and that it will lose that character whenever that adequate force ceases to be applied. As it cannot be alleged that the application of any such adequate force has been continued, and actually exists, in the case of the blockade of May, 1806, it would seem to be a fair inference that the repeal of the orders in council will leave no insuperable difficulty with respect to it. To suppose the contrary would be to suppose that the orders in council, said to include that blockade, resting themselves on a principle of retaliation only, and not sustained by the application of an adequate force, would have the effect of sustaining a blockade admitted to require the application of an adequate force, until such adequate force should actually take the place of the orders in council. Whenever any blockade is instituted, it will be a subject for consideration; and if the blockade be in conformity to the law of nations, there will be no disposition in this Government to contest it.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Monroe to Mr. Foster.

DEPARTMENT OF STATE, October 17, 1811.

SIR:

I have the honor to communicate to you a copy of two letters from the chargé des affaires of the United States at Paris, to their chargé des affaires at London, and a copy of a correspondence of the latter with the Mar-

quis Wellesley on the subject. By this it will be seen that Mr. Smith was informed by the Marquis Wellesley, that he should transmit to you a copy of the communication from Paris, that it might have full consideration in the discussion depending here.

Although an immediate repeal was to have been expected from your Government, on the receipt of this communication, if the new proof which it affords of the French repeal was satisfactory, yet it will be very agreeable to learn that you are now authorized to concur in an arrangement that will terminate both the orders in council and the non-importation act.

I have the honor to be, with the highest respect, sir, your most obedient servant,

JAMES MONROE.

P. S. Hearing that you will not be in town for several days, this letter, and one bearing date on the 1st of this month, which I had prepared, and intended to deliver to you on my return here, are forwarded by a special messenger.

AUGUSTUS J. FOSTER, Esq., &c.

[Referred to in Mr. Monroe's letter of Oct. 17.]

Mr. Russell to Mr. Smith.

Sir:

PARIS, July 5, 1811.

I observe, by your letter of the 7th ultimo, your solicitude to obtain evidence of the revocation of the Berlin and Milan decrees.

On the 5th of August last the Duke of Cadore announced to General Armstrong that these decrees were revoked, and that they would cease to operate on the 1st of November. Since the 1st of November these decrees have not to my knowledge, in any instance, been executed to the prejudice of American property arriving since that time. On the contrary, the Grace Ann Greene, coming clearly within the penal terms of those decrees, had they continued in force, was liberated in December last, and her cargo admitted in April. This vessel had, indeed, been taken by the English, and retaken from them; but as this circumstance is not assigned here as the cause of the liberation of this property, it ought not to be presumed to have operated alone as such.

Whatever special reasons may be supposed for the release of the Grace Ann Greene, that of the New Orleans Packet must have resulted from the revocation of the French edicts.

The New Orleans Packet had been boarded by two English vessels of war, and had been some time at an English port, and thus doubly transgressed against the decree of Milan. On arriving at Bordeaux she was in fact seized by the director of the customs, and these very transgressions expressly assigned as the cause of seizure. When I was informed of this precipitate act of the officer at Bordeaux, I remonstrated against it on the sole ground that the decrees, under which it was made, had been revoked. This remonstrance was heard. All further proceedings against the New Orleans Packet were arrested, and on the 9th of January both the vessel and cargo were ordered to be placed at the disposition of the owners, on giving bond. This bond has since been cancelled by an order of the Government, and thus the liberation of the property perfected. The New Orleans Packet has been some time waiting in the Garonne with her return cargo on board, for an opportunity only of escaping the English orders in council.

I know of no other American vessel arrived voluntarily in the empire of France or the kingdom of Italy since the 1st of November, to which the decrees of Berlin and Milan could be applied.

I am, sir, very respectfully, your very obedient servant,

JONATHAN RUSSELL.

JOHN S. SMITH, Esq., *Chargé d'Affaires of the United States at London.*

[Referred to in Mr. Monroe's letter of Oct. 17.]

Mr. Russell to Mr. Smith.

Sir:

PARIS, July 14, 1811.

I had the honor to address to you on the 5th instant a brief account of the Grace Ann Greene, and of the New Orleans Packet. The proof which these cases furnish, especially the latter, ought, when unopposed as it is by any conflicting circumstance, to be considered as conclusive of the revocation of the French edicts, to which, if continued in force, these cases would have been liable. In addition, however, to this evidence, I have now the satisfaction to communicate to you the liberation of the Two Brothers, the Good Intent, and the Star, three American vessels captured since the 1st of November, and brought into this empire, or into ports under its control. I should no doubt have been able to have announced the release, by one general decision, of every American vessel captured since that period, if the only inquiry were whether or not they had violated the Berlin and Milan decrees. Unfortunately, however, the practices of late years render the question of property extremely difficult to be satisfactorily decided. Amidst false papers and false oaths, after the most minute and tedious investigation, it often remains doubtful whether this property belongs to a neutral or an enemy. The time employed in this investigation has surely no connexion with the Berlin and Milan decrees and cannot be considered as evidence of their continuance.

It is possible that these decrees may be kept in force in their municipal character, and be applied for the confiscation of English merchandise on the continent; and to prevent their performing this function does not appear to be a concern of the United States, nor can the measure adopted in retaliation of it, on the part of England, be justly extended beyond its limits, and made to reach an unoffending neutral Power, which the act of her enemy does not effect. It is sufficient for us that the Berlin and Milan decrees have ceased to be executed on the high seas; and if the orders in council still continue to operate there, they surely are not supported by any principle of the law of retaliation, but must be considered as a simple and unqualified violation of our neutral and national rights.

The proof now before you of the revocation of the Berlin and Milan decrees consists in the precise and formal declarations of this Government in its discontinuance to execute them to our prejudice in a single instance; in its having exempted from their operation every vessel arriving spontaneously since the 1st of November, to which they could be applied; and every vessel forcibly brought in since that time, on which there has been a decision. After such evidence, to pretend to doubt of their revocation with regard to us would seem to be the result of something more than mere incredulity.

With much respect, I am, sir, your faithful and obedient servant,

JONATHAN RUSSELL.

JOHN SPEAR SMITH, Esq., *Chargé d'Affaires of the United States, London.*

[Referred to in Mr. Monroe's letter of Oct. 17, 1811.]

Mr. Smith to the Marquis Wellesley.

MY LORD:

BENTINCK STREET, July 23, 1811.

The letter which I have the honor to present to your lordship has been just received by me from Mr. Russell. So full and complete is this document, that I conceive it quite unnecessary to add any comments or remarks of my own. I shall, however, have much pleasure in furnishing any other explanations in my power, either verbal or written, that your lordship may desire.

Any doubts that may have existed here of the effectual repeal of the decrees of Berlin and Milan will now, I feel assured, be completely removed; and I feel equally confident that this revocation of the French edicts will be immediately followed by that of the orders in council, which affect the neutral commerce of the United States. I need not assure your lordship of the great satisfaction I shall have in communicating this event to my Government.

As the "orders in council" have been ever declared by His Majesty's Government to be only of a retaliatory character, and that they would cease to have any effect when the causes upon which they were founded had ceased to exist. I trust that no argument is necessary to show, if your lordship shall feel the force with which the accompanying document unequivocally demonstrates the abandonment on the part of France of her decrees, that the "orders in council" should be so revoked as to embrace the American vessels that have been captured by British cruisers since the 1st of November, the period at which the French edicts were revoked.

I have the honor to subjoin to this the circumstances of the two vessels to which Mr. Russell alludes in his letter.

The *Grace Ann Greene* had been captured by an English cruiser, was retaken by her own crew, and arrived at Marseilles, where vessel and cargo were notwithstanding admitted.

The *New Orleans Packet* had been boarded by two English cruisers, and had been also at an English port; thus doubly transgressing against the French edicts. She arrived at Bordeaux, was seized by the director of the customs for these very transgressions, but, on the remonstrance of Mr. Russell, was immediately released, and has been admitted vessel and cargo.

I have the honor to be, &c.

J. S. SMITH.

The Most Noble the MARQUIS WELLESLEY.

[Referred to in Mr. Monroe's letter of October 17, 1811.]

Lord Wellesley to Mr. Smith.

SIR:

FOREIGN OFFICE, August 8, 1811.

Your letter of the 23d ultimo has been under the consideration of His Royal Highness the Prince Regent, and has received all the attention to which it is entitled.

I am commanded by His Royal Highness to acquaint you, that he has thought fit to postpone the answer to your letter, until advices, which are hourly expected from Mr. Foster, shall have been received.

I have the honor to be, with great respect and consideration,

Sir, your most obedient and humble servant,

WELLESLEY.

J. S. SMITH, Esq., &c.

[Referred to in Mr. Monroe's letter of October 17, 1811.]

Lord Wellesley to Mr. Smith.

SIR:

FOREIGN OFFICE, August 14, 1811.

Since the date of my last letter I have the honor to inform you, that I have received a letter from Mr. Foster, His Majesty's minister in America, by which it appears that he had actually commenced a negotiation with the Government of the United States respecting the British orders in council. His despatches containing the particulars of the negotiation have not yet reached me. Under these circumstances, I have transmitted a copy of your letter, together with its enclosure, to Mr. Foster, in order that those documents may receive full consideration in the progress of the discussions now depending in America.

I have the honor to be, &c.

WELLESLEY.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, October 22, 1811.

I had the honor to receive your letter of the 17th instant, together with its three enclosures, on the road between Baltimore and this city. I had that of receiving, at the same time, your letter dated October 1, in answer to mine of the 26th of last July.

Not having had any despatches from His Majesty's Government lately, I have not, as yet, received the copy of the recent communication from Paris, in regard to the supposed repeal of the French decrees, which the chargé d'affaires of the United States at London has intimated to you that he understood the Marquis Wellesley intended to transmit to me, and which I conclude is the same as that contained in the letter of Mr. Russell, the American chargé d'affaires in France. I am, however, in daily expectation of the arrival of His Majesty's packet boat, when it will, in all probability, reach me; and when, if I should receive any fresh instructions in consequence, I will not fail immediately to acquaint you. In the meanwhile, however, I beg you will permit me to make some remarks in reply to your letter of October 1, being extremely anxious to do away the impression which you seem to have received relative to the demand I had made for the repeal of the non-importation act of the present year.

It is, I assure you, sir, with very great regret, that I find you consider that demand as involving, in any degree, propositions tending to degrade your nation. Such an idea certainly never existed with His Majesty's Government, nor would it be compatible with the friendly sentiments entertained by them for the United States; neither could I have suffered myself to be the channel of conveying a demand which I thought had such a tendency. However you may view the demand made on the part of Great Britain, I can safely say, that it was made in consequence of its appearing to His Majesty's Government, on strong evidence, that the chief of the French nation had really deceived America as to the repeal of his decrees, and in the hopes that the United States' Government would therefore see the justice of replacing this country on its former footing of amicable relations with England; nothing appearing to be more natural than such an expectation, which seemed a necessary consequence of the disposition expressed by America to maintain her neutrality, and desirable in every other point of view. I cannot, indeed, bring myself to think, sir, that your candor would allow you, on a re-consideration, to put any other construction

on the matter; and had my arguments had sufficient weight with you, in showing that the French decrees were still in force, I cannot doubt but you would have agreed with me in the conclusion I drew. It would seem, therefore, only owing to your not viewing the deceitful conduct of the French Government in the same light that it appears to His Majesty's Government, that a difference of opinion exists between us as to the proposal I made, which, under the conviction entertained by them, was surely a very just and natural one.

From the earnest desire of vindicating myself and my Government from the charge of making any degrading or unjust demands on that of America, I have taken the liberty to trouble you so far, and I will now proceed to show why I thought you had misunderstood the passage of my letter which related to the extent in which the repeal of the French decrees was required by Great Britain. In the explanation which you desired on this point, I gave you that which the Marquis Wellesley gave to Mr. Pinkney, in answer to his letter of August 25, 1810; and I beg to refer you to the message of the President of the United States, on the opening of Congress in December, 1810, for a proof that the demand of Great Britain, in the extent in which I have stated it, was known to your Government several months ago. How was I, therefore, to suppose, in the term innovations, as applied to the explanation given by me, that you could mean otherwise than some really new pretension on the part of Great Britain, such as that France should suffer British property to be carried into her ports for the purposes of trade? If the warmth I was betrayed into in endeavoring to refute a supposed imputation of this sort gave any offence, I sincerely regret it; and I will beg permission here to say, sir, that, if unconsciously I have, by any of my remarks, led you to suppose they conveyed any improper insinuations, as one paragraph of your letter would appear to imply, I am most unfeignedly sorry for it, as I entertain the highest respect for you personally, and for your Government, and could only have meant what I wrote in the way of argument, or for the purpose of contrasting the proceedings of France in her conduct towards the United States with that of Great Britain.

In reverting to the extraordinary and unprecedented situation of things that has arisen out of the war in Europe, it would seem needless to repeat the evidence there is that the lawless and unbounded ambition of the ruler of France has been the origin of it; and it cannot be a secret to the United States' Government that his plan has been, and avowedly continues to be, not to scruple at the violation of any law, provided he can thereby overthrow the maritime power of England. Is it not, therefore, reasonable in Great Britain to distrust an ambiguous declaration of his having suddenly given up any part of a system which he thought calculated to produce such an effect? You say, however, that the decrees of Berlin and Milan are revoked. America, as not being at war, and therefore not seeing so nearly into the views of France, may be less scrupulous as to the evidence necessary to prove the fact; but, sir, it surely cannot be expected that Great Britain, who is contending for every thing that is dear to her, should not require more proof on a point so material to her. It is undoubtedly a very desirable thing for the United States to have a free and unrestricted trade with both belligerents; but the essential security, and most important interests of America, are not involved in the question, as are those of Great Britain. France has levelled a blow which she hopes will prove deadly to the resources of Great Britain; and before the British Government can with safety give up the measures of defence in consequence adopted by them, very strong proof must exist of the cessation by France of her novel and unprecedented measures.

I confess, sir, with the sincerest disposition to discover on the part of the ruler of France a return to the long established practice of warfare, as exercised in civilized Europe, I have been unable to succeed; and if the French Government had really meant to withdraw their obnoxious decrees, it is inconceivable why, instead of allowing their intention to be guessed at or inferred, they should not openly, and in plain language, have declared so. The decrees themselves having been clearly enough announced on their enactment, why should not their revocation be equally explicit?

While, however, numerous declarations have been made, on the part of France, of the continued existence of the decrees, and captures made under them of neutral ships have occurred, a few of the American vessels seized since November 1st have been restored, and the foregoing, a very small part of his plunder, is defined by Bonaparte to be considered as a proof of the sincerity of his revocation by America; but it must be recollected, that, besides the object of ruining the British resources by his own unauthorized regulations, he has also that of endeavoring to obtain the aid of the United States for the same purpose; and herein you will, as I had the honor to remark in a former letter, be able to observe the cause of the apparently contradictory language held both by himself and his ministers.

I should be extremely happy to receive from you, sir, the information that, in a frank and unambiguous manner, the chief of the French Government had revoked his decrees. Why he should not do so is inexplicable, if he means to revert to the ordinary means of war; but while he exercises such despotic sway, wherever his influence extends, to ruin the resources of England, it cannot be expected that Great Britain shall not use the means she possesses for the purpose of making him feel the pressure of his own system. There is every reason to believe that, ere long, the effect on the enemies of Great Britain will be such as irresistibly to produce a change, which will place commerce on its former basis. In the mean time, sir, I hope you will not think it extraordinary if I should contend that the seizure of American ships by France since November 1st, and the positive and unqualified declarations of the French Government, are stronger proofs of the continued existence of the French decrees, and the bad faith of the ruler of France, than the restoration of five or six vessels, too palpably given up for fallacious purposes, or in testimony of his satisfaction at the attitude taken by America, is a proof of their revocation, or of his return to the principles of justice.

I will only repeat, sir, in answer to your observations on the late condemnation of the ships taken under His Majesty's orders in council, what I have already had the honor to state to you, that the delay which took place in their condemnation was not a consequence of any doubt existing in His Majesty's Government, as to whether the French decrees were revoked, as you seem to imagine; but in consequence of its being thought that the American Government, upon its appearing that they were deceived by France, would have ceased their injurious measures against the British commerce. A considerable time elapsed before the decision took place on those ships; and there is no doubt but that, had the United States' Government not persisted in their unfriendly attitude towards Great Britain, on discovering the ill faith of France, a spirit of conciliation in His Majesty's Government would have caused their release.

In reply to your observations on the pretensions of Great Britain relative to the revocation of the French decrees, I beg to repeat that the sum of the demands made by England is, that France should follow the established laws of warfare as practised in former wars in Europe. Her ruler, by his decrees of Berlin and Milan, declared himself no longer bound by them. He has openly renounced them in his violent efforts to ruin the resources of Great Britain, and has trampled on the rights of independent nations to effect his purpose. If the French Government make use of means of unprecedented violence to prevent the intercourse of England with unoffending neutrals, can it be expected that England should tamely suffer the establishment of such a novel system of war without retaliation, and endeavoring, in her turn, to prevent the French from enjoying the advantages of which she is unlawfully deprived?

Having explained already the situation in which the question of the blockade of May, 1806, rests, according to the views of His Majesty's Government, and the desire of Great Britain to conduct her system of blockade according to the law of nations, I will only advert to it on this occasion for the purpose of taking the liberty of acknowledging to you the very great pleasure I received from the highly honorable mark of respect which you have taken the occasion to express for the illustrious statesman from whose counsels that measure emanated.

I need not repeat to you, sir, what sincere satisfaction it would give me, if, without the sacrifice of the essential rights and interests of Great Britain, all the points in discussion between our two countries could be finally adjusted.

I have the honor to be, &c.

The Hon. JAMES MONROE, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, *October 29, 1811.*

I have had the honor to receive your letter of the 22d of this month, and to lay it before the President.

The assurance which you have given of your disposition to reciprocate, in our communications on the important subjects depending between our Governments, the respectful attention which each has a right to claim, and that no departure from it was intended in your letter of the 26th July, has been received with the satisfaction due to the frank and conciliatory spirit in which it was made.

I learn, however, with much regret, that you have received no instructions from your Government founded on the new proof of the revocation of the Berlin and Milan decrees, which was communicated to the Marquis Wellesley by the American chargé d'affaires at London, in a document of which I had the honor to transmit to you a copy. It might fairly have been presumed, as I have before observed, that the evidence afforded by that document of the complete revocation of those decrees, so far as they interfered with the commerce of the United States with the British dominions, would have been followed by an immediate repeal of the orders in council. From the reply of the Marquis Wellesley, it was at least to have been expected that no time had been lost in transmitting that document to you, and that the instructions accompanying it would have manifested a change in the sentiments of your Government on the subject. The regret, therefore, cannot but be increased in finding that the communication which I had the honor to make to you has not even had the effect of suspending your efforts to vindicate the perseverance of your Government in enforcing those orders.

I regret, also, to observe that the light in which you have viewed this document, and the remarks which you have made on the subject generally, seem to preclude any other view of the conditions on which those orders are to be revoked than those that were furnished by your former communications. You still adhere to the pretension that the productions and manufactures of Great Britain, when neutralized, must be admitted into the ports of your enemies. This pretension, however vague the language heretofore held by your Government, particularly by the Marquis Wellesley, in his communications with Mr. Pinkney on the subject, was never understood to have been embraced. Nothing, indeed, short of the specific declarations which you have made would have induced a belief that such was the case.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, *October 31, 1811.*

I did not reply at great length to the observations contained in your letter of the 1st instant on the pretensions of Great Britain as relative to the French system, because you seemed to me to have argued as if but a part of the system continued, and even that part had ceased to be considered as a measure of war against Great Britain. For me to have allowed this, would have been at once to allow, in the face of facts, that the decrees of France were repealed, and that her unprecedented measures, avowedly pursued in defiance of the laws of nations, were become mere ordinary regulations of trade. I therefore thought fit to confine my answer to your remarks to a general statement of the sum of the demands of Great Britain, which was, that France should, by effectually revoking her decrees, revert to the usual method of carrying on war as practised in civilized Europe.

The pretension of France to prohibit all commerce in articles of British origin in every part of the continent, is one among the many violent innovations which are contained in the decrees, and which are preceded by the declaration of their being founded on a determination of the ruler of France, as he himself avowed, to revert to the principles which characterized the barbarism of the dark ages, and to forget all ideas of justice, and even the common feelings of humanity, in the new method of carrying on war adopted by him.

It is not, however, a question with Great Britain of mere commercial interest, as you seem to suppose, which is involved in the attempt by Bonaparte to blockade her both by sea and land, but one of feeling and of national honor, contending, as we do, against the principles which he professes in his new system of warfare. It is impossible for us to submit to the doctrine that he has a right to compel the whole continent to break off all intercourse with us, and to seize upon vessels belonging to neutral nations upon the sole plea of their having visited an English port, or of their being laden with articles of British or colonial produce, in whatsoever manner acquired.

This pretension, however, is but a part of that system, the whole of which, under our construction of the letter of M. Champagny of August 5, 1810, corroborated by many subsequent declarations of the French Government, and not invalidated by any unequivocal declaration of a contrary tenor, must be considered as still in full force.

In the communication which you lately transmitted to me, I am sorry to repeat that I was unable to discover any facts which satisfactorily proved that the decrees had been actually repealed; and I have already repeatedly stated the reasons which too probably led to the restoration of a few of the American ships taken, in pursuance of the Berlin and Milan decrees, after November 1st. Mr. Russell does not seem to deny that the decrees may still be kept in force, only he thinks they have assumed a municipal character; but in M. Champagny's declaration, ambiguous as it was, there is no such division of them into two different characters; for, if the contingency required by the French minister took place, the Berlin and Milan decrees were to cease, according to his expression, without any qualification. If, therefore, a part of them remain, or be revived again, as seems to be allowed even here, why may not the whole be equally so? Where proof can be obtained of their existence, we have it, namely, in the ports of France, in which vessels have been avowedly seized under their operation, since November 1st. Of their maritime existence we cannot so easily obtain evidence, because of the few French ships of war which venture to leave their harbors. Who can doubt, however, but that, had the ruler of France a navy at his command equal to the enforcing of his violent decrees, he would soon show that part of them to be no dead letter. The

principle is not the less obnoxious because it is, from necessity, almost dormant for the moment; nor ought it, therefore, to be less an object to be strenuously resisted.

Allow me, sir, here to express my sincere regret that I have not as yet been able to convince you, by what I cannot but consider the strongest evidence, of the continued existence of the French decrees, and, consequently, of the unfriendly policy of your Government in enforcing the non-importation act against us, and opening a trade with our enemies. His Royal Highness will, I am convinced, learn with unfeigned sorrow that such continues to be still the determination of America; and whatever restrictions on the commerce enjoyed by America in His Majesty's dominions may ensue on the part of Great Britain, as retaliatory on the refusal by your Government to admit the productions of Great Britain, while they open their harbors to those of His Majesty's enemies, they will, I am persuaded, be adopted with sincere pain, and with pleasure relinquished whenever this country shall resume her neutral position and impartial attitudes between the two belligerents.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, December 17, 1811.

I did not mean to have written to you at this moment on the subject of our late correspondence, but that I have had the mortification to perceive statements, circulated from highly respectable sources, which give a view of the pretensions of Great Britain relative to the United States not warranted by any of the letters which I had the honor to address to you, and which, at a time when discussions are continuing so important to the two countries, might, if left unrectified, produce an effect highly to be lamented by both the American and British Governments, inasmuch as, by creating unnecessary irritation, they might throw obstacles in the way of a restoration of a friendly understanding between them.

I find it asserted in the statement referred to, that I have, in the name of my Government, demanded that the United States' Government should pass a law for the introduction of British goods into the American ports; and, also, that the United States should undertake to force France to receive into her harbors British manufactures.

I beg permission, sir, to declare that neither of these demands have been made by me, and that my meaning must have been understood, if such was conceived to have been its import. I could not have demanded the passage of such a law as above stated, because my Government does not pretend to interfere with the internal government of a friendly Power; nor did I mean to demand that America should force France to receive our manufactures.

All I meant to say was, that the admission of French commerce, while that of England has been excluded from the United States' ports, was regarded by Great Britain as highly unfriendly in America; and that a continuation of such policy would be retaliated upon by Great Britain with similar restrictions on her part; which was so far, merely, an offering of like for like. But while the American non-importation act excludes British trade from the United States' ports, it must be recollected that it goes still further, and excludes also British armed ships from American ports, while it admits those of the enemies of Great Britain. "A neutral nation is responsible for the equality of its rules of conduct towards the belligerent Powers," (to use the words of an American Secretary of State in the year 1796,) and, therefore, the part of the law which establishes an inequality was justly an object of more serious complaint on the part of Great Britain. You are aware, sir, of the advantage which His Majesty's enemies have derived from this state of inequality, which enables them, though possessing no port in this hemisphere, continually to prey on the trade of His Majesty's subjects, secure of a refuge for their cruisers and their prizes.

The prohibition of entry to His Majesty's ships, under these circumstances, might perhaps justify Great Britain in asserting, that, whatever reason she may have for repealing or modifying her orders in council, so as to lessen or entirely remove the pressure now unavoidably laid on the trade of America as a neutral nation, she might yet refuse to enter into any discussion on that subject with the United States, until, either by the revocation of the prohibition above stated, or the placing all the belligerents under the same prohibition, America should cease to violate the duties of a neutral nation.

With respect, however, to the supposed demand that America should force the entry of British manufactures into France, it is most particularly necessary that I should explain myself, as a total misconception appears to have taken place upon this point. The question of retaliation on the French decrees is directly one between England and France. In consequence of the extraordinary blockade of England, we have, in our defence, been obliged to blockade France, and prohibit all trade in French articles, in return for the prohibition of France of all trade in English articles. This measure of retaliation, it is wished, should operate on France alone; but, from the trade carried on with France by America, it unavoidably operates also on her. It is a measure to destroy the French trade, in return for the similar measure of France on which it is retaliatory; and its acting on neutrals is an incidental effect of it, consequent upon the submission of neutrals to the original measures of the enemy against Great Britain. It is, indeed, melancholy that the unnatural situation of Europe should produce such a result; but I cannot see how this can be considered as a war on American commerce, when all other American trade but that which is carried on with our enemy's ports, in defiance of a blockade authorized by the law of retaliation, is unaffected by it. We complain that America does not resist the regulations of the Berlin and Milan decrees, and object to permitting the French to trade with her during their continuance against the commerce of England. But this is not exacting, as has been represented, that America should force British manufactures into France; it is pursuing only a just course of retaliation on our enemy. If America wishes to trade with France, if French commerce is of importance to her, we expect she should exact of France to trade with her, as she has a right to demand, in her quality of neutral; but if she does not choose to exercise this right, all that we ask is, that she should abstain from lending her assistance to the trade of France, and not allow her commerce to be a medium of undermining the resources of Great Britain.

I have thought it necessary thus to endeavor to set these two points in their true light; the repeal of the law was asked, as being an unfriendly measure, partial in its operation against Great Britain; and a prospect of retaliation was held out on its commercial operation, if continued. This is no demand on the United States to admit British manufactures; they are at liberty to continue that law; only, as it is of an unfriendly nature, some restriction of a similar kind was to be expected from England; and, with respect to the alleged demand for forcing British goods, the property of neutrals, into French ports, if the United States are willing to acquiesce in the regulations of the French decrees, unlawfully affecting England through them, they cannot, surely, be surprised if we consider ourselves as at liberty to refuse permission to the French to profit by that acquiescence.

I will now, sir, take the opportunity of stating to you that I have received from His Majesty's Secretary of State the correspondence of which you did me the honor to transmit to me a copy in your letter dated October 17.

My Government have not been able to see in it satisfactory proof of the repeal of the French decrees, and doubt whether the trade carried on by licenses between France and America will not be regarded, even here, as proof of the continuation of them in their fullest extent; for if they were to any extent repealed, to that extent, at least, no license should be necessary—a license being given to allow what, but for that license, would be prohibited.

The continued absence, hitherto, of any instrument by which the repeal has been effected, is a matter also of surprise; for if there were any fair dealing in the transaction, no reason can be given by France for not producing it; it is very desirable that it should be produced, if such an instrument be in existence, in order that we may know to what extent the decrees have been repealed, if they really have been so in any respect. Mr. Russell, however, does not appear to have been in possession of it at the date of his letter of last July. It is, indeed, become particularly interesting that we should see this instrument, since the publication of Mr. Russell's correspondence with his own Government, by which it appears that, really and in fact, the French Government did not release any American ships taken after November 1, until they had become acquainted with the President's proclamation; and that vessels have been taken so late as December 21, in the direct voyage from this country to London; for, until a copy of such instrument is produced, it is impossible to know whether any other trade is allowed by France than that between her own dominions and the ports of the United States.

I have the honor to be, sir, very respectfully, &c.

AUGUSTUS J. FOSTER

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, *January 14, 1812.*

I have had the honor to receive your letter of December 17th, and I embrace the first moment that I could command to make the observations which it suggests.

It would have afforded great satisfaction to the President to have found in the communication some proof of a disposition in the British Government to put an end to the differences subsisting between our countries. I am sorry to be obliged to state that it presents a new proof only of its determination to adhere to the policy to which they are imputable.

You complain that the import of your former letters has been misunderstood in two important circumstances: that you have been represented to have demanded of the United States a law for the introduction of British goods into their ports, and that they should also undertake to force France to receive British manufactures into her harbors.

You state that on the first point it was your intention only to remonstrate against the non-importation act, as partial in its operation, and unfriendly to Great Britain, on which account its repeal was claimed; and to intimate that, if it was persevered in, Great Britain would be compelled to retaliate on the commerce of the United States, by similar restrictions on her part. And on the second point, that you intended only to urge, that in consequence of the extraordinary blockade of England, your Government has been obliged to blockade France, and to prohibit all trade in French articles, in return for the prohibition by France of all trade in English articles.

It is sufficient to remark on the first point, that on whatever ground the repeal of the non-importation act is required, the United States are justified in adhering to it, by the refusal of the British Government to repeal its orders in council, and if a distinction is thus produced between Great Britain and the other belligerent, it must be referred to the difference in the conduct of the two parties.

On the second point, I have to observe that the explanation given cannot be satisfactory, because it does not meet the case now existing. France did, it is true, declare a blockade of England against the trade of the United States, and prohibit all trade in English articles on the high seas; but this blockade and prohibition no longer exist. It is true also, that a part of those decrees did prohibit a trade in English articles, within her territorial jurisdiction; but this prohibition violates no national right or neutral commerce of the United States. Still your blockade and prohibition are continued, in violation of the national and neutral rights of the United States, on a pretext of retaliation, which, if ever applicable, could only be applied to the former, and not to the latter interdicts; and it is required that France shall change her internal regulations against English trade, before England will change her external regulations against the trade of the United States.

But you still insist that the French decrees are unrevoked, and urge, in proof of it, a fact drawn from Mr. Russell's correspondence that some American vessels have been taken since the 1st of November, in their route to England. It is a satisfactory answer to this remark, that it appears, by the same correspondence, that every American vessel, which had been taken in that trade, the seizure of which rested on the Berlin and Milan decrees only, were, as soon as that fact was ascertained, delivered up to their owners. Might there not be other ground also on which seizures might be made? Great Britain claims a right to seize for other causes, and all nations admit it in the case of contraband of war. If, by the law of nations, one belligerent has a right to seize neutral property in any case, the other belligerent has the same right. Nor ought I to overlook that the practice of counterfeiting American papers in England, which is well known to the continent, has, by impairing the faith due to American documents, done to the United States essential injury. Against this practice the minister of the United States at London, as will appear by reference to his letter to the Marquis of Wellesley of the 3d May, 1810, made a formal representation, in pursuance of instructions from his Government, with an offer of every information possessed by him which might contribute to detect and suppress it. It is painful to add that this communication was entirely disregarded. That Great Britain should complain of acts in France, to which, by her neglect, she was instrumental, and draw from them proof in support of her orders in council, ought certainly not to have been expected.

You remark, also, that the practice of the French Government to grant licenses to certain American vessels engaged in the trade between the United States and France, is an additional proof that the French decrees still operate in their fullest extent. On what principle this inference is drawn from that fact, it is impossible for me to conceive. It was not the object of the Berlin and Milan decrees to prohibit the trade between the United States and France. They were meant to prohibit the trade of the United States with Great Britain which violated our neutral rights, and to prohibit the trade of Great Britain with the continent, with which the United States have nothing to do. If the object had been to prohibit the trade between the United States and France, Great Britain could never have found in them any pretext for complaint. And if the idea of retaliation could in any respect have been applicable, it would have been by prohibiting our trade with herself. To prohibit it with France would not have been a retaliation, but a co-operation. If licensing by France the trade in certain instances proves any thing, it proves nothing more than that the trade with France, in other instances, is under restraint. It seems impossible to extract from it, in any respect, that the Berlin and Milan decrees are in force, so far as they prohibit the trade

between the United States and England. I might here repeat that the French practice of granting licences to a trade between the United States and France may have been intended in part, at least, as a security against the simulated papers, the forging of which was not suppressed in England. It is not to be inferred from these remarks that a trade by license is one with which the United States are satisfied. They have the strongest objections to it; but these are founded on other principles than those suggested in your note.

It is a cause of great surprise to the President that your Government has not seen in the correspondence of Mr. Russell, which I had the honor to communicate to you on the 17th of October last, and which has been lately transmitted to you by your Government, sufficient proof of the repeal of the Berlin and Milan decrees. Independent of the conclusive evidence of the fact which that correspondence afforded, it was not to be presumed, from the intimation of the Marquis Wellesley, that it was to be transmitted to you, to be taken into consideration in the depending discussions, that it was of a nature to have no weight in those discussions.

The demand which you now make of a view of the order given by the French Government to its cruisers, in consequence of the repeal of the French decrees, is a new proof of its indisposition to repeal the orders in council. The declaration of the French Government was, as has been heretofore observed, a solemn and obligatory act, and, as such, entitled to the notice and respect of other Governments. It was incumbent on Great Britain, therefore, in fulfillment of her engagement, to have provided that her orders in council should not have effect after the time fixed for the cessation of the French decrees. A pretension in Great Britain to keep her orders in force, till she received satisfaction of the practical compliance of France, is utterly incompatible with her pledge. A doubt founded on any single act, however unauthorized, committed by a French privateer, might, on that principle, become a motive for delay and refusal. A suspicion that such acts would be committed might have the same effect; and, in like manner, her compliance might be withheld as long as the war continued. But let me here remark, that if there was room for a question, whether the French repeal did or did not take effect at the date announced by France, and required by the United States, it cannot be alleged that the decrees have not ceased to operate since the 2d of February last, as heretofore observed. And as the actual cessation of the decree to violate our neutral rights was the only essential fact in the case, and has long been known to your Government, the orders in council from the date of that knowledge ought to have ceased, according to its own principles and pledges.

But the question whether, and when, the repeal of the Berlin and Milan decrees took effect, in relation to the neutral commerce of the United States, is superseded by the novel and extraordinary claim of Great Britain to a trade in British articles with her enemy; for supposing the repeal to have taken place, in the fullest extent claimed by the United States, it could, according to that claim, have no effect in removing the orders in council.

On a full view of the conduct of the British Government in these transactions, it is impossible to see in it any thing short of a spirit of determined hostility to the rights and interests of the United States. It issued the orders in council, on a principle of retaliation on France, at a time when it admitted the French decrees to be ineffectual; it has sustained those orders in full force since, notwithstanding the pretext for them has been removed; and lately it has added a new condition of their repeal, to be performed by France, to which the United States in their neutral character have no claim, and could not demand without departing from their neutrality; a condition which, in respect to the commerce of other nations with Great Britain, is repugnant to her own policy, and prohibited by her own laws, and which can never be enforced on any nation without a subversion of its sovereignty and independence.

I have the honor to be, with great consideration, sir, your most obedient servant,

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq. &c.

Mr. Foster to Mr. Monroe.

Sir:

WASHINGTON, December 28, 1811.

I have been informed by Mr. Morier that, so long ago as the 1st of last January, in consequence of a written communication from Sir James Craig, His Majesty's Governor General, and Commander-in-chief in Canada, dated the 25th November, 1810, acquainting him with his suspicions of its being the intention of some of the Indian tribes, from the great fermentation among them, to make an attack on the United States, and authorizing him to impart his suspicions to the American Secretary of State, he had actually done so verbally to Mr. Smith, your predecessor in office, and on searching among the archives of this mission, I have found the letter alluded to of Sir James Craig, by which he did authorize Mr. Morier to make the communication in question, as well as a memorandum of its having so been made; as also an express declaration of Sir James Craig, that, although he doubted there would not be wanting persons who would be ready to attribute the movements of the Indians to the influence of the British Government, yet, that his department were actually making every exertion in their power to assist in preventing their attempts.

This evidence, sir, of a friendly disposition to put the United States' Government on their guard against the machinations of the savages, and even to aid in preventing the calamity which has taken place, is so honorable to the Governor General of Canada, and so clearly in contradiction to the late unfounded reports which have been spread of a contrary nature, that I cannot resist the impulse I have to draw your attention towards it; not that I conceive, however, that it was necessary to produce this proof to the United States' Government of the falsity of such reports, which the character of the British nation, and the manifest inutility of urging the Indians to their destruction, should have rendered improbable, but in order that you may be enabled, in case it shall seem fitting to you, by giving publicity to this letter, to correct the mistaken notions on the subject, which have unfortunately found their way even among persons of the highest respectability, only, as I am convinced, from their having been misinformed.

I have the honor to be, with the highest consideration, sir,
Your most obedient, humble servant,

AUGUSTUS J. FOSTER.

To the Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

Sir:

DEPARTMENT OF STATE, January 9, 1812.

I have had the honor to receive your letter of the 28th ult., disavowing any agency of your Government in the late hostile measures of the Indian tribes towards the United States. If the Indians derived encouragement

from any persons in those measures of hostility, it is very satisfactory to the President to receive from you an assurance that no authority or countenance was given to them by the British Government.

I have the honor to be, &c.

JAMES MONROE.

His Excellency AUGUSTUS J. FOSTER, &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, April 15, 1812.

I have the honor to acquaint you that, in addition to those seamen belonging to His Majesty's hired armed ketch *Gleaner*, mentioned in my representation to you of the 30th ult., who lately received protection in the violation of their engagements, or were seduced from the service of His Majesty by citizens of the United States, I have since been informed by Lieutenant Green, her commander, of another subject of His Majesty, who was also induced to leave His Majesty's service in consequence of encouragement to that effect from the inhabitants of Annapolis.

Such instances, sir, of improper attempts made on the part of citizens of the United States to deprive His Majesty's ships, even when employed in the diplomatic intercourse between the two countries, of their seamen, will serve, in conjunction with many others in my power to quote, and perhaps in your remembrance, to show, that if the United States have reason at times to complain of irregularity in His Majesty's officers in undesignedly taking their seamen, mistaking them for their own, we have occasionally also reason to make complaint of our seamen engaged on national service, and known as British subjects, being seduced from their allegiance by citizens of the United States, with circumstances of aggravation and insult highly irritating.

Although, sir, it has unfortunately not as yet been found practicable by our Governments to agree to such arrangements as might preclude the possibility of events taking place so calculated to produce vexation on either side, I cannot, however, but hope that the Government of the United States may find some means to prevent a recurrence of similar irregularities on the part of their citizens; and I assure you, sir, that as hitherto, so at all times whenever you claim any persons on board any of His Majesty's ships as native American citizens, no exertion shall be wanting on my part to procure their discharge; and I will add, that it would afford me very high satisfaction to be now furnished by you with a list of all those whom you can claim as such, in order that I might use every effort in my power to obtain their immediate release.

You need not, I am sure, sir, be reminded by me of the prompt attention which has invariably been given by His Majesty's commanding officer on the Halifax station to the reclamations in similar cases which I have transmitted since my arrival in the United States to him in your name, nor of the readiness with which he has given directions, when practicable, for their being instantaneously discharged.

I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, May 30, 1812.

Having had the honor to confer with you soon after the date of your letter of April 15, relative to a deserter from His Britannic Majesty's ship of war the *Gleaner*, it is unnecessary to repeat here the remarks which I then made on that subject. I shall only observe, that none of the men who deserted from that vessel had any encouragement to do it from the constituted authorities of the United States, or of the State of Maryland. If they received such encouragement from any of our citizens, it is a cause of regret; but it is an act not cognizable by our laws any more than it is presumed to be by those of Great Britain.

It is proper to state, that a similar desertion took place last year from an American frigate in an English port, in which no redress was afforded. It was the more remarkable, as the deserter took refuge on board a British ship of war, the commander of which refused to surrender him on being requested to do so.

Your proffered exertions to procure the discharge of native American citizens from on board British ships of war, of which you desire a list, has not escaped attention.

It is impossible for the United States to discriminate between their native and naturalized citizens, nor ought your Government to expect it, as it makes no such discrimination itself. There is in this office a list of several thousand American seamen, who have been impressed into the British service, for whose release applications have, from time to time, been already made; of this list a copy shall be forwarded you, to take advantage of any good offices you may be able to render.

I have the honor, &c.

JAMES MONROE.

His Excellency AUGUSTUS J. FOSTER, &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, May 30, 1812.

Notwithstanding the discouraging nature of the conversation which I had the honor to have with you a few days since at your office, and the circumstance of your continued silence in regard to two letters from me furnishing additional proof of the existence of the French decrees; nevertheless, there does now appear such clear and convincing evidence in the report of the Duke of Bassano, dated the 10th of March of the present year, of those decrees having not only never been rescinded, but of their being recently extended and aggravated in the re-publication of them contained in that instrument, that I cannot but imagine it will seem most important to the President, that it should be communicated to Congress without delay in the present interesting crisis of their deliberations; and, therefore, hasten to fulfil the instructions of my Government, in laying before the Government of the United States the enclosed *Moniteur* of the 16th of last March, in which is contained that report as it was made to the ruler of France, and communicated to the Conservative Senate.

This report confirms, if any thing were wanting to confirm, in the most unequivocal manner, the repeated assertions of Great Britain, that the Berlin and Milan decrees have never been revoked, however some partial and insidious relaxations of them may have been made in a few instances, as an encouragement to America to adopt a system beneficial to France, and injurious to Great Britain, while the conditions on which alone it has been declared that those decrees will ever be revoked are here explained and amplified in a manner to leave us no hope of Bonaparte having any disposition to renounce the system of injustice which he has pursued, so as to make it possible for Great Britain to give up the defensive measures she has been obliged to resort to.

I need not remind you, sir, how often it has in vain been urged by Great Britain, that a copy of the instrument should be produced, by which the decrees of Bonaparte were said to be repealed, and how much it has been desired that America should explicitly state that she did not adopt the conditions on which the repeal was offered.

It is now manifest that there was never more than a conditional offer of repeal made by France, which we had a right to complain that America should have asked us to recognise as *absolute*, and which, if accepted in its extent by America, would only have formed fresh matter of complaint, and a new ground for declining her demands.

America must feel that it is impossible for Great Britain to rescind her orders in council whilst the French decrees are officially declared to remain in force against all nations not subscribing to the new maritime code promulgated in those decrees, and also without something more explicit on the part of America with regard to her understanding as to the conditions annexed by France to the repeal of those decrees. For after what has passed, unless a full and satisfactory explanation be made on both these points, Great Britain cannot relinquish her retaliatory system against France, without implying her consent to the admissibility of the conditions in question.

These observations will, I am sure, appear sufficiently obvious to you, sir, on perusing the enclosed paper.

It will be at once acknowledged that this paper is a re-publication of the Berlin and Milan decrees in a more aggravated form, accompanied as it is with an extension of all the obnoxious doctrines which attend those decrees, inflamed by a declaration that Bonaparte has annexed to France every independent State in his neighborhood which had eluded them; and that he was proceeding against all other maritime parts of Europe, on the pretence that his system could not be permanent and complete so long as they retained their liberty with regard to it.

The outrageous principle here avowed connects itself obviously with the proposition too much countenanced by America, that the continental system of Bonaparte, as far as it operates to the confiscation of neutral property on shore, on the ground of such property being British produce or manufacture, is a mere municipal regulation, which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations. It is unnecessary to recur to the various arguments by which it has been shown that this system does not partake of the character of municipal regulation which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations, but that it is a mere war measure, directed with the most hostile spirit against Great Britain; and in order to extend this system on the principle of municipal regulation, all the rights of independent neutral nations are to be violated, their territories to be seized without any other cause of war whatever but that they may be incorporated with the French nation, and thence, becoming subject to her rights of dominion, receive the continental system as a municipal regulation of France, and thus the mere possibility of non-compliance with the whole of the system is made the ground for the occupation or invasion, the incorporation or extinction, of every State where the French arms can reach.

Great Britain cannot believe that America will not feel a just indignation at the full development of such a system—a system which, indeed, Bonaparte has partially opened before, and has, in the instances of the Hanseatic towns, of Portugal, and other countries, carried into complete execution, but which he has never completely unfolded in all its extent until the present moment. And in what an insulting and preposterous shape does he now attempt to bring forward and promulgate this code which he is to force upon all nations? He assumes the treaty of Utrecht to be in force, and to be a law binding upon all nations; because it suits his convenience at this moment when the navy of France is driven from the ocean, to revive the doctrine of “free ships making free goods.” He has recourse to a treaty no longer in force, in which such a stipulation existed—a treaty which, by his own express refusal at Amiens to renew any of the ancient treaties, was not then revived even as binding on Great Britain and France, between whom alone, as parties to it, and only while they were at peace with each other, could it ever have had any legal effect; yet even this treaty is too narrow a basis for his present pretensions, since he cannot find in it his rule for limiting maritime blockades to fortresses actually invested, besieged, and likely to be taken; no provision of any description having been made in that treaty, either for defining or regulating blockades.

Surely, at such an instant, America will not urge Great Britain to abandon or to soften any precautionary, any retaliatory rights against such a Power. The British Government not only feels itself imperiously bound to defend them, as they respect Great Britain, with all vigor, but to call upon every nation to resist such exorbitant pretensions.

If Great Britain at such a moment were to relax her orders in council against France, would not all other nations have reason to complain that the common cause was abandoned?

America must feel that Bonaparte is not acting, as indeed he never has acted, with any view of establishing principles of real freedom with respect to navigation; but is merely endeavoring to cloak his determination, if possible, to ruin Great Britain by novel demands and rejected theories of maritime law; and America must see that Bonaparte's object is to exclude British commerce from every coast and port of the continent; and that, in pursuit of this object, trampling on the rights of independent States, he insultingly proclaims his determination to effect it by direct invasion of those independent States, which he as insultingly terms a *guaranty*, thus making the most solemn and sacred term in the law of nations synonymous with usurpation of territory and extinction of independence. America must see that, as all the States hitherto in his power have been seized on to *guaranty* his system, he is now proceeding to destroy whatever remains of independence in other neutral States to make that *guaranty* complete. From his want of power to pass the Atlantic with his armies, (a want of power for which the United States are indebted to the naval superiority of Great Britain,) his system of a guarantying force may fail as to America; but as he cannot hope to shut American ports against Great Britain by occupancy and invasion, he hopes to effect his purpose by management and fraud, and to accomplish that by insidious relaxation which he cannot accomplish by power.

Great Britain, he feels, is only to be ruined by excluding her from every port in the world; he hopes, therefore, to shut every port in Europe by force, and every port in America by management; he pretends to conciliate America by applause of her conduct, and a partial relaxation of his system in her favor. He accompanies the promise of repealing his decrees with conditions which he trusts America will not disavow, and which he knows Great Britain must reject; knowing, at the same time, that the relaxation of his decrees will be of little use to America without a corresponding relaxation by Great Britain, he throws every obstacle against concession to America by Great Britain, making her perseverance in her retaliatory system more than ever essential to her honor and existence. And, surely, it will not escape the notice, or fail to excite the indignation of the American Government, that the ruler of France, by taking the new ground now assumed, has retracted the concession which America supposed him to have made. He has inconsistently and contemptuously withdrawn from her the ground upon which she has taken a hostile attitude against Great Britain, since the repeal of our orders in council; and even the renunciation of our rights of blockade would no longer suffice to obtain a repeal of the Berlin and Milan decrees.

His Majesty's Government cannot but hope that America, considering all the extravagant pretensions set forth by the ruler of France in the Duke of Bassano's report, and at the same time the resolution to march his armies into all States into the ports of which the English flag is admitted, will acknowledge that this doctrine and resolu-

tion constitute a complete annihilation of neutrality, and that she is bound, as a neutral State, to disavow and resist them. Every State that acquiesces in this report must act upon the principle that neutral and enemy are to be considered henceforward as the same in the language of the French law of nations; and Great Britain has a right to consider that every nation who refuses to admit her flag upon the principle assumed, admits and recognises the doctrine of the report.

I will not now trouble you, sir, with many observations relative to the blockade of May, 1806, as the legality of that blockade, assuming the blockading force to have been sufficient to enforce it, has latterly not been questioned by you.

I will merely remark, that it was impossible Great Britain should receive otherwise than with the utmost jealousy the unexpected demand made by America for the repeal of the blockade as well as of the orders in council, when it appeared to be made subsequent to, if not in consequence of, one of the conditions in Bonaparte's pretended repeal of his decrees, which condition was our renouncing what he calls "our new principles of blockade;" that the demand on the part of America was additional and new, is sufficiently proved by a reference to the overture of Mr. Pinkney, as well as from the terms on which Mr. Erskine had arranged the dispute with America relative to the orders in council. In that arrangement nothing was brought forward with regard to this blockade. America would have been contented, at that time, without any reference to it. It certainly is not more a grievance or an injustice now than it was then. Why, then, is the renunciation of that blockade insisted upon now, if it was not necessary to insist upon it then? It is difficult to find any answer but by reference to subsequent communications between France and America, and a disposition in America to countenance France in requiring the disavowal of this blockade, and the principles upon which it rested, as the *conditio sine qua non* of the repeal of the Berlin and Milan decrees. It seems to have become an object with America, only because it was prescribed as a condition by France.

On this blockade, and the principles and rights upon which it was founded, Bonaparte appears to rest the justification of all his measures for abolishing neutrality, and for the invasion of every State which is not ready with him to wage a war of extermination against the commerce of Great Britain.

America, therefore, no doubt, saw the necessity of demanding its renunciation; but she will now see that it is in reality vain either for America or Great Britain to expect an actual repeal of the French decrees until Great Britain renounces, first, the basis, viz: the blockade of 1806, on which Bonaparte has been pleased to found them; next, the right of retaliation, as subsequently acted upon in the orders in council; further, till she is ready to receive the treaty of Utrecht, interpreted and applied by the Duke of Bassano's report, as the universal law of nations; and, finally, till she abjures all the principles of maritime law which support her established rights, now more than ever essential to her existence as a nation.

Great Britain feels confident that America never can maintain or ultimately sanction such pretensions, and His Royal Highness the Prince Regent entertains the strongest hope that this last proceeding of France will strip her measures of every remnant of disguise, and that America, in justice to what she owes to the law of nations and to her own honor as a neutral State, will instantly withdraw her countenance from the outrageous system of the French Government, and cease to support, by hostile measures against British commerce, the enormous fabric of usurpation and tyranny which France has endeavored to exhibit to the world as the law of nations.

America cannot now contend that the orders in council exceed, in spirit of retaliation, what is demanded by the decrees, the principles, or the usurpations of Bonaparte. The United States' Government must at last be convinced that the partial relaxations of those decrees in favor of America have been insidiously adopted by France for the mere purpose of inducing her to close her ports against Great Britain, which France cannot effect herself by force; and she must admit that, if Great Britain were now to repeal her orders in council against France, it would be gratuitously allowing to France the commerce of America, and all the benefits derivable from her flag, as an additional instrument for the annoyance of Great Britain, and that at a moment when every State is threatened with destruction, or really destroyed, for merely supporting their own rights to trade with Great Britain.

I am commanded, sir, to express, on the part of His Royal Highness the Prince Regent, that, while His Royal Highness entertains the most sincere desire to conciliate America, he yet can never concede that the blockade of May, 1806, could justly be made the foundation, as it avowedly has been, for the decrees of Bonaparte; and, further, that the British Government must ever consider the principles on which that blockade rested, (accompanied as it was by an adequate blockading force,) to have been strictly consonant to the established law of nations, and a legitimate instance of the practice which it recognises.

Secondly, that Great Britain must continue to reject the other spurious doctrines promulgated by France in the Duke of Bassano's report, as binding upon all nations. She cannot admit, as a true declaration of public law, that free ships make free goods; nor the converse of that proposition, that enemy's ships destroy the character of neutral property in the cargo. She cannot consent, by the adoption of such a principle, to deliver absolutely the commerce of France from the pressure of the naval power of Great Britain, and, by the abuse of the neutral flag, to allow her enemy to obtain, without the expense of sustaining a navy for the trade and property of French subjects, a degree of freedom and security which even the commerce of her own subjects cannot find under the protection of the British navy.

She cannot admit, as a principle of public law, that a maritime blockade can alone be legally applied to fortresses actually invested by land as well as by sea, which is the plain meaning or consequence of the Duke of Bassano's definition.

She cannot admit, as a principle of public law, that arms and military stores are alone contraband of war, and that ship timber and naval stores are excluded from that description. Neither can she admit, without retaliation, that the mere fact of commercial intercourse with British ports and subjects should be made a crime in all nations, and that the armies and decrees of France should be directed to enforce a principle so new and unheard of in war.

Great Britain feels that to relinquish her just measures of self-defence and retaliation would be to surrender the best means of her own preservation and rights, and with them the rights of other nations, so long as France maintains and acts upon such principles.

I am commanded to represent to the Government of America, that Great Britain feels herself entitled to expect from them an unreserved and candid disclaimer of the right of France to impose on her and on the world the maritime code which has been thus promulgated, and to the penalties of which America is herself declared to be liable if she fails to submit herself to its exactions. America cannot, for her own character, any longer temporize on this subject, or delay coming to a distinct explanation with France as well as with Great Britain, if she wishes to clear herself from the imputation of being an abettor of such injustice.

America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her orders in council. She must recollect that the British Government never for a moment countenanced the idea that the repeal of those orders could depend upon any partial or conditional repeal of the decrees of France. What she always avowed was, her readiness to rescind her orders in council as soon as France rescinded absolutely and un-

conditionally her decrees. She could not enter into any other engagement without the grossest injustice to her allies as well as the neutral nations in general; much less could she do so if any special exception was to be granted by France upon conditions utterly subversive of the most important and indisputable maritime rights of the British empire.

America has now a proceeding forced upon her by France, on which, without surrendering any of those principles which she may deem it necessary for her own honor, and security to maintain, she may separate herself from the violence and injustice of the enemy. She owes it not only to herself to do so, but she is entitled to resent that course of conduct on the part of France which is the only impediment to her obtaining what she desires at the hands of Great Britain, namely, the repeal of the orders in council.

I am authorized to renew to the American Government the assurance of His Royal Highness's anxious desire to meet the wishes of America upon this point whenever the conduct of the enemy will justify him in so doing.

Whilst America could persuade herself, however erroneously, that the Berlin and Milan decrees had been actually and totally repealed, and that the execution of the engagement made on that condition by the British Government had been declined, she might deem it justifiable, as a consequence of such a persuasion, to treat the interest and commerce of France with preference and friendship, and those of Great Britain with hostility. But this delusion is at an end; America now finds the French decrees not only in full force, but pointed with augmented hostility against Great Britain. Will the Government of the United States declare that the measure now taken by France is that repeal of the obnoxious decrees which America expected would lead to the repeal of the British orders in council? Will the American Government, unless upon the principle of denying our retaliatory right of blockade under any imaginable circumstances, declare that there is at this moment a ground upon which the repeal of our orders in council can be pressed upon us; or that the repeal could now be warranted upon any other ground than an express abdication of the right itself, which America well knows, whatever may be our desire to conciliate, is a concession which the British Government cannot and will not make.

If this be true, for what purpose can she persevere in her hostile attitude towards Great Britain, and her friendly one towards France? Do the American Government really wish to aid France in her attempt to subjugate Great Britain? Does America expect that Great Britain, contending against France, will, at the instance of America, disarm herself, and submit to the mercy of the opponent? If both these questions are answered in the negative, upon what ground can she for a moment longer continue the hostile measures against us? The American non-intercourse act was framed upon the express principle of continuing in force against the Power, whether France or Great Britain, that should refuse to repeal its respective laws, of which America thought herself entitled to complain: but the repeal contemplated by that act was a *bonâ fide* repeal, and not a repeal upon an inadmissible condition; and America can never be justified in continuing to resent against us that failure of relief which is alone attributable to the insidious policy of the enemy, that has for the purpose of embarrassing the discussion interwoven the question of the decrees with the exaction of a relinquishment of almost the whole system of our maritime law.

It is not for the British Government to dictate to that of America what ought to be the measure of just indignation against the ruler of France for having originated and persevered in a system of lawless violence, to the subversion of neutral rights, which being necessarily retaliated by Great Britain, has exposed America, with other neutral States, to losses which the British Government has never ceased most sincerely to deplore. America must judge for herself how much the original injustice of France towards her has been aggravated by the fraudulent professions of relinquishing her decrees by the steps adopted to mislead America, in order to embark her in measures which, we trust, she never would have taken, if she could have foreseen what has now happened; and, ultimately, by threatening America with her vengeance, as a denationalized State, if she does not submit to be the instrument of her designs against Great Britain.

These are considerations for America to weigh; but what we are entitled to claim at her hands, as an act not less of policy than justice, is that she should cease to treat Great Britain as an enemy. The Prince Regent does not desire retrospect when the interests of two countries so naturally connected by innumerable ties are concerned. It is more consonant to His Royal Highness's sentiments to contribute to the restoration of harmony and friendly intercourse, than to inquire why it has been interrupted. Feeling that nothing has been omitted on his part to relieve America from the inconveniences to which a novel system of warfare on the part of France unfortunately continues to expose her, and that the present unfriendly relations which, to their mutual prejudice, subsist between the two countries, have grown out of a misconception, on the part of America, both of the conduct and purpose of France, His Royal Highness considers himself entitled to call upon America to resume her relations of amity with Great Britain. In doing so, she will best provide for the interests of her own people; and I am authorized to assure the American Government, that, although His Royal Highness, acting in the name and on the behalf of His Majesty, can never suffer the fundamental maxims of the British monarchy, in matters of maritime right, as consonant to the recognised law of nations, to be prejudiced in his hands, His Royal Highness will be ready at all times to concert with America as to their exercise, and so to regulate their application, as to combine, as far as may be, the interests of America, with the object of effectually retaliating upon France the measure of her own injustice.

I will now terminate this letter by assuring you, sir, as I can with perfect truth, that the most cordial and sincere desire animates the councils of Great Britain, to conciliate America as far as may be consistent with the principles upon which the preservation of the power and independence of the British monarchy is held essentially to depend, and which cannot be abandoned without throwing her helpless and disarmed into the presence of her adversary.

I have the honor to be, with great respect, &c.

AUGUSTUS J. FOSTER.

JAMES MONROE, Esq., *Secretary of State.*

[Referred to in Mr. Foster's letter of 30th May.]

[TRANSLATION.]

Report of the Minister of Foreign Relations to His Majesty the Emperor and King, communicated to the Conservative Senate in the sitting of 10th March, 1812.

SIRE:

The maritime rights of neutrals have been solemnly regulated by the treaty of Utrecht, which has become the common law of nations.

This law, expressly renewed in all the subsequent treaties, has consecrated the principles I am about to expose.

The flag covers the property; enemy's property under a neutral flag is neutral, as neutral property under an enemy's flag is enemy's property. The only articles which the flag does not cover are contraband articles; and the only articles which are contraband are arms and munitions of war.

A visit of a neutral vessel by an armed vessel can only be made by a small number of men, the armed vessel keeping beyond the reach of cannon shot.

Every neutral vessel may trade from an enemy's port to an enemy's port, and from an enemy's port to a neutral port. The only ports excepted are those really blockaded; and the ports really blockaded are those which are invested, besieged, and in danger of being taken, (*en prévention d'être pris*), and into which a merchant ship could not enter without danger.

Such are the obligations of belligerent nations towards neutral nations, such are the reciprocal rights of both, such are the maxims consecrated by the treaties which form the public law of nations. Often has England attempted to substitute for them arbitrary and tyrannical rules. Her unjust pretensions were repelled by all Governments sensible to the voice of honor and to the interests of their people. She saw herself constantly obliged to recognise in her treaties the principles which she wished to destroy, and, when the peace of Amiens was violated, maritime legislation rested again on its ancient foundation.

By the course of events, the English navy became more numerous than all the forces of the other maritime Powers. England then supposed that she had nothing to fear; she might attempt every thing; she immediately resolved to subject the navigation of every sea to the same laws which governed that of the Thames.

It was in 1806 that she commenced the execution of this system, which tended to make the common law of nations yield to the orders in council and to the regulations of the Admiralty of London.

The declaration of the 16th May annihilated, by a single word, the rights of all maritime States, and put under interdiction vast coasts and whole empires. From this moment England no longer recognised neutrals on the seas.

The orders of 1807 imposed on all vessels an obligation to enter English ports, whatever might be their destination, to pay a tribute to England, and to subject their cargoes to the tariff of her custom-houses.

By the declaration of 1806 all navigation was interdicted to neutrals; by the orders of 1807 the faculty of navigating was restored to them; but they could only use it for the advantage of English commerce, by the combinations of her interest and to her profit.

The English Government took off thereby the mask with which it had concealed its projects, proclaimed the universal dominion of the seas, regarded every people as their tributaries, and imposed upon the continent the expenses of the war which it maintained against it.

These unheard-of measures excited a general indignation among those Powers who cherished the sentiment of their independence and of their rights. But at London they carried to the highest degree of elevation the national pride; they displayed to the English people a futurity rich with the most brilliant hopes. Their commerce, their industry, were to be henceforward without competition; the productions of the two worlds were to flow into their ports, do homage to the maritime and commercial sovereignty of England, in paying to her a toll duty; and afterwards proceed to other nations burthened with enormous costs, from which English merchandise alone would have been exonerated.

Your Majesty perceived, at a single glance, the evils with which the continent was threatened. The remedy was immediately resorted to; you annihilated by your decrees this arrogant and unjust enterprise, so destructive to the independence of all States and of the rights of every people.

The decree of Berlin replied to the declaration of 1806. The blockade of the British isles was opposed to the imaginary blockade established by England.

The decree of Milan replied to the orders of 1807; it declared *denationalized* every neutral vessel which submitted to English legislation, known to have touched at an English port, known to have paid a tribute to England, and which thereby renounced the independence and the rights of its flag. All the merchandise of the commerce and of the industry of England were blockaded in the British isles; the continental system excluded them from the continent.

Never did an act of reprisal attain its object in a manner more prompt, more certain, or more victorious. The decrees of Berlin and Milan turned against England the weapons which she had directed against universal commerce. The source of commercial prosperity, which she thought so abundant, became a source of calamity for English commerce; in the place of those exactions which were to have enriched her funds, a depreciation, continually increasing, impairs the wealth of the State and that of individuals.

When the decrees of your Majesty appeared, the whole continent foresaw that such would be the result, if they received their entire execution; but as much as Europe was accustomed to see your undertakings crowned with success, they were at a loss to conceive by what new prodigies your Majesty would realize the great designs which have been so rapidly accomplished. Armed with all your power, nothing could turn your Majesty from your object.

Holland, the Hanseatic cities, the coast which lies between the Zuyder Zee and the Baltic, were to be united to France, subject to the same administration and the same regulations—the immediate and inevitable consequence of the legislation of the English Government. Considerations of no kind were able to balance in the mind of your Majesty the first interests of your empire.

I will not stop to recapitulate the advantages of this important resolution. After fifteen months, that is to say, after the *senatus consultum* of re-union, the decrees of your Majesty press with all their weight upon England. She flattered herself to invade the commerce of the world, and her own commerce became a mere stock-jobbing affair, (*agiotage*), which could not be carried on but by means of twenty thousand licenses issued every year. Forced to obey the law of necessity, she thereby renounced her navigation act, the original foundation of her power. She aspired to the universal dominion of the seas, and navigation is interdicted to her vessels; repulsed from all the ports of the continent, she wished to enrich her funds with the tributes that Europe was to pay; and Europe has withdrawn itself not only from her injurious pretensions, but likewise from the tributes which it paid to her industry; her manufacturing cities have become deserted; distress has succeeded to a prosperity, until then increasing; the alarming disappearance of specie, the absolute privation of business, daily interrupt the public tranquillity. Such for England are the results of her imprudent attempts; she thence learns, and she will every day learn more fully, that there is no safety for her but in a return to justice and to the principles of the law of nations; and that she will not be able to participate in the benefits of the neutrality of ports, unless she will suffer neutrals to profit of the neutrality of their flag. But until then, and so long as the British orders in council are not revoked, and the principles of the treaty of Utrecht in relation to neutrals put in force, the decrees of Berlin and Milan ought to subsist for the Powers who suffer their flag to be denationalized. The ports of the continent ought to be opened neither to denationalized flags nor to English merchandise.

It cannot be concealed, that to maintain, beyond the reach of attack, this great system, it is necessary that your Majesty should employ the powerful means which belong to your empire, and find in your subjects that assistance which you never have asked in vain. All the disposable forces of France must be directed whithersoever the English flag and flags denationalized, or convoyed by English vessels of war, may wish to enter. A particular army, exclusively charged with guarding our vast coasts, our maritime arsenals, and the triple row of fortresses which cover our frontiers, ought to answer to your Majesty for the security of the territories confided to its valor

and its fidelity; it will restore to their high destiny those brave men, accustomed to fight and to conquer under the eyes of your Majesty for the defence of political rights and the exterior security of the empire. Even the depôts of corps will no longer be diverted from the useful destination of keeping up the numbers and the strength of your active armies. The forces of your Majesty will be thus constantly maintained on the most formidable footing; and the French territory, protected by a permanent establishment, which is recommended by the interest, the policy, and dignity of the empire, will find itself in a situation which will make it more deserving of the title of inviolable and sacred.

It is a long time since the actual Government of Great Britain proclaimed perpetual war; a frightful project, which the most unbridled ambition would not have dared to form, and which a presumptuous boasting could only have avowed; a frightful project, which might, however, be realized, if France could hope for nothing but engagements, without guaranty, of an uncertain length, and even more disastrous than war.

Peace, sire, which your Majesty, in the midst of your great power, has so often offered to your enemies, will crown your glorious labors, if England, excluded with perseverance from the continent, and separated from all the States whose independence she has violated, consents, at length, to enter upon the principles which form the basis of European society, to acknowledge the laws of nations, and the rights consecrated by the treaty of Utrecht.

In the mean time, the French people must remain in arms. Honor commands it; the interests, the rights, the independence of the nations engaged in the same cause, and an oracle still more certain, which has often been pronounced by your Majesty, makes it an imperious and sacred law.

Mr. Foster to the Secretary of State.

Sir:

WASHINGTON, June 1, 1812.

I have the honor to acknowledge the receipt of your letter of the 30th ultimo, in reply to my note of April 15, relating to a seaman who had been encouraged to desert from His Majesty's schooner *Gleaner* by certain of the inhabitants of the city of Annapolis, and containing an offer, which I shall always be very happy to repeat, of using my best exertions to procure the discharge of such seamen as have been impressed on board His Majesty's ships, and can be legally claimed by the Government of the United States.

The circumstances which attended the instance mentioned in my former letter of April 5th, when several seamen of the same vessel (the *Gleaner*) were, under the very eyes of their officer, and in a manner exceedingly insulting to his feelings, assailed, by the endeavors of the same people, to engage them to desert, are not adverted to in your letter; but, I suppose I am to conclude, from the tenor of it, that no remedy can be applied in such cases by the constituted authorities of the country, which is very much to be regretted, as it leaves the commanders of ships of war, who may have despatches to convey on shore in American ports, continually exposed to have their boats' crews seduced from them with impunity, and tends to show more than ever the disagreeable necessity under which they are of endeavoring to recover them from on board of the merchant ships in which such seamen afterwards engage themselves.

I do not pretend, sir, to justify the captain of the British ship of war who refused to deliver the American deserter mentioned in your letter, not knowing the circumstances under which he acted.

It will, no doubt, however, occur to you that, if you could state a single instance where crowds have collected round an American officer, on his landing in England, with a view to insult him and entice his men to abandon him, as is too often the practice in the United States, such an instance would be more directly in point.

I have now, sir, the honor to lay before you, by order of His Royal Highness the Prince Regent, the enclosed papers, (Nos. 1, 2, 3, 4, 5,) relating to English seamen who have been detained against their will on board of certain ships of war of the United States, which have of late visited Great Britain, and to express His Royal Highness's sincere belief that these several sources of complaint have originated without the concurrence or participation of a State with which he is so anxious to preserve an amicable intercourse, as well as his conviction that the Government of America has only to be informed of the fact, to take prompt and satisfactory measures for the correction of the practice.

The American Government will perceive, from this friendly communication, that it is not on this side of the water alone that the inconvenience necessarily resulting from the similarity of habits, language, and manners between the inhabitants of the two countries, is productive of subjects of complaint and regret. These are, however, at the same time, natural and strong inducements for a conformity of interest, and most particularly for a readiness to give and receive mutual explanations upon all subjects of difference.

I have it in charge to repeat to you, sir, for the information of your Government, that the Government of His Royal Highness the Prince Regent will continue to give the most positive orders against the detention of American citizens on board His Majesty's ships, and that no difficulties, beyond what are requisite for clearly ascertaining the national character of individuals whose cases are brought before the Lords Commissioners of the Admiralty, will be interposed to prevent or delay their immediate discharge.

The Earl of Liverpool, while he held the office of His Majesty's Secretary of State for Foreign Affairs, *ad interim*, was commanded to make known the case of William Bowman, stated, by the affidavit of his wife, to be forcibly detained on board the United States' ship the *Hornet*. The departure of this vessel precluded Mr. Russell from making the necessary representation to the commanding officer of the *Hornet*. As, however, Mr. Russell will have probably stated the circumstances of the case to this Government, I am in hopes there will be no difficulty in obtaining his release.

Of the papers enclosed, those marked No. 1 consist of a copy of a letter from Admiral Sir Roger Curtis, commander-in-chief at Portsmouth, to Mr. Croker, the Secretary to the Admiralty, enclosing a copy of the deposition, upon oath, of Charles Davis, an Irishman by birth, who was lately serving on board the United States' frigate *Constitution*, under the name of Thomas Holland; and of a letter from Captain Hall, of His Majesty's ship *Royal William*, to Admiral Sir Roger Curtis, giving an account of the same Charles Davis, and of his escape from the *Constitution* frigate.

No. 2 contains the copy of a letter from Captain Hall to Sir Roger Curtis, transmitting a statement of the names and descriptions of twenty-eight British seamen on board the *Constitution* and the *Wasp*.

No. 3 contains a copy of a letter from Sir Roger Curtis to Mr. Croker, stating the real name and birthplace of William Smith, who ran away from the United States' frigate *Constitution*, and who proves to be a native of England, and whose name is John Taylor.

No. 4 contains the copy of another letter from Sir Roger Curtis to Mr. Croker, transmitting the affidavits of George Warren and Daniel Murphy, British seamen, who ran away from the *Constitution* and the *Hornet*, and of the wife of William Bowman, who is alluded to above.

And No. 5 contains the deposition, upon oath, of John Taylor, mentioned in No. 3.

The correspondence between the Earl of Liverpool and Mr. Russell, on the subject of Bowman, I do not enclose, concluding that Mr. Russell will have already transmitted copies of it to his Government. You will, however, find in No. 4 the statement of the circumstances attending Bowman's forcible detention.

I have the honor to be, &c.

A. J. FOSTER.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, June 3, 1812.

In the letter of May 30th, which I had the honor to receive from you on the 1st instant, I perceive a difference, in a particular passage of it, from a passage on the same subject, in the despatch from Lord Castlereagh to you, which you were so good as to communicate to me entire, as appears from the tenor of the letter to have been intended by your Government. The passage in your letter to which I allude is as follows: "America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her orders in council. She must recollect that the British Government never for a moment countenanced the idea that the repeal of those orders could depend upon any partial or conditional repeal of the decrees of France. What she always avowed was, her readiness to rescind her orders in council as soon as France rescinded, absolutely and unconditionally, her decrees. She could not enter into any other engagement without the grossest injustice to her allies, as well as to neutral nations in general; much less could she do so if any special exception was to be granted by France upon conditions utterly subversive of the most important and indisputable maritime rights of the British empire."

According to the tenor of the despatch of Lord Castlereagh to you, my recollection is, that in stating the condition on which the orders in council were to be repeated, in relation to the United States, it was specified that the decrees of Berlin and Milan must not be repealed singly and specially in relation to the United States, but be repealed also as to all other neutral nations; and that in no less extent of a repeal of the decrees had the British Government ever pledged itself to repeal the orders in council.

However susceptible the passage in your letter may be of a construction reconcilable with the import of the despatch from Lord Castlereagh, yet, as a similar phraseology of your Government on other occasions has had a construction less extensive, and as it is important, in every respect, that there should be no misunderstanding or possibility of error, you will excuse me for requesting that you will have the goodness to inform me whether, in any circumstance, my recollection of the import of this passage in Lord Castlereagh's despatch is inaccurate.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq. &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, June 3, 1812.

I have received your letter of to-day, requesting an explanation relative to the supposed meaning of a passage in a despatch from Lord Castlereagh to me, that I had the honor to communicate to you confidentially; and I beg leave to state to you, that while I conceive it to be very difficult to give an explanation upon a single point in a note of considerable length, without referring to the whole context, and also believe it to be altogether irregular to enter into a discussion respecting a communication is entirely informal, yet I have no hesitation in assuring you that my note of May 30 contains the whole substance of the despatch alluded to.

In the correspondence that will probably take place between us in consequence of the new ground upon which the Duke of Bassano's report has placed the question at issue between our two countries, I shall be extremely happy to enter at full length upon any topic which you may wish particularly to discuss.

I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, June 4, 1812.

I have had the honor to receive your letter of yesterday in reply to mine of the same date.

As the despatch of Lord Castlereagh was communicated by you to me in my official character, to be shown to the President, and was shown to him accordingly, and as the despatch itself expressly authorized such a communication to this Government, I cannot conceive in what sense such a proceeding could be considered confidential, or how it could be understood that the Executive was to receive one communication for itself, and transmit to Congress another, liable, in the opinion of the Executive, to a different or doubtful construction. I cannot but persuade myself, sir, that, on a reconsideration of the subject, you will perceive that there can be no impropriety in a compliance with the request contained in my letter of yesterday. Should I be mistaken in this expectation, I flatter myself that you will see the propriety of freeing your own communication from all ambiguity and liability to misconstruction. With a view to this, permit me to inquire whether the passage in your letter, stating the condition on which your Government always avowed its readiness to rescind the orders in council, namely, as soon as France rescinded absolutely and unconditionally her decrees, includes in its meaning that the decrees must be rescinded in relation to other neutral nations, as well as to the United States, previous to a repeal of the orders in council in relation to the United States?

I have the honor to be, with great respect and consideration, sir, your most obedient servant,

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq. &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, June 4, 1812.

I must rely upon your candor to feel for the embarrassment into which your note of this day has thrown me. Willing to comply with the request contained in it, I yet cannot but be sensible that, in making any portion of

a despatch from His Majesty's Secretary of State to me the subject of a correspondence between us, I should not be justified to my own Government. I believe there is no example of a correspondence of such a nature, and I should be very loath to establish the precedent.

When I had the honor to make the communication of Lord Castlereagh's despatch to you, in consequence of its being left to my own discretion to do so, I did it because I had reason to think, from the number of my letters which then remained unanswered at your office, such a communication, if made through a note, might have shared the fate of the rest. You will recollect that it was at your own request that I acceded to the despatch being communicated to the President, and that it was also at your instance, as being the only regular way in which the subject could come before the American Government, that I determined to write you a note founded upon it. You were aware, at the latter end of last week, that such was my determination, which I repeated to you through Mr. Graham, who called upon me on the 30th ult. to ask me when I contemplated sending it to your office. The note must have reached you and been read before any message could have been sent from the Executive to Congress.

I cannot, sir, consider my note as liable to the charge of ambiguity, which you now impute to it. The abandonment of our most important maritime rights is more extensively than ever connected by France with the demand of a repeal of our orders in council; and while you are entirely silent as to how far America concurs with her on this point of vital interest to Great Britain, without even a prospect of a reply from you to our just complaints, as expressed in my note on the coincidence of the attitude taken by America with the hostile system of France, I cannot but be aware of the difficulties to which I should expose myself in entering into an explanation on any insulated passage in it. I might, perhaps, by continued silence on your part, never afterwards have an opportunity of making further explanation; and you are well aware how frequently points, taken unconnected with what precedes or follows them, are liable to misconstruction.

But, sir, a reason, paramount to every other, for my not committing myself to an explanation on any single topic, without the discussion between us were to be continued, is the publication of the highly important declaration of His Royal Highness the Prince Regent, to which I had the honor to allude in my note to you of this morning. You will there find stated, in as explicit and authentic a manner as language can convey, the grounds upon which His Majesty's orders in council will be revoked. I cannot, it is true, as yet refer you officially to this document; but I may now be in the expectation of receiving it in a formal shape within a very few days, and, together with it, every explanation possible which you may require.

I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, June 4, 1812.

Since I had the honor of seeing you at your office yesterday, I have perceived an article in the public prints, stated to be extracted from an English newspaper, and purporting to be an official declaration of His Royal Highness the Prince Regent, that the orders in council will be and are absolutely revoked from the period when the Berlin and Milan decrees shall, by some authentic act of the French Government, publicly promulgated, be expressly and unconditionally repealed. A considerable time has now elapsed since, by order of my Government, I had the honor of urging to you the expediency of procuring such an authentic act from the French Government; and, in all probability, the above declaration may have been issued in the confident expectation that the Government of the United States would have been able to produce it ere this.

At all events, sir, considering the important nature of the above-mentioned article, and the probability that I shall have soon to be the organ of some official communication to the American Government in relation to it, I cannot but trust that no measure will meanwhile be adopted by the Congress which would defeat the endeavor of procuring a complete reconciliation between our two countries.

Should any embarrassments arise in consequence of the declaration on the subject of the proposed revocation of the orders in council above alluded to, resting at present upon a mere statement in the newspapers, it will no doubt occur to your recollection, that on the enactment of those orders a measure was taken by Congress for the purpose of meeting them, when they were as yet known but through the public prints.

I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, June 6, 1812.

I have had the honor to receive your letter of the 4th instant. The receipt of that of May 30th has already been acknowledged. As these letters relate to the same subject, (the orders in council,) I shall take both into view in this reply.

I am not disposed to make any unnecessary difficulty, on account of the informality of the document alluded to in the last letter. If the declaration of the Prince Regent was such as to afford the satisfaction desired, it would be received in any form entitled to credit with great interest, as a token of just and friendly sentiments in your Government towards the United States. But nothing is seen in that act of the character which you impute to it. Without removing a single objection to the principle on which the orders in council were issued, and have been maintained, it affords a complete justification of the demand heretofore made on your Government for their repeal.

The British Government has complained that the United States demanded the repeal of the orders in council on a conditional repeal of the French decrees, although the French condition required nothing of Great Britain which she ought not to have consented to, and was, moreover, a condition subsequent, and not precedent; and it now proposes to repeal the orders in council conditionally, also, with this difference: that the condition on which their repeal is to be made, is a condition precedent, and not subsequent, and is likewise one which Great Britain has no right to claim.

This condition requires that the French decrees shall be absolutely and unconditionally repealed, that is, that they shall be repealed, according to explanations given, not only as they related to the United States, but as to all other neutral nations, and also as they prohibited a commerce in British manufactures with the enemies of Great Britain.

So far as the French decrees violated the neutral commerce of the United States, we had a right to demand a repeal of them. To that extent we did demand their repeal, and obtained it. The repeal was declared by an authentic and formal act of the French Government, and communicated to this Government by the minister plenipotentiary of the United States at Paris, and to the British Government by their minister plenipotentiary at London, and has moreover been officially published within the United States. The authenticity of the repeal was placed beyond all controversy, and the official manner in which it was communicated to your Government ought to have been satisfactory to it. A general repeal of the French decrees in favor of all neutral nations, and of such parts of them as prohibited a trade with France, and the countries under her control, in British manufactures, the United States have not demanded, because they had no right to demand it.

The United States have required of Great Britain no more than they required of France, namely, that her unlawful edicts should be repealed so far as they related to us. To a compliance with this demand your Government has prescribed conditions, the mere recital of which is sufficient to show their injustice. The United States can never suffer their rights to be violated by Great Britain, because the commerce of her enemies is not regulated to suit her interest and policy.

If the Duke of Bassano's report to the Conservative Senate of France, published in a French newspaper, be sufficient evidence that the French decrees are now in force, it is not perceived on what ground the high evidence which has been afforded of their repeal could have been resisted.

It is further made a condition of the proposed repeal, by the declaration of the Prince Regent, that it shall take effect at a future uncertain day, and that the orders in council should be again in force, on a contingency of which the British Government is to be sole judge. If this were a ground on which the United States could call on France to repeal her decrees, in case they were still in force as to them, surely the French repeal, to take effect on a future specified day, and whose revival was not provided for on any contingency whatever, was a ground on which their call on Great Britain to repeal her orders in council, in respect to the United States, ought not to have been resisted.

In reply to your insinuation that the demand made on your Government, to repeal its edicts which violate the neutral rights of the United States, is made in concert with France to obtain from Great Britain an abandonment of her maritime rights, it is sufficient to refer you to documents which have been long before the public, and particularly to the letter of Mr. Pinkney to the Marquis Wellesley, of January 14, 1811, protesting in the most pointed manner against looking to any other source for the opinions and principles of the United States than to the United States themselves. Let me repeat, with respect to the orders in council, that all we demand is, that they cease to violate the neutral rights of the United States which they have long violated, and still violate, on the high seas. Should they be continued as to France in any form which may not violate these rights, or as to any other neutral nation, to which they may be applicable, it would be for such nation, and not for the United States, to contend against them.

The report of the French minister, on which this declaration of your Government is founded, affords no proof that the French Government intended by it to violate its engagements to the United States as to the repeal of the decrees. It evidently refers to the continental system, by the means relied on to enforce it. The armies of France can be of no avail either in the support or violation of maritime rights. This construction is the more justifiable, from the consideration that it is supported by corresponding acts of the French Government continued from the time of the repeal, and by communications to the minister plenipotentiary of the United States at Paris to the date of that report.

I beg you, sir, to be assured that it is painful to me to have imposed the least embarrassment on you by the correspondence on the difference between the tenor of Lord Castlereagh's letter to you, and yours founded on it to me. I continue to persuade myself, however, that you will become sensible that, with a knowledge of the extent given by your Government to the conditions on which alone its orders will be repealed, and that this extent was always contemplated by your Government, it was impossible for the President to be inattentive to the fact, or to withhold it from the legislative branch of the Government. I have to add, that had it been proper for him so to have done, the late hour at which your note was received, (not till the noon of the 1st instant,) was not in time to be considered in relation to the message sent to Congress on that day.

With great respect and consideration, I have the honor to be, &c.

JAS. MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

Sir:

WASHINGTON, June 7, 1812.

It is extremely painful to me to find that, notwithstanding the assurance which I had the honor to make to you on the authority of communications from His Majesty's Captain General in Canada, that His Majesty's officers had not only had no hand in urging the Indian tribes to the late atrocities committed on the frontiers of the United States, but had even endeavored, in the true spirit of friendly neighborhood, to restrain them as far as lay in their power, such reports still continue to be circulated with revived industry, and have in a great degree even been countenanced by statements which were recently made in an address from a Governor of one of the United States to the citizens of that State.

To set this question at rest, I beg leave, sir, to transmit to you the enclosed copies of a letter from the late Governor of Canada to His Majesty's Secretary of State for the War Department, and the answer of Lord Liverpool, which have been recently received by me through Lord Castlereagh's office; and from which you will perceive that His Majesty's ministers had not only expressed their decided approbation of the conduct of the Government of Canada, in using whatever influence they might possess over the Indians to dissuade them from committing hostilities on the citizens of the United States, but also had especially directed that those exertions should be continued.

While I assure you, sir, very frankly, that I do not believe such evidence was necessary to convince the American Government of the erroneous nature of the above-mentioned reports, I yet beg to request that this letter and its enclosures may, as early as possible, be laid before the President.

I also beg leave to add, that it is really a serious inconvenience thus to find it necessary continually to furnish fresh evidence in order to oppose rumors, which, though unsupported by the shadow of a document or any other authority whatever than mere hearsay, do yet derive a consequence from the circulation given to them under the official sanction of a State Government.

I have thought it necessary to be thus explicit on this subject, on account of the odious nature of the reports in question. Dreadful and horrible as they are, they would at any time suffice to excite the most violent irritation through a country; but they surely ought not to be made use of without the most clear and convincing proofs to constitute their veracity.

I have the honor, &c.

HON. JAMES MONROE, &c.

AUGUSTUS J. FOSTER.

[Referred to in Mr. Foster's despatch of June 7, 1812.]

Copy of a letter from Sir James H. Craig to the Earl of Liverpool.

MY LORD:

QUEBEC, March 29, 1811.

Under the present circumstances existing between His Majesty's Government and that of the American States, I feel it to be necessary to forward to your lordship the information that is contained in the enclosed letter and papers from Lieutenant Governor Gore, and to which I add a copy of my answer to him on the subject. This is the first direct communication that I have had either from Lieutenant Governor Gore, or from any officer of the Indian Department, relative to the intentions of the Indians. My private accounts, however, which, though not official, were equally to be relied on, gave me assurances of their determination to have recourse to arms, so long ago as in November; and in my wish to assist in saving the American frontier from the horrors usually attending the first burst of an Indian war, by enabling them to take precautions against it, I communicated my accounts to Mr. Morier; and though I thought that an official communication might be extremely objectionable, I gave him, however, permission, if he did not think it improper from any circumstance of situation, in which he might find himself with them, verbally to convey the information to the American Government, and I have since heard from Mr. Morier that he did so. In January I repeated to Mr. Morier that I continued to receive a confirmation of the intelligence I had before sent him, but I do not know whether he made any further communication to the American Government.

I have the honor to be, &c.

J. H. CRAIG.

[Referred to in Mr. Foster's despatch of June 7, 1812.]

Copy of a letter from Lord Liverpool to the officer administering the Government of Lower Canada.

SIR:

DOWNING STREET, July 28, 1811.

In reference to the despatches Nos. 37 and 39, of Lieutenant Governor Sir James Craig, with their respective enclosures, on the subject of the hostile intentions which have been manifested by the Indians against the Americans, and of the measures which had been taken by that officer to dissuade them from a recourse to arms, I am commanded by His Royal Highness the Prince Regent to acquaint you that the conduct of Sir James Craig, in this respect, has received His Royal Highness's entire approbation, and I am to desire that you will persevere in the attempt made by him to restrain the Indians from the commission of any act of hostility on the American frontier.

I have the honor to be, &c.

LIVERPOOL.

Mr. Foster to the Secretary of State.

SIR:

WASHINGTON, June 8, 1812.

Since I had the honor of writing to you yesterday, I have received some additional papers relating to the subject mentioned in my letter, which I transmit to you, enclosed. They consist of a letter from Sir James Craig to Lord Liverpool, enclosing the extract of a letter from Lieutenant Governor Gore, and of the instructions which he had given to the Deputy Superintendent of Indian Affairs, to exert himself in restraining the Indians from committing any act of hostility against the citizens of the United States.

Allow me, sir, to request that these papers may, without loss of time, be communicated to the President.

I have the honor, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

[Referred to in Mr. Foster's letter of June 8, 1812.]

MY LORD:

QUEBEC, May 21, 1811.

In a despatch, No. 37, I thought it right to apprise your lordship of the appearance of hostile intentions towards the Americans which had shown itself among the Indians in the upper country, as well as of the steps I had taken on the occasion.

In pursuing the same subject, I have now the honor to enclose copies of the letter I have received from Lieutenant Governor Gore, and of the instructions which, in consequence of mine to him, he had given to the Deputy Superintendent of Indian Affairs.

I have the honor to be, &c.

J. H. CRAIG.

The EARL OF LIVERPOOL, &c.

Extract of a letter from Lieutenant Governor Gore to His Excellency Sir James Craig.

YORK, UPPER CANADA, March 2, 1811.

I have the honor to acknowledge the receipt of your excellency's letter of the 2d of February, which reached me on the 24th. I lost no time in directing the Deputy Superintendent General of Indian Affairs to instruct the officers of the Indian Department to caution and restrain the Indians from committing any act of hostility on the white inhabitants in the neighborhood. A copy of my letter to Colonel Claus is herewith transmitted.

Extract of a letter from Lieutenant Governor Gore to Colonel Claus, Deputy Superintendent General of Indian Affairs.

YORK PLACE, February 26, 1811.

In further notice of Mr. Elliott's letters to you, it is desirable that you should desire him to be more than usually circumspect in his communications with the Indians, so as to leave no possible suspicion of favoring their projected

hostilities against the United States of America. You will, therefore, direct him, as occasion may offer, to impress upon the Indians the certainty of eventual misfortune to themselves from any attack on the whites; to point out to them that the Americans are become so strong, that any effort on their part to prevail by arms must be vain; and, that it is from such an assurance, and out of regard to their safety, comfort, and happiness, that their great father expressly forbids that any encouragement should be afforded to them in any warlike enterprise.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, June 8, 1812.

I have had the honor to receive your letter of June 1st, with the papers enclosed, relating to several British seamen who are stated to have entered into the naval service of the United States.

Without repeating what I had the honor to state to you in a personal interview respecting the deserter from the *Gleaner*, and the conduct of the armed party from that vessel, who pursued him some distance into the country, I shall confine my remarks to your complaint of the detention of British seamen in American vessels, twenty-eight of whom are said to have been on board the *Constitution*. Although the fact cannot be admitted on the evidence produced, because it is contrary to the laws of the United States, yet it will be inquired into. It is also possible that the seamen so detained, admitting the fact of their detention, may have become legally American citizens; in which case, they must be protected as such. The Government of the United States can make no distinction between native and naturalized citizens, as has been already remarked to you. I repeat, also, that your Government cannot object to this rule, because a British statute naturalizes, *ipso facto*, all alien seamen who shall have been two years on board a British ship of war, and considers them, equally with natives, within the allegiance and entitled to the protection of Great Britain.

The principal object of your letter seems to be, to find some analogy between the American practice, with respect to seamen, and the British practice; and to deduce from the former a justification of the latter. Permit me to note the difference, or rather the contrast, between them.

The regulations of the United States prohibit the enlistment of aliens into their vessels of war. No such regulations exist on the side of Great Britain.

Enlistments by force, or impressments, are contrary to the laws of the United States. This mode of procuring crews for public ships is not only practised by Great Britain within her legal jurisdiction, but is extended to foreign vessels on the high seas, with abuses which aggravate the outrage to the nations to whom the vessels belong.

Most of the States composing our Union have enacted laws providing for the restoration of seamen abandoning the service of merchant vessels, to which they were bound by voluntary engagement. If no provision has been made for the surrender of deserters from public ships, it is because such deserters, although in many instances forced into the service, would be deemed malefactors, and punishable as such; and it is not the practice of any country, particularly of Great Britain, to surrender malefactors without a stipulation, which is always reciprocal. In Great Britain we know from experience that no provision exists for restoring American seamen to our merchant vessels, even to the fulfilment of their voluntary engagements; and if deserters from American ships of war are ever restored, it is by the courtesy, not the legal duty, or perhaps authority, of British naval commanders, and from the policy of recommending a practice which, if mutual, must be evidently in favor of the British service—the desertion from it being so common, in comparison with that from the service of the United States.

You observe that your Government has charged you to state, that it will continue to give the most positive orders against the detention of American citizens on board British ships of war. If those orders were to prohibit the impressment of seamen from American vessels at sea, the great source of the evil, they would have been a welcome proof of its disposition to do justice and promote a good understanding between the two countries. Nothing short of this can be an adequate remedy, and the United States are known to be ready to substitute to the practice the most liberal arrangements on the subject. But suppose the orders to be given as signified, and in the latitude and form promising most efficacy, how could they restore that portion of the thousands of our citizens who have been impressed or passed into ships stationed or cruising in remote parts of the globe? But it is signified only that your Government will continue to give orders against the detention of American citizens on board British ships of war. It follows that they are to be detained, as heretofore, until formal proof can be produced to the British Admiralty, in each particular instance, that the seaman is a native citizen of the United States; the difficulty and delay in doing which are too obvious to need explanation. Nor is this the only cause of complaint. When such proof has been produced to the British Admiralty, a direct refusal is made to the discharge of the seaman, if he has resided in Great Britain, shall have married there, or shall have accepted the bounty given to seamen voluntarily entering the service, although the American seamen, after having been forced into the service, have accepted the bounty either to relieve their wants, or otherwise to alleviate their condition. I omit other causes of detention which might be mentioned. Add to the whole, that it is not sufficient to prove that the seamen taken from American vessels are not subjects of Great Britain nor the subjects of her enemy. It has been the invariable practice of the British cruisers to include in their impressments from American vessels the citizens and subjects of every neutral nation, even where it was known that they were such; and no instance, it is believed, can be given of the success of an application for the restoration of such neutral aliens to the service of the United States.

These observations cannot fail, as I presume, to satisfy you, sir, how little ground your Government has for the complaints stated in your letter, and how much the United States have for those they have so long and so strenuously, but, at the same time, so ineffectually presented, in behalf of their injured mariners.

I have the honor to be, with great respect and consideration, sir, your most obedient servant,

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, June 10, 1812.

In answer to the letters of the 7th and 8th instant, which I have had the honor to receive from you, disclaiming any agency of your Government in promoting the hostility of the Indians, it is my duty to communicate to you such information as has been transmitted to this Government on the subject, at different periods, since the year 1807. From these documents it appears, that, whatever may have been the disposition of your Government, the conduct of its subordinate agents has tended to excite the hostility of those tribes towards the United States.

In estimating the comparative evidence on this subject, it is impossible not to recollect the communication lately made to this Government respecting the conduct of Sir James Craig in another important transaction, which, it appears, was approved by Lord Liverpool.

I have the honor to be, very respectfully, sir, your most obedient servant,

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

[The following papers are those referred to and enclosed in Mr. Monroe's letter of June 10.]

Extracts of letters to the Secretary of War, from Captain Dunham, of the United States' army, dated

MICHLIMACKINAC, May 24, 1807.

There appears to be a very general and extensive movement among the savages in this quarter. Belts of wampum are rapidly circulating from one tribe to another, and a spirit is prevailing by no means pacific. The enclosed talk, which has been industriously spread among them, needs no comment.

There is certainly mischief at the bottom, and there can be no doubt, in my mind, but that the object and intention of the great Maniton, or second Adam, under the pretence of restoring to the aborigines their former independence, and to the savage character its ancient energies, is, in reality, to induce a general effort to rally, and to strike somewhere a desperate blow.

Extract from a talk delivered at Le Marouitnong, entrance of Lake Michigan, by the Indian chief Le Magouis, or the Trout, May 4, 1807.

I am the father of the *English*, of the French, of the Spaniards, and of the Indians; I created the first man, who was the common father of all these people, as well as yourselves; and it is through him, whom I have awaked from his long sleep, that I now address you. *But the Americans I did not make. They are not my children, but the children of the evil spirit.* They grew from the scum of the great waters, when it was troubled by the evil spirit, and the froth was driven into the woods by a strong east wind. They are numerous, but I hate them. My children, you must not speak of this talk to the whites. It must be hidden from them. I am now on the earth, sent by the Great Spirit to instruct you. Each village must send me two or more principal chiefs to represent you, that you may be taught. The bearer of this talk will point out to you the path to my wigwam. I could not come myself to Abre Choche, because the world is changed from what it was. It is broken and leans down, and, as it declines, the Chippewas and all beyond will fall off and die. Therefore you must come and see me, and be instructed. Those villages which do not listen to this talk, and send me two deputies, will be cut off from the face of the earth.

From Captain Dunham to the Secretary of State.

MICHLIMACKINAC, August 30, 1807.

The cause of the hostile feelings on the part of the Indians is principally to be attributed to the influence of foreigners trading in the country.

From Governor Harrison.

JEFFERSONVILLE, (Falls of Ohio,) April 14, 1808.

A young man from the Delaware towns came to inform me that a Pattawatamie Indian had arrived at the towns with a speech from the British, in which they were informed that they (the British) were upon the point of commencing hostilities against the United States, and requesting the Delawares to join them.

From General William Clark.

ST. LOUIS, April 30, 1809.

I have the honor to enclose to you a copy of a letter which confirms my suspicions of the British interference with our Indian affairs in this country.

Extract referred to above.

I am at present in the fire, receiving Indian news every day. A chief of the Puant nation appears to be employed by the British to get all the nations of Indians to Detroit, to see their fathers the British, who tell them that they pity them in their situations with the Americans, because the Americans had taken their lands and their game; that they must join, and send them off from their lands. They told the savages that the Americans would not give them a blanket, nor any thing good for their families.

They said they had but one father that had helped them in their misfortunes; and that they would assemble, defend their father, and keep their lands. It appears that four English subjects have been at Rivière à la Roche this winter, in disguise; they have been there to get the nations together, and send them on the American frontiers. The Indians are pushed on by our enemies to take the fort at Bellevue.

From Samuel Tupper, Indian factor.

SANDUSKY, June 7, 1809.

The conduct of British traders in introducing spirituous liquors among the Indians in this part of the country, and their determined hostility to the measures of our Government, have long been subjects of complaint.

From Governor William Hull.

DETROIT, June 16, 1809.

The influence of the Prophet has been great, and his advice to the Indians injurious to them and the United States. The powerful influence of the British has been exerted in a way alluring to the savage character.

From Governor Harrison.

VINCENNES, June 14, 1810.

An Iowa Indian informs me that two years ago this summer an agent from the British arrived at the Prophet's town, and, in his presence, delivered the message with which he was charged; the substance of which was to urge the Prophet to unite as many tribes as he could against the United States, but not to commence hostilities until they gave the signal. From this man, and others of his nation, I learn that the Prophet has been constantly soliciting their own and other tribes of the Mississippi to join him against the United States.

From Governor Harrison.

VINCENNES, July 18, 1810.

A considerable number of Sacs went, some time since, to see the British superintendent, and, on the 1st instant, fifty more passed Chicago for the same destination. A Miami chief, who has just returned from his annual visit to Malden, after having received the accustomed donation of goods, was thus addressed by the British agent: "My son, keep your eyes fixed on me; my tomahawk is now up; be you ready, but do not strike until I give the signal."

From General William Clark.

ST. LOUIS, July 20, 1810.

One hundred and fifty Sacs are on a visit to the British agent, by invitation, and a small party on a visit to the island of St. Joseph, in Lake Huron.

From Governor Harrison.

VINCENNES, July 25, 1810.

There can be no doubt of the designs of the prophet and the British Agent of Indian Affairs to do us injury. This agent is a refugee from the neighborhood of ———, and his implacable hatred to his native country prompted him to take part with the Indians in the battle between them and General Wayne's army. He has, ever since his appointment to the principal agency, used his utmost endeavors to excite hostilities; and the lavish manner in which he is allowed to scatter presents among them shows that his Government participates in his enmity, and authorizes his measures.

From Governor Hull.

DETROIT, July 27, 1810.

Large bodies of Indians from the westward and southward continue to visit the British post at Amherstburg, and are supplied with provisions, arms, ammunition, &c. Much more attention is paid to them than usual.

Extract from the speech of Red Jacket, in behalf of himself and the other deputies of the Six Nations. February, 1810.

BROTHER:

Since you have had some disputes with the British Government, their agents in Canada have not only endeavored to make the Indians at the westward your enemies, but they have sent a war-belt amongst our warriors, and to poison their minds, and make them break their faith with you. At the same time, we had information that the British had circulated war-belts among the Western Indians, and within your territory.

From John Johnson, Indian Agent.

FORT WAYNE, August 7, 1810.

Since writing to you on the 25th ultimo, about one hundred men of the Saukies have returned from the British agent, who supplied them liberally with every thing they stood in want of. The party received forty-seven rifles and a number of fusils, with plenty of powder and lead. This is sending fire-brands into the Mississippi country, inasmuch as it will draw numbers of our Indians to the British side, in the hope of being treated with the same liberality.

From Governor Harrison.

VINCENNES, February 6, 1811.

If the intentions of the British Government are pacific, the Indian Department of Upper Canada have not been made acquainted with them; for they have very lately said every thing to the Indians who have visited them to excite them against us.

From John Johnson.

FORT WAYNE, February 8, 1811.

——— has been at this place. The information derived from him is the same I have been in possession of for several years, to wit, the intrigues of the British agents and partisans in creating an influence hostile to our people and Government within our territory.

From Mr. Irwin, Indian factor.

CHICAGO, May 13, 1811.

An assemblage of the Indians is to take place on a branch of the Illinois, by the influence of the Prophet. The result will be hostile, in the event of a war with Great Britain.

From Governor Harrison.

VINCENNES, September 17, 1811.

——— states that almost every Indian from the country above this had been, or were then gone, to Malden, on a visit to the British agent. We shall probably gain our destined point at the moment of their return. If, then,

the British agents are really endeavoring to instigate the Indians to make war upon us, we shall be in their neighborhood at the very moment when the impressions which have been made against us are more active in the minds of the savages.

_____ succeeded in getting the chiefs together at Fort Wayne, though he found them all preparing to go to Malden. The result of the council discovered that the whole tribes (including the Weas and Eel Rivers, for they are all Miamies) were about equally divided in favor of the Prophet and the United States. Lafrousier, the Wea chief, whom I before mentioned to you as being seduced by the Prophet, was repeatedly asked by _____ what land it was that he was determined to defend with his blood—whether it was that which was ceded by the late treaty or not? But he would give no answer.

_____ reports that all the Indians of the Wabash have been, or now are, on a visit to the British agent at Malden. He has never known one-fourth as many goods given to the Indians as are now distributing. He examined the share of one man, (not a chief,) and found that he had received an elegant rifle, twenty-five pounds of powder, fifty pounds of lead, three blankets, three strouds of cloth, ten shirts, and several other articles. He says that every Indian is furnished with a gun, (either rifle or fusil,) and an abundance of ammunition. A trader of this country was lately in the King's stores at Malden, and was told that the quantity of goods for the Indian Department which had been sent out this year exceeded that of common years by twenty thousand pounds sterling. It is impossible to ascribe this profusion to any other motive than that of instigating the Indians to take up the tomahawk. It cannot be to secure their trade; for all the peltries collected on the waters of the Wabash in one year, if sold in the London market, would not pay the freight of the goods which have been given to the Indians.

I am decidedly of opinion that the tendency of the British measures is hostility to us.

From Governor Willie Blount.

NASHVILLE, September 11, 1811.

There is in this place a very noted chief of the Chickasaws, a man of truth, who wishes the President should be informed that there is a combination of the Northern Indians, promoted by the English, to unite in falling on the frontier settlements, and are inviting the Southern tribes to join them.

From Governor Ninian Edwards.

CAHOKIA, ST. CLAIR COUNTY, ILLINOIS TERRITORY, April 24, 1812.

The opinion of the celebrated British trader Dixon is, that, in the event of a British war, all the Indians will be opposed to us, and he hopes to engage them in hostility by making peace between the Sioux and Chippewas, two very large nations, and getting them to declare against us.

Extract of a letter from Ninian Edwards, Esq., Governor of the Illinois Territory, to the Secretary of War, dated

ILLINOIS TERRITORY, January 25, 1812.

Many of those Indians certainly contemplate joining the British. They are in the habit of visiting Fort Malden annually; and, as soon as they are prepared for their departure thither, they will (as I believe they have already declared) make inroads upon our settlements, as well to take scalps as to steal horses.

Extract of a letter from General William Clark to the Secretary of War, dated

ST. LOUIS, February 13, 1812.

If possession was taken of a point about the mouth of Fox river, where it enters into Green bay, communications would be cut off between the traders and Indians on the Mississippi, below Prairie du Chien and the British trading-houses on the lakes. Smuggling might be prevented through that channel. Mr. Dickson and those British traders, who are also *agents*, who have smuggled an immense quantity of goods through that channel this year, and now in the Mississippi, could be caught on their return as they go out in the spring. This description of people grasp at every means in their power to wean the affections of the Indians from any thing that is American; having it in their power to make large presents to the Indians, the most of whom are to be bought, and by this means create great difficulty wherever they have an influence.

Extracts of a letter from John Shaw, Esq., Indian agent, to the Secretary of War, dated

FORT WAYNE, 10th of 3d month, 1812.

It appears that the hostile disposition of the Indians, confederated under the Shawanese Prophet, that so recently manifested itself in the conflict on the Wabash, is not yet changed. By every thing that I am able to learn, they are secretly plotting to strike an effective blow on our frontier, and it is said that they have been this winter invited by the British agent at Fort Malden to pay him a visit; and I believe it is a fact that a considerable number of them have recently gone to that place with a view of procuring ammunition.

A speech is also said to have been recently sent to Winnemac, a Pattawatamie chief, from Elliott, the British agent, but to what purpose I have not yet been able to learn.

Extracts of a letter from John Shaw, Esq., Indian agent, to the Secretary of War, dated

FORT WAYNE, 1st of 3d month, 1812.

It has been reported by a Miami Indian, who was hunting a few miles from this, that twenty-four Indians of the Shawanese Prophet's band, composed of Winnebagoes, Kickapoos, and Shawanese, passed his camp about six days ago, on their way to Sandusky, for a quantity of powder and lead, which they said was to be sent them from Canada.

It also appears, from the statements of a gentleman of Detroit, that the Morpock, (Pattawatamie chief,) with a small party of Indians, has been, for a considerable time past, encamped on the river Raisin, and constantly getting provisions from the British at Fort Malden; and that it is firmly believed that he is waiting for a signal from Elliott, the British agent, to commence hostilities on our frontier.

Extract of a letter from Robert Forsyth, Esq. to Captain Rhea, commanding at Fort Wayne, dated

FORT WAYNE, March 10, 1812.

I have no doubt but those Indians that passed this post some time ago are a deputation sent to the British garrison for the purpose of procuring ammunition.

The Morpock, a Pattawatamie chief, wintered at river Huron, about twenty miles from the garrison of Amherstburg, and has drawn provisions and ammunition during the whole winter; he has about twenty men with him.

Extract of a letter from B. F. Stickney, Esq., Indian agent, to His Excellency William H. Harrison, dated

FORT WAYNE, April 18, 1812.

Mr. Shaw has informed you that twenty-four of the Prophet's band had passed this place, in the last of February, for Fort Malden, to receive ammunition which was promised to be ready for them. They returned on the 4th instant, with as much gunpowder, lead, and new fusils as they could carry.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, June 10, 1812.

I have the honor to transmit to you, for the information of your Government, the enclosed papers, Nos. 1 and 2, in relation to William Helby, alias William Bowman, a sailor belonging to the United States' sloop of war the Hornet, for whom Lord Castlereagh, on the 20th of February, when his lordship supposed that vessel was in a British port, informed Mr. Russell that a writ of *habeas corpus* would be issued and enforced by the legal authorities of Great Britain.

I have the honor to be, &c.

JAMES MONROE.

A. J. FOSTER, Esq., &c.

No. 1.

SIR:

NAVY DEPARTMENT, July 2, 1810.

Having seen the deposition of Elizabeth E. Bowman, in the case of William Bowman, alias William Helby, alias William Elby, said to have been compelled by force to enter on board the Hornet, I wrote to Captain Lawrence, commander of the Hornet, for information upon the subject, and have received from him the paper which I have the honor of transmitting herewith.

It can be scarcely necessary for me to remark, that neither the laws nor usages of our country would sanction any compulsory means to induce persons to enter the navy of the United States.

I am, with great respect, sir, your most obedient servant,

PAUL HAMILTON.

The Hon. the SECRETARY OF STATE.

No. 2.

UNITED STATES' SHIP HORNET, NEW YORK, June 2, 1812.

I do hereby certify that, in consequence of not being able to get a berth on board a merchant ship, and being absolutely in want of bread, I was induced to enter as a seaman on board the Hornet, and for that purpose repaired to her rendezvous, then open in Philadelphia, and voluntarily entered with Lieutenant Cassin, on the 3d July, 1811, to serve the United States of America honestly and faithfully for the term of two years, unless sooner discharged. At the time I shipped, I declare that I was perfectly sober, and that, as soon as I had received my three months' advance, I went on board the gunboat, then lying off the navy-yard for the purpose of receiving the men shipped for the Hornet, accompanied by the officer commanding her and the landlord of the rendezvous; and I solemnly declare that no force whatever was used to compel me to enter the service, or to get me on board the gunboat.

WILLIAM HELBY.

JOSEPH SMOOT, *Midshipman, U. S. Navy,* }
JACOB M. JACOBS, *Captain's Clerk,* } *Witnesses.*

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, June 10, 1812.

It has been extremely satisfactory to me to find, by your letter dated June 6, which I had the honor to receive yesterday morning, that it was not the wish of the American Government to close all further discussion relative to the important question at issue between the two countries. I beg you to be assured, sir, that it never was my intention, in alluding to my letters which had remained without answer at your office, to use any expressions which would, in the most remote manner, contain any thing personal. I shall ever be ready, with pleasure, to bear testimony to that frankness, candor, and good temper, which so eminently distinguish you, and have been acknowledged to belong to you by all who have ever had the honor to discuss with you any question of public interest.

But, sir, although you were not backward in entering into full explanations with me verbally, I could not but feel, particularly as I had just had communications to make to you of the greatest importance, that I had a right to expect from you a written reply to them; and while I remembered that two of my former notes were still unanswered, the one written three months ago, containing, among other important topics, a particular question which I

was expressly instructed to put to you, as to whether you would point to any public act on the part of the French Government by which they had really revoked their decrees, and the other furnishing strong evidence of the continued existence of those very decrees; also, when I perceived that my note, communicating the Duke of Bassano's report, which you knew was to be sent to you on the 1st instant, was not waited for, but that a message was transmitted by the Executive to Congress, which, it seems, contained a reference to an insulated passage in the despatch on which my note was founded, that, if taken unconnected with what preceded or followed, it might be liable to misconstruction, I could not avoid apprehending that no means of further explanation might be left open to me.

I beg you to be assured, sir, that if I was embarrassed by your demands of an explanation, as to what appeared to you to be a difference between Lord Castlereagh's despatch, communicated to you, and my note, it arose from the novelty of the demand, that seemed to involve an informality of proceeding, in which I could not feel myself justified in acquiescing. Had you, in making a reply to my communication, asked me how far a repeal of the French decrees was demanded by my Government, and as to whether a special repeal as far as respected America would be sufficient, I should have had no hesitation in giving you every satisfaction.

Your note of the 6th instant has, by showing that the door was not absolutely shut to a continuation of our discussion, relieved me from further difficulty on this point.

I have no hesitation, sir, in saying, that Great Britain, as the case has hitherto stood, never did, nor ever could, engage without the grossest injustice to herself and her allies, as well as to other neutral nations, to repeal her orders as affecting America alone, leaving them in force against other States, upon condition that France would except singly and specially America from the operation of her decrees. You will recollect, sir, that the orders in council are measures of defence, directed against the system contained in those decrees; that it is a war of trade which is carried on by France; that what you call the municipal regulations of France have never been called municipal by France herself, but are her main engines in that novel and monstrous system. It cannot then be expected that Great Britain should renounce her efforts to throw back upon France the evils with which she menaces Great Britain, merely because France might seek to alleviate her own situation by waiving the exercise of that part of her system which she cannot enforce.

But, sir, to what purpose argue upon a supposed case; upon a state of things not likely to occur, since the late report and *senatus consultum* which have been published to the world, as it were insulatingly in the face of those who would contend that any repeal whatever had taken place of the decrees in question.

You draw a comparison between the mode in which this instrument has appeared, and that which you call the high evidence of the repeal as stated in Mr. Champagny's note; and it would almost seem as if you considered the latter as the most authentic of the two; but, sir, you cannot seriously contend that the Duke of Bassano's report, with the *senatus consultum* accompanying it, published in the official paper of Paris, is not a very different instrument from the above letter, offering a mere provisional repeal of the decrees, upon conditions utterly inadmissible; conditions too, which really formed of themselves a question of paramount importance.

The condition then demanded, and which was brought forward so unexpectedly, was a repeal of the blockade of May 1806, which Mr. Pinkney, in the letter you have referred me to, declared to have been required by America as indispensable in the view of her acts of intercourse and non-intercourse, as well as a repeal of other blockades of a similar character, which were maintained by Great Britain to be founded on strict maritime right.

The conditions now annexed to the French demand are much more extensive, and, as I have shown, include a surrender of many other of the most established principles of the public law of nations.

I cannot, I confess, see upon what ground you contend that the report of the Duke of Bassano affords no proof against any partial repeal of the French decrees. The principles advanced in that report are general; there is no exception made in favor of America; and in the correspondence of Mr. Barlow, as officially published, he seems to allow that he had no explanation respecting it. How can it, therefore, be considered in any other light than as a republication of the decrees themselves, which, as it were to take away all grounds for any doubt, expressly advances a doctrine that can only be put in practice on the high seas, namely, "that free ships shall make free goods;" since the application of such a principle to vessels in port is absolutely rejected under his continental system.

It is indeed impossible to see how, under such circumstances, America can call upon Great Britain to revoke her orders in council. It is impossible that she can revoke them at this moment in common justice to herself and her allies; but, sir, while under the necessity of continuing them, she will be ready to manage their exercise so as to alleviate as much as possible the pressure upon America; and it would give me great pleasure to confer with you at any time upon the most advisable manner of producing that effect.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

Mr. Monroe to Mr. Foster.

Sir:

DEPARTMENT OF STATE, June 13, 1812.

I am not aware that any letter of yours, on any subject on which the final decision of this Government had not been communicated to you, has been suffered to remain without a prompt and written answer; and even in the cases thus supposed to have been settled, which you thought proper to revive, although no favorable change had taken place in the policy or measures of your Government, I have never failed to explain to you informally, in early interviews, the reasons which made it imperiously the duty of the United States to continue to afford to their rights and interests all the protection in their power. The acknowledgment of this, on your part, was due to the frankness of the communications which have passed between us on the highly important subjects on which we have treated, and I am happy to find by your letter of the 10th inst. that, in relying on it, I have not been disappointed.

The impropriety of the demand made by your Government of a copy of the instrument or instructions given by the French Government to its cruisers, after the repeal of the Berlin and Milan decrees, was sufficiently shown in Mr. Pinkney's letter to the Marquis Wellesley of the 10th of December, 1810, and in my letters to you of 23d July, 1811, and 14th January last. It was for this reason that I thought it more suitable to refer you to those letters for the answer to that demand, than to repeat it in a formal communication.

It excites, however, no small surprise that you should continue to demand a copy of that instrument, or any new proof of the repeal of the French decrees, at the very time that you declare that the proof which you demand, in the extent to which we have a right to claim the repeal, would not, if afforded, obtain a corresponding repeal of the orders in council. This demand is the more extraordinary, when it is considered that since the repeal of the decrees, as it respects the United States, was announced, your Government has enlarged its pretensions as to the conditions on which the orders in council should be repealed, and even invigorated its practice under them.

It is satisfactory to find that there has been no misapprehension of the condition, without which, your Government refuses to repeal the orders in council. You admit that, to obtain their repeal, in respect to the United States, the

repeal of the French decrees must be absolute and unconditional, not as to the United States only, but as to all other neutral nations; nor as far as they affect neutral commerce only, but as they operate internally and affect the trade in British manufactures with the enemies of Great Britain. As the orders in council have formed a principal cause of the differences which unhappily exist between our countries, a condition of their repeal, communicated in any authentic document or manner, was entitled to particular attention; and surely none could have so high a claim to it as the letter from Lord Castlereagh to you, submitted by his authority to my view, for the express purpose of making that condition, with its other contents, known to this Government.

With this knowledge of the determination of your Government, to say nothing of the other conditions annexed to the repeal of the orders in council, it is impossible for me to devise or conceive any arrangement consistent with the honor, the rights, and interests of the United States, that could be made the basis, or become the result of a conference on the subject. As the President, nevertheless, retains his solicitude to see a happy termination of any difference between the two countries, and wishes that every opportunity, however unpromising, which may possibly lead to it, should be taken advantage of, I have the honor to inform you that I am ready to receive and pay due attention to any communications or propositions having that object in view which you may be authorized to make.

Under existing circumstances, it is deemed most advisable, in every respect, that this should be done in writing, as most susceptible of the requisite precision, and least liable to misapprehension. Allow me to add, that it is equally desirable that it should be done without delay. By this it is not meant to preclude any additional opportunity which may be afforded by a personal interview.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, June 14, 1812.

I have the honor to acknowledge the receipt of your letter of the 13th inst.

It is really quite painful to me to perceive that, notwithstanding the length of the discussions which have taken place between us, misapprehensions have again arisen respecting some of the most important features in the questions at issue between the two countries, which misapprehensions, perhaps, proceeding from my not expressing myself sufficiently clear in my note of the 10th inst. in relation to one of those questions, it is absolutely necessary should be done away.

I beg leave again to state to you, sir, that it is not the operation of the French decrees upon the British trade with the enemies of Great Britain that has ever formed a subject of discussion between us, and that it is the operation of those decrees upon Great Britain, through neutral commerce only, which has really been the point at issue. Had America resisted the effect of those decrees in their full extent upon her neutral rights, we should never have had a difference upon the subject; but while French cruisers continued to capture her ships under their operation, she seems to have been satisfied if those ships were released by special imperial mandates, issued as the occasion arose, and she has chosen to call municipal an unexampled assumption of authority by France in countries not under French jurisdiction, and expressly invaded for the purpose of preventing their trade with England upon principles directly applicable to, if they could be enforced against America.

I beg you to recollect, sir, that if no revocation has been made of the orders in council, upon any repeal of the French decrees, as hitherto shown by America to have taken place, it has not been the fault of His Majesty's Government. It was France, and afterwards America, that connected the question relative to the right of blockade with that arising out of the orders in council. You well know that, if these two questions had not been united together, the orders in council would have been revoked in 1810. How could it be expected that Great Britain, in common justice to other neutral nations, to her allies, and to herself, should not contend for a full and absolute repeal of the French decrees, or should engage to make any particular concession in favor of America, when she saw that America would not renounce her demand for a surrender, with the orders in council, of some of our most important maritime rights.

Even to this day, sir, you have not explicitly stated, in any of the letters to which you refer me, that the American Government would expressly renounce asking for a revocation of the blockade of 1806, and the other blockades alluded to in Mr. Pinkney's letter; much less have I been able to obtain from you any disclaimer of the right asserted by France to impose upon the world the new maritime code promulgated by France in the late re-publication of her decrees, although I have, by order of my Government, expressly stated their expectation of such disclaimer, and repeatedly called for an explanation upon this point.

I will now say, that I feel entirely authorized to assure you, that if you can at any time produce a full and unconditional repeal of the French decrees, as you have a right to demand it in your character of a neutral nation, and that it be disengaged from any connexion with the question concerning our maritime rights, we shall be ready to meet you with a revocation of the orders in council. Previously to your producing such an instrument, which I am sorry to see you appear to regard as unnecessary, you cannot expect of us to give up our orders in council.

In reference to the concluding paragraph of your letter, in answer to that in mine of the 10th instant, I will only say, that I am extremely sorry to find you think it impossible to devise or conceive any arrangement consistent with the honor, rights, and interests of the United States, which might tend to alleviate the pressure of the orders in council upon the commerce of America. It would have given me great satisfaction if we could have fallen upon some agreement that might have had such effect. My Government, while under the imperious necessity of resisting France with her own weapons, most earnestly desires that the interests of America may suffer as little as possible from the incidental effect of the conflict. They are aware that their retaliatory measures have forced the ruler of France to yield, in some degree, from his hostile decrees; and whether it were more advisable to push those measures rigorously on until they complete the breaking of it up altogether, (the main object of our retaliatory system,) or to take advantage of the partial and progressive retractions of it, produced by the necessities of the enemy, has been a question with His Majesty's Government. It is one on which they would have been most desirous to consult the interests of America. Under existing circumstances, however, and from our late communications, I have not felt encouraged to make you any written proposal, arising out of this state of things; I shall, therefore, merely again express to you that, as the object of Great Britain has been throughout to endeavor, while forced in behalf of her most important rights and interests to retaliate upon the French decrees, to combine that retaliation with the greatest possible degree of attention to the interests of America. It would give His Majesty's Government the most sincere satisfaction if some arrangement could be found which would have so desirable an effect.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

III. CORRESPONDENCE ON THE SUBJECT OF THE BRITISH SHIP LITTLE BELT.

J. P. Morier, Chargé d'Affaires of His Britannic Majesty, to Mr. Monroe, Secretary of State.

SIR:

BALTIMORE, June 26, 1811.

I have the honor to enclose the copy of an official letter addressed to Rear Admiral Sawyer, by Captain Bingham, commanding His Majesty's sloop the Little Belt, which contains an account of the late engagement between that ship and the American frigate the President.

In thus communicating to you, without orders from His Majesty's Government, this document, which, in the most essential part, differs so materially from that of Commodore Rodgers, I trust that this Government will receive it as a proof of the sincere desire which exists with me to open the way to an amicable arrangement of the question which may arise out of this unfortunate affair, when it shall be known to His Majesty's Government.

I have the honor to be, &c.

J. P. MORIER.

The Hon. JAMES MONROE, &c.

Mr. Monroe, Secretary of State, to Mr. Morier, Chargé d'Affaires of His Britannic Majesty.

SIR:

DEPARTMENT OF STATE, June 28, 1811.

I had the honor to receive yesterday your letter of the 26th instant, communicating a statement from Captain Bingham to Admiral Sawyer, of the circumstances attending the late unfortunate encounter between the United States' frigate the President and His Britannic Majesty's sloop the Little Belt.

It is to be regretted that the statement made by Captain Bingham should have varied in any circumstance from that made by the commander of the American frigate. I flatter myself, with the disposition of the President, which I am authorized to express, to make it the subject of mutual and friendly explanations, that its disagreeable tendency will be obviated. I am induced to express this expectation with the more confidence, from the conciliatory manner in which you have made this communication.

I have the honor to be, &c.

JAMES MONROE.

Mr. MORIER, Chargé d'Affaires of His Britannic Majesty.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, July 3, 1811.

The assurances which you did me the honor to give me yesterday, verbally, that no instructions whatever had been given to Commodore Rodgers which could, under any construction, be meant to authorize his attempting to recover by force any person claimed as an impressed American citizen from on board any of His Majesty's ships of war, were amply sufficient to convey to my mind every satisfaction upon that subject; the reports, however, current in the United States, and connected with Commodore Rodgers's conduct and proceedings, as well as the inferences which will be drawn from the expressions which he used to the captain of His Majesty's sloop Little Belt, being of a tendency to create doubts in Great Britain as to the nature of the authority under which he acted, I willingly accept your offer of making me the same statement in a more formal manner, in order that I may transmit it to my Government to prevent all possible mistake on so important a point.

The question arising out of the encounter between the United States' frigate President and His Majesty's sloop Little Belt, will then remain limited to the act itself. You are already, sir, in possession of the British commander's statement of the circumstances which attended it. His account, and that of the American commodore, differ very materially with respect to some of the most important features of the transaction; but in this they agree, that the chase which brought on the action commenced on the part of Commodore Rodgers; for it cannot be maintained that the advance made by Captain Bingham for the purpose of ascertaining if the sail described by him was His Majesty's ship *Guerriere*, which it appears he had orders to join, was for the purpose of chasing, even if that could be urged as a plea by the American commander. As soon as he found his signal unanswered, he bore away, until, to his infinite surprise, he found himself the object of the strange vessel's eager pursuit and hostile attitudes. What could be Commodore Rodgers's intention is not apparent. That he could not discover at the distance of seventy or one hundred yards that the ship before him was a flush-deck sloop, though it was but a little after eight o'clock, on the 16th of May; that he could not make out her colors at half past six o'clock; that his guns were double shotted; and that, with the security he possessed from the great force and superior sailing of the ship under his command, and the circumstance of belonging to a neutral nation, he did not rather hold off during the night if he wished to speak the sloop, than by running under her stern in a menacing attitude, incur the risk of provoking a misunderstanding, must appear unaccountable to the comprehension of every unprejudiced person, and will, I am sure, sir, seem to you a sufficient reason, if there were no other, to warrant my demanding that an examination be instituted into his conduct, with a view to suitable satisfaction being afforded to His Majesty, for the loss of so many of his subjects so wantonly slaughtered, and for the insult offered to his flag. But should Captain Bingham's charges be brought home to Commodore Rodgers, of his having refused to state the name of the nation he belonged to, though asked to do so on nearing each other in the dark, and of having fired a broadside into the sloop without provocation, which might at once have sunk so small a vessel, I am convinced I need only appeal to the justice of the American Government for that Government to see in its proper light the magnitude of the outrage, and offer to His Majesty every reparation that can appear due.

It is with great pleasure, sir, that I avail myself of this opportunity to acknowledge the promptness with which you came forward with the assurances alluded to in the first part of this letter, and the readiness which you showed to receive any communications from me in regard to the unhappy occurrence which forms the subject of the remainder.

I have the honor to be, with the highest consideration,
Sir, your most obedient, humble servant,

A. J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, July 16, 1811.

I have had the honor to receive your note respecting the late encounter between the American frigate the President and His Britannic Majesty's sloop of war the Little Belt.

It is very satisfactory to find that you received the communication which I had the honor to make to you in our first interview, on the subject of your inquiry relative to that unfortunate occurrence, in the amicable spirit in which it was intended. Although the excitement which had been produced by previous and recent aggressions, particularly by the impressment of American citizens from American vessels, even on the coast of the United States, was great, yet no order had been given by the Government for the recovery by force of any citizen so impressed from any British ship of war. The orders given to the commanders of the frigates and other armed vessels of the United States, were for the protection of their coast and of their commerce within the legitimate limits.

I need not repeat to you, sir, the sincere regret of this Government that such an encounter took place, and more especially that it should have produced the unfortunate consequences which attended it.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, July 24, 1811.

I have had the honor to receive your letter dated on the 16th instant, in answer to mine of the 3d, in which I expressed a desire to have stated in a more formal manner your denial to me of orders having been given to Commodore Rodgers which could, under any construction, authorize that commander to attack any of His Majesty's ships of war in search of any person claimed as an American seaman, and in which I also demanded that an examination should be instituted into that officer's conduct, with a view to suitable reparation being afforded to His Majesty for what appears a wanton and unprovoked attack made by the frigate under his command upon His Majesty's sloop of war the Little Belt.

The denial I asked for you have given me; and I beg to assure you, sir, that though I have troubled you with the demand, because the extensiveness of the rumor which had attributed such orders to the American Government had made it my duty so to do, yet I never entertained an idea for one moment that the Government of the United States could have issued such orders, because they must have been considered as manifestations of direct intentions of hostility, which would have been incompatible with the relations of amity subsisting between America and Great Britain.

On such a point, sir, a simple denial was all I asked, and what I expected to receive. It was, therefore, with pain that I found you had connected it with allusions to other topics calculated to produce irritation, on which, whatever complaints you may have to make to me, I shall be ever ready to receive and forward them for redress to the commander-in-chief of His Majesty's naval forces at Halifax, or to His Majesty's Government; but the mentioning of which in your note in answer to mine on a distinct subject of the most serious importance, you will pardon me if I must consider as matter of regret, especially as you wished me to receive the communication you made me as given in an amicable spirit.

Moreover, from the tenor of the part of your letter in which you have connected the question of impressment with that of an attack on a British ship of war, an inference is forced upon me which you surely never could have meant me to draw, but which, nevertheless, the passage conveys, namely, that *although* the Government of the United States had not given orders for the recovery by force of any American citizen claimed from a British national ship, they still maintain they might have been justified in so doing. The right of searching a ship of war has been so positively disavowed on the part of His Majesty's Government, and so disclaimed by that of America, that I could not have expected any doubts would ever again have been thrown on the matter; and yet the language of your letter, until it is explained, will certainly authorize such doubts, as far as relates to the American Government.

I have no answer at all from you, sir, to my demand for an inquiry being instituted into the conduct of Captain Rodgers. This omission has occasioned to me the more surprise, because, in addition to there appearing to be no cause why the Government of America should decline to listen to so just a demand on my part, there seemed to be every reason why they should, even for their own satisfaction, have desired to clear up the circumstances of his most extraordinary proceeding. I will, indeed, frankly own to you that I did think, on reaching this city, to have found that officer's conduct already, by the spontaneous act of the Government of the United States, undergoing an examination, instead of hearing that he had been sent immediately to sea again, which seemed to denote an approbation of his behavior; and I thought I could the more rely on this being the course the President would have pursued, from a consideration of that which His Majesty's Government had taken in the case of the Chesapeake, when every reparation practicable at the instant the intelligence reached London of that unfortunate event was made to you, sir, promptly and unasked for.

I feel the more regret, sir, at the course taken by your Government in this affair, because I have been necessarily obliged in consequence to suspend carrying into execution that part of my instructions by which I was directed immediately on my arrival here to offer such further reparation for the attack on the Chesapeake frigate as would, I am convinced, have proved satisfactory. I had the honor to state to you, in our first interview, that I had such instructions, although I omitted to mention it in my note, because, as you may remember, I expressed to you at the time, it seemed to me the American Government might feel more free to act as the justice of the case required, if the two subjects were kept unconnected; and in this opinion I thought you appeared to concur.

I have the honor to be, with the greatest consideration and respect,

Sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, *Secretary of State.*

Mr. Foster to Mr. Monroe.

SIR:

PHILADELPHIA, September 4, 1811.

I have now, by an express messenger from England, received the commands of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, relative to the late violent aggression commit-

ted by the United States' frigate the President on His Majesty's ship Little Belt; and I have the honor of communicating to you the enclosed documents which have been transmitted to me by my Government to be laid before that of the United States, comprehending a copy of a letter from Lord James Townshend, commanding officer at Halifax, dated May 30, 1811, (1;) enclosing a statement of the action by the officers of the Little Belt, (2;) the report of the Commissioner of His Majesty's Navy Board at Halifax, in respect to the damage done the Little Belt, (3;) a copy of Rear Admiral Sawyer's letter, (4;) enclosing his instructions to Captain Bingham, (5;) as well as a list of killed and wounded on board the sloop of war, (6;) and, finally, a copy of the correspondence on the subject which took place between the Marquis Wellesley and Mr. Smith, American chargé d'affaires in London, (7, 8;) of that of Captain Bingham's official letter you are already in possession.

In communicating to you, sir, these documents, I am particularly directed to call your attention to the instructions of Admiral Sawyer, which furnish the strongest evidence of the pacific and friendly intentions of His Majesty's Government towards this country. The very pointed manner in which the commander-in-chief on the Halifax station had enjoined Captain Bingham to avoid giving offence to the Government or subjects of the United States is of itself presumptive proof of the truth of that officer's statement, even if there were not such strong evidence as appears from the deposition of the different officers on board His Majesty's ship, as to the action having been commenced by Captain Rodgers.

His Majesty's Government were entitled to expect, as I have had already the honor to observe to you, sir, in my former letter, that the American Government would have manifested a prompt disposition to obviate, by an early disavowal and by just reparation, the necessary tendency of such an event to disturb the friendship subsisting between the two States; and this expectation was the more natural, from the example afforded by His Majesty's Government in the case of the Chesapeake.

Such, however, having not been the case, I am commanded by His Royal Highness to lose no time in communicating to you the papers enclosed, which explain in the fullest manner the circumstances of the transaction, and the very great extent of the outrage committed, by which so many valuable lives were sacrificed, and in demanding the immediate disavowal on the part of the United States of the act of aggression committed against His Majesty's ship, as also in requiring a just reparation of the injury received.

I have the honor to be, with sentiments of the highest consideration and respect,

Sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

[The following documents were enclosed in Mr. Foster's note of September 4, 1811.]

No. 1.

SIR:

HIS MAJESTY'S SHIP *ÆOLUS*, HALIFAX HARBOR, *May 30, 1811.*

As it may be of material consequence that His Majesty's Government should have the earliest information of a circumstance that has taken place on this coast, I have forwarded, and request you will lay before my Lords Commissioners of the Admiralty, the copy of a letter which Captain Bingham, of His Majesty's sloop Little Belt, has sent to Rear Admiral Sawyer, recounting a severe action which took place on the evening of the 16th instant between that ship and the United States' frigate President.

After having considered the whole circumstance, and judging it advisable to procure the strongest documents in my power for their lordships' information, (the commander-in-chief not having returned to Bermuda,) I have caused depositions to be taken of all the commissioned officers of the Little Belt respecting the unpleasant business, which I herewith enclose.

I am, sir, &c.

J. TOWNSHEND.

To J. W. CROKER, Esq. *Admiralty.*

No. 2.

The officers of His Majesty's sloop Little Belt. Statement of the action between that sloop and the United States' frigate President, on the evening of the 16th instant, taken before

The Right Honorable Lord James Townshend, captain of His Majesty's ship *Æolus*, and senior officer at Halifax, Nova Scotia;

Charles John Austin, Esq., captain of His Majesty's ship *Cleopatra*; and

Alexander Gordon, Esq., commander of His Majesty's sloop *Rattler*.

Lieutenant Moberly, senior lieutenant, states, that, on the 16th instant, while cruising off the coast of America, Cape Charles bearing west 54 miles, at 11 A. M. saw a strange sail; that she was a lugger, was reported from the mast head, on the starboard beam; we then steering S.S.W. the wind aft, or a little on the starboard quarter, on which took in our studding sails, and hauled our wind for her on the starboard tack; shortly after made her out to be a ship. At 2 30 P. M., having then made out the chase to be a frigate, with a commodore's broad pendant flying, being then about six miles distance, and not having answered any of our signals, viz: 275 private signal and our number, concluded her to be the American frigate United States; showed our colors, and steered our course south; set studding sails. At 5 o'clock observed the frigate make all sail, and to keep more away for us. At 7, found she was gaining on us fast. Captain Bingham then thinking it best to speak her before dark, shortened sail and hove to, colors up. We then making out her stars in her broad pendant, beat to quarters, and got all clear for action a second time, having beat before at 2 P. M.: double shotted and double breached the guns. At 7 50, observed the frigate to have shortened sail to topsails, topgallantsails, and jib, and standing down, as if with an intention of passing under our stern: wore twice to evade this. Captain Bingham hailed, and was not answered: wore again. The frigate then hove to, close to us, on the larboard beam. Captain Bingham hailed the ship, ahoy! which was repeated word for word by the frigate. Captain Bingham asked what ship that was, which was also repeated as before; and, on asking a second time, was answered by a broadside. Captain Bingham was then standing on the midship gun, jumped off, and gave orders to fire, which was done in less than a minute after her first fire; we being quite ready, guns pointed, and continued firing for about an hour, when the frigate ceased firing, and hailed us to know what ship this was. Captain Bingham answered, His Majesty's ship Little Belt several times before he understood us. He then asked if our colors were down. No, was Captain Bingham's answer. Captain Bingham then hailed to know what ship that was; and was answered, the United States' frigate — (the name we could not understand.) In the mean time the frigate had filled, and was standing from us. A short time after lost sight of her; hove to in the night, having no sail to set. At daylight saw a sail to windward; made her out to be the same ship we had engaged. At 6 she bore up for us under easy sail; at 8 she passed

within hail; asked permission to send a boat on board, which was granted. Boat came on board, staid ten minutes, then returned; understood the frigate to be the *President*, belonging to the United States, Commodore Rodgers. Observed the *President* to fill, and stand on the starboard tack under her topsails.

Lieutenant Thomas Levell states, that, on May 16, 1811, at 11 A. M., saw a strange sail from the mast head, which was reported to be a lugger, having her main topgallantsail hauled fore, and mizzen set. We were then going nearly before the wind, turned the hands up, took in studding sails, and made sail in chase on the starboard tack. At 1 30 observed her to be a frigate, made the private signal, our number also, 275, neither of which she answered; observed her to have a blue broad pendant at her mast head. At 2 wore ship, and steered our course south; hoisted our colors; observed her to be in chase of us; supposed her to be an American frigate; cleared ship for action. At 5 beat for quarters a second time; double shotted the guns, and double breached those that were bad. At 7 30 shortened sail and hove to, as she was coming up with us very fast; hoisted our colors; observed the stars in his broad pendant; wore ship three or four times, to prevent his passing under our stern, which he evidently intended. At 8 hailed her, when on the starboard beam, but received no answer; wore ship. At 8 10 she hauled her foresail up and hove to, within half pistol-shot of our weather beam. Captain Bingham, standing on the gun abaft the larboard gangway, hailed the ship, ahoy! which words were repeated. Captain Bingham hailed again, what ship is that? which was again also repeated, word for word, and she immediately fired a broadside. Captain Bingham jumped off the gun and gave orders to fire, which we did instantly, the captains of the guns standing with the lanyards of the locks in their hands, and the guns pointed at her; continued firing about an hour, when she ceased, and hailed us, what ship is that? Captain Bingham replied, His Majesty's ship *Little Belt* several times before he understood us. He then asked what ship that was. They answered, the United States' frigate —, (the name we did not understand,) and asked if our colors were down. Captain Bingham answered no. He then filled on the starboard tack. We very soon lost sight of her; continued all night refitting; at daylight observed her lying to windward about eight or ten miles. About 6 she bore down under her topsails and foresail. At 8 he hailed, ship ahoy! I'll send a boat on board, if you please, sir. Very well, sir, was Captain Bingham's answer. The boat came on board, and remained about ten minutes or a quarter of an hour, after which he wore, and stood to the westward under his topsails.

Latitude $36^{\circ} 53'$, longitude $71^{\circ} 49'$; Cape Charles bearing west 50 miles.

Mr. James Franklin, boatswain, states, at half past 6 o'clock observed the frigate coming up under studding-sails on both sides; about half past 7 shortened sail and brought to; hoisted the colors; at a quarter before 8 hailed; no answer; wore ship. About two minutes before 8 the ship was hailed; the captain's words were repeated twice, without making any answer; then he fired a whole broadside; about a minute returned a broadside from us; continued firing for about an hour, and then he ceased firing and hailed, and asked what ship this was, and he was answered by the captain the *Little Belt*; and he then asked if the colors were down; the answer was, no; and I heard the captain say they should not come down, and ordered the starboard guns to be manned; then the captain hailed to know what ship that was; being under the fore-castle, wounded, I could not hear the answer. I then came down below, and there was no more firing after.

Mr. Hinshelwood, purser, states, that, on the 16th instant, at 11 A. M. saw a strange sail; made sail in chase of her; at 1 30 observed her to be a frigate, made the private signal, our number, and 275, neither of which was answered. At 2 made out a commodore's broad pendant, apparently an American; cleared for quarters; observed the frigate to be in chase of us. At 5 beat to quarters a second time; at 7 30 hove to, and hoisted our colors; at 8 hailed her; no answer; wore ship; at 8 10 she hove to, close to windward of us. Captain Bingham, standing on the gun abaft the larboard gangway, hailed, ahoy, the ship! which they repeated. Captain Bingham asked, what ship is that? which was also repeated, and immediately gave us a broadside, commencing firing from the midships of the deck. Captain Bingham jumped off the gun and gave orders to fire, which was instantly done; continued firing about an hour; observed the frigate to leave off firing; she hailed at the same time, and asked what ship this was. Captain Bingham answered, His Britannic Majesty's ship *Little Belt*, six or seven times before they understood. He then asked if our colors were down; to which Captain Bingham answered no, and asked what ship that was; she answered, the United States' ship —, (the name we could not understand.) She then made sail. At daylight observed her to windward; at 6 she bore down; at 8 passed within hail; hailed the ship, and said he would send a boat on board, if Captain Bingham pleased; a boat came on board, and remained about a quarter of an hour. She then made sail to the westward.

Mr. William Turner, surgeon, states, that when steering to the southward from off New York, on May 16, 1811, at 11 A. M., a strange sail was reported to the westward, which was immediately given chase to. On nearing, observed her to be a frigate standing to the eastward, with an American broad pendant at her main-topgallant-mast head. We then resumed our course to the southward, and showed the ensign and pendant; stranger observed shortly after to change her course to join us, when the *Little Belt* made more sail; strange frigate did the same; finding the stranger joined us fast, prepared for action; shortened sail and hove to, some time before sunset; immediately after the *Little Belt* hove to; the strange frigate shortened sail, coming down very slowly. I shortly after went below. At ten minutes past 8 o'clock, P. M. Captain Bingham hailed the stranger twice very loudly, but received no answer. About five minutes after Captain Bingham again hailed, and was answered by the frigate, to what purport I could not distinctly understand. Captain Bingham again hailed twice, and immediately heard the frigate fire, and the whole passed over us. I then distinctly heard Captain Bingham give orders to fire away; we returned our broadside within the space of twenty seconds. The action continued with great vigor for about forty-five minutes, to the best of my judgment.

We, the undersigned, having duly examined the officers herein named, belonging to His Majesty's sloop *Little Belt*, respecting the attack made on that ship by the United States' frigate *President*, have received the above as a true statement of all the occurrences.

In witness whereof, we have hereunto set our hands, on board His Majesty's ship *Æolus*, Halifax harbor, Nova Scotia, the 29th of May, 1811.

J. TOWNSHEND,
CHARLES JOHN AUSTIN,
ALEXANDER GORDON.

No. 3.

Commissioner Inglefield to the Navy Board.

GENTLEMEN:

HALIFAX YARD, May 30, 1811.

I acquaint the Board that His Majesty's sloop the *Little Belt* returned to this port on Sunday last almost a wreck, having, on the 16th instant, off the Chesapeake, had an action which lasted three quarters of an hour, with the American frigate *President*, one of their heaviest ships, carrying upwards of fifty guns.

Having directed the master shipwright to examine her defects, I received from him the report which is herewith enclosed for the information of the Board, and for the satisfaction of the Lords Commissioners of the Admiralty, in ascertaining the extent of the injury received. In addition to the damages detailed in the builder's report, her sails and rigging are cut to pieces by shot.

I have the honor to be, &c.

T. N. INGLEFIELD.

To the Hon. the NAVY BOARD.

[Enclosure in Commissioner Inglefield's letter to the Navy Board.]

Report and state of the condition of His Majesty's sloop Little Belt.

HALIFAX YARD, May 28, 1811.

The short plank abaft the after-port, with top timbers, spirketting and quick work above the spirketting of the larboard side much damaged by shot; the strings and sheer strakes of each side shot away in midships, and abreast of the fore channels of the larboard side; the gunwales and a part of the hammock stanchion boards and rails in midships shot away; several of the fore and main chains and bolts of do. shot away; the top timbers and strings in the way of the fore channels, and iron standards, and larboard main belt shot away; several of the port timbers and lower hanging ports of the larboard side much damaged by shot; part of the waterways, spirketting, and oakwork of the upper deck and timbers in the way of do. much damaged by shot; part of the wales of the larboard side and plank of the topsides much damaged by shot; a number of shot holes at load water mark and below do.; part of the copper damaged; the midship port timber damaged; one beam and several planks of the poop deck much damaged by shot; one pump between decks shot through; the plank under the clamps much damaged; gun room and cabin sky-lights much damaged; one bunkin wanted; cabins in want of repair; new tin work in the galley wanted; two planks in the upper deck decayed, and want shifting; several shot racks wanting; bowsprit shot through in the wake of the gammoning; foremast shot through in two places; mainmast do.; mizzenmast shot through above the cap; mizzen topgallant mast shot away; foreyard damaged by shot on the larboard quarter; cross jack-yard damaged by shot; driver boom decayed; main topsail yard damaged by shot; one main topmast, one fore-topmast, one fore topsail-yard, one fore topgallant mast, one mizzen topgallant mast, one main topsail yard, spare spars in the booms, also, several others, all damaged and shattered by the shot; a swinging boom wanted; the jolly boat and launch much damaged by the shot.

WM. HUGHES, *Master Shipwright.*
J. PARRYE, *Foreman do.*

No. 4.

From Rear Admiral Sawyer to J. W. Croker, Esq.

SIR:

HIS MAJESTY'S SHIP AFRICA, AT BERMUDA, June 11, 1811.

Enclosed I transmit to you, for the information of the Lords Commissioners of the Admiralty, a copy of a letter from Captain Arthur Batt Bingham, commander of His Majesty's sloop Little Belt, received this day from Lord James Townshend, captain of His Majesty's ship *Æolus*, and senior officer at Halifax, by which their lordships will perceive he was attacked on the evening of May 16 last, when cruising between Cape Henry and Cape Hatteras, by the United States' frigate the *President*, of forty-four guns, commanded by Commodore Rodgers, and that, after a close action of three-quarters of an hour, the American ship made sail from him.

Captain Bingham's modest but full and clear statement, renders any comment from me unnecessary; and I have only to admire the extraordinary bravery and firmness with which himself, his officers, and ship's company supported the honor of the British flag, when opposed to such an immense superiority of force. I have, however, deeply to lament the number of valuable British seamen and royal marines, who have been either killed or wounded on this unexpected occasion; a list of whose names is also enclosed, together with a copy of my order, under which Captain Bingham was cruising.

I have the honor to be, &c.

HERBERT SAWYER, *Rear Admiral.*

No. 5.

Rear-Admiral Sawyer's instructions to Captain Bingham, of His Majesty's sloop Little Belt. By HERBERT SAWYER, Esq. Rear-Admiral of the Red, and Commander-in-Chief of His Majesty's ships and vessels, employed, and to be employed, in the river St. Lawrence, along the coast of Nova Scotia, the islands of Anticosti, Madeline, and St. John, and Cape Breton, the Bay of Fundy, and at and about the island of Bermudas or Sommers' islands:

You are hereby required and directed to put to sea in His Majesty's sloop under your command, and to proceed without loss of time off Charlestown, where you may expect to meet Captain Pechell, in the *Guerriere*, to whom you will deliver the packet you will herewith receive, and follow his orders for your further proceedings. Should you not meet the *Guerriere* off Charlestown, you will stand to the northward, and use your utmost endeavors to join him off the capes of Virginia or off New York; and, in the event of not meeting the *Guerriere*, you will cruise as long as your provisions and water will last, and then repair to Halifax for further orders. You are to pay due regard to protecting the trade of His Majesty's subjects, and the capture or destruction of the ships of the enemy. You are to be particularly careful not to give any just cause of offence to the Government or subjects of the United States of America, and to give very particular orders to this effect to the officers you may have occasion to send on board ships under the American flag. You are not to anchor in any of the American ports but in case of absolute necessity; and then put to sea again as soon as possible.

Given under my hand at Bermuda, this 19th of April, 1811.

HERBERT SAWYER.

By command of the Rear Admiral:

H. W. SOMERVILLE.

To ARTHUR BATT BINGHAM, Esq. *Commander of His Majesty's sloop Little Belt.*

No. 6.

Return of officers, petty officers, seamen, and marines, killed and wounded on board His Majesty's sloop Little Belt, Arthur Batt Bingham, Esq., commander, in action with the American frigate President, the 16th May, 1811.

Killed.

Mr. Samuel Woodward, midshipman.
Charles Bennett, captain foretop.
Jacob Greaves, carpenter's crew.
William Sheppard, gunner's mate.
George Wilson, able seaman.
Robert Liversage, able seaman.
James Grey, ordinary seaman.
Robert Harwood, ordinary seaman.
John Pardoe, private marine.

Dangerously wounded.

Daniel Kilham, lieutenant marines, died ten hours after the action.
Robert Coody, ordinary seaman, died 20 hours after the action.
John Randall, able seaman, do do
Nicholas Manager, gunner's crew, do do

Severely wounded.

Mr. J. McQueen, acting master.
James Dunn, (2) captain maintop.
James Lawrence, able seaman.
John Richards, able seaman.
Thomas Ives, able seaman.
Michael Skinners, lieutenant marines.
William Fern, boy.
David Dowd, marine.
William Harold, marine.

Slightly wounded.

Mr. James Franklin, boatswain.
Mr. Benjamin Angel, carpenter.
Peter McCashell, captain mast.
William Andrews, ordinary seaman.
William Western, boy.
Edward Graham, able seaman.
George Delany, able seaman.
George Roberts, boy.
George Shoard, marine.
Daniel Long, marine.

A. B. BINGHAM, *Captain.*
WM. TURNER, *2d Surgeon.*

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, *September 14, 1811.*

I have had the honor to receive your letter of the 4th instant, respecting the encounter between the United States' frigate the President and His Britannic Majesty's ship Little Belt, which I have laid before the President of the United States.

In the first interview which took place between us after your arrival at Washington, I stated explicitly that no instruction had been given to take any seaman from on board a British ship of war, nor any order whatever of a hostile nature. I made the same declaration afterwards, at your request, in a more formal manner; and it is with the same frankness that I now again repeat it.

Such a declaration was deemed proper, in order to obviate misapprehensions which might obstruct any conciliatory and satisfactory propositions with which you might be charged. It was in conformity also with the candor and friendly policy which have been shown by this Government in all its transactions with Great Britain.

If the answer to your former letter was limited to this avowal of hostile intentions on the part of this Government, it need scarcely be remarked, that no further view of the subject could then, nor as yet can, be entered into, on the demand of the British Government, without forgetting an essential preliminary to such a demand.

It might be added that, with the circumstances of the transaction, as officially before this Government, the true ground on which it claimed attention was that of a violent aggression by a British on an American ship, in a situation and manner authorizing the strongest appeal to the British Government for redress. If an instant representation and demand to that effect were not made, it was a proof only that this Government permitted the event of the encounter to temper the feelings and retard the complaint, prompted by the origin and character of it.

It is not seen without surprise that the case of the Chesapeake is cited as an example supporting a demand of reparation in the present case. No other remark will be made than that the fifth year is now elapsing without reparation in that case, although so palpably and even confessedly due to the rights of the United States and the honor of their flag.

In the instruction to Captain Bingham, thus frankly communicated, the President sees a token of amity and conciliation which, if pursued in the extent corresponding with that in which these sentiments are entertained by the United States, must hasten a termination of every controversy which has so long subsisted between the two countries.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, *October 11, 1811.*

I have the honor to transmit to you a copy of the proceedings of a court of inquiry, held by order of the President, on the conduct of Commodore Rodgers, in the late encounter between a frigate of the United States, the President, and His Britannic Majesty's ship the Little Belt.

The result of this inquiry, which was conducted in public, in a manner the most fair and impartial, and established by the concurrent testimony of all the officers of the American ship, and of others whom it was proper to summon, cannot, it is presumed, leave a doubt in the mind of any one that Captain Bingham made the attack, and without a justifiable cause.

That Commodore Rodgers pursued a vessel, which had at first pursued him, and hailed her as soon as he approached within suitable distance, are circumstances which can be of no avail to Captain Bingham. The United States have a right to know the national character of the armed ships which hover on their coast, and whether they visit it with friendly or illicit views; it is a right inseparable from the sovereignty of every independent State, and intimately connected with their tranquillity and peace. All nations exercise it, and none with more rigor, or at a greater distance from the coast, than Great Britain herself, nor any on more justifiable grounds than

the United States. In addition to the considerations which have recommended this precaution to other Powers, it is rendered of the more importance to the United States, by the practice of armed vessels from the West Indies in visiting our coast for unauthorized and even piratical purposes. Instances have also occurred, in which the commander of British ships of war, after impressing seamen from American vessels, have concealed their names, and the names of their ships, whereby an application to their Government for the reparation due for such outrages, with the requisite certainty, is rendered impracticable. For these reasons the conduct of Commodore Rodgers, in approaching the Little Belt, to make the necessary inquiries, and exchange a friendly salute, was strictly correct.

The President, therefore, can regard the act of Captain Bingham no otherwise than as a hostile aggression on the flag of the United States, and he is persuaded that His Britannic Majesty, viewing it in the same light, will bestow on it the attention which it merits.

I have the honor to be, &c.

JAMES MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Proceedings of a Court of Inquiry convened on board the United States' frigate the President, in the harbor of New York, on the 30th day of August, 1811, pursuant to the following warrant:

To STEPHEN DECATUR, Esq., a captain in the navy of the U. S.

Whereas it doth appear, by a letter from John Rodgers, Esq., a captain in the navy of the United States, and commanding the United States' frigate the President, to me addressed, bearing date off Sandy Hook, May 23, 1811, a copy of which is hereunto annexed, that, on the night of the 16th day of May, 1811, a shot was fired from a vessel of war called the Little or Lille Belt, commanded by a certain A. B. Bingham, captain, and belonging to the navy of His Britannic Majesty, at the said frigate the President, without any previous provocation or justifiable cause:

And whereas the United States are at peace with Great Britain, and wish to maintain the relation of peace inviolate; and whereas this act of Captain Bingham can be considered in no other light than as an act of hostility unprovoked, and an insult offered to the flag of the United States:

Now, therefore, for the more perfect information of the Government of the United States in the premises, I do hereby authorize and require you to convene a Court of Inquiry, to consist of yourself, as President, and the members named below; to hold their sessions at such time and place as may be most suitable and convenient; to call before them all officers and others whose presence may be deemed necessary; to examine minutely into every circumstance stated in the letter of John Rodgers, Esq., annexed; to take all the testimony that can, in any manner or degree, elucidate facts; and to state to me all the facts that shall be disclosed, in order that such proceedings may thereupon be had as may appear to be right and proper.

Of this court you will appoint Nathan Sanford, Esq., the Judge Advocate.

Given under my hand and the seal of the Navy Department of the United States, this 24th day of July, 1811.

PAUL HAMILTON, *Secretary of the Navy U. S.*

CHARLES STEWART, } Esqrs., *Captains in the Navy of the U. S.*
ISAAC CHAUNCEY, }
NATHAN SANFORD, Esq., *Judge Advocate.*

Present: Commodore STEPHEN DECATUR, *President*; Captain CHARLES STEWART, Captain ISAAC CHAUNCEY, *members.*

Mr. SANFORD being unable, from the bad state of his health, to act as Judge Advocate, the court, at the request of the Secretary of the Navy, appointed WILLIAM PAULDING, JUN., Adjutant General of the State of New York, their Judge Advocate, who thereupon administered to the members thereof the oath prescribed by the articles of war; after which, the President of the court administered to the Judge Advocate the oath by the said articles prescribed.

The court, having appointed JOHN HEATH, lieutenant of marines, their Provost Marshal, adjourned to meet at the same place to-morrow morning, at 11 o'clock.

SATURDAY, August 31, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The minutes of the proceedings of yesterday were read, and approved of by the court.

CHARLES LUDLOW, Esq., was sworn by the court as a witness.

Question by the Judge Advocate. Were you on board the United States' frigate the President at the time of the action, on the evening of the 16th of May last, between her and His Britannic Majesty's ship the Lille or Little Belt?

Answer. Yes.

Question by the Judge Advocate. What was your station on board of the said frigate the President, at the time of the action aforesaid?

Answer. Acting captain, with the rank of master commandant.

Question by the Judge Advocate. When and where did you first discover the Little Belt, and what were the circumstances which occurred from the time you perceived her until the termination of the said action?

Answer. On the 16th day of May last, at meridian, there were discovered from the mast-head of the United States' frigate the President several sail in the east, of which the Little Belt must have been one. We were then in seventeen fathoms water, Cape Henry bearing southwest, distant fourteen or fifteen leagues.

At half-past one, P. M., from the deck of the President, we discovered the Little Belt to be a square-rigged vessel, standing for us under a press of sail; we being then upon a wind standing to the southward and eastward, and the Little Belt bearing east and by south. About five minutes after, she settled her royals, and showed signals, which she kept flying for several minutes; when Commodore Rodgers gave orders to hoist the colors, and to clear the deck. When the Little Belt hauled down her signals, she wore, and stood to the southward, and set her larboard topgallant studding sails and upper stay-sails.

About a quarter past two, P. M., Commodore Rodgers ordered to beat to quarters; then we kept the President good full. At four o'clock, P. M., the wind became very light, the Little Belt then bearing about south-southeast,

thirteen miles from us, when we set our upper stay-sails and larboard topgallant studding sails; about this time the Little Belt set her lower studding sails; we were then steering about south. About five, P. M., we set our larboard lower studding sail; the Little Belt bearing about south-southeast; a very light air from north-northeast; we were then going from four to five knots. About six, P. M., the Little Belt set her starboard topgallant studding sail, and hauled up about a point, steering south. At seven, P. M., or a little after, the Little Belt took in her studding sails, and, ten or fifteen minutes after, she hove to on the starboard tack. At half-past seven, P. M., we took in our studding sails, royals, and stay-sails; at which hour, for the first time, I saw colors flying on board the Little Belt, but I could not tell to what nation she belonged. At eight, P. M., we hauled the foresail up, and about a quarter of an hour afterwards Commodore Rodgers gave me orders to take a position on the weather quarter of the Little Belt, at speaking distance; while we were running down for her, she wore several times. At half-past eight, P. M., we rounded to on her weather beam, within speaking distance; she then lying with her main-topsail to the mast. While rounding to, Commodore Rodgers hailed the Little Belt, saying "what ship is that?" to which I did not hear any answer. Some moments after the commodore again hailed the Little Belt, saying "what ship is that?" but, previously to the second hail, Commodore Rodgers observed to me the ship was forging too fast ahead. While the commodore was hailing the second time, I was attending to having the jib and mizzen brailed up, and backing the mizzen topsail, and was then standing on the gratings of the after-hatch, looking at the mizzen topsail, with my back to the Little Belt. At the time of the second hail of Commodore Rodgers, a gun was fired, but, from my position, I could not see from which ship the shot was fired; but my impression was, from the report of the gun, and not feeling any jar, that it came from the Little Belt. Immediately after I heard the report of the said gun, and while in the act of ordering the men from the braces to their quarters, I heard some person sing out "she has fired into us," and instantaneously a gun went off from the President's gun deck; the commodore was then standing in the gangway. The gun from the President was scarcely fired, when three guns were fired from the Little Belt, in quick succession, accompanied with musketry. The commodore then gave some orders, the purport of which I did not distinctly hear; but the President then commenced firing. After firing from her about two minutes, I remarked to Commodore Rodgers we were firing too high. The commodore then directed me to go upon the gun-deck, and to give orders to fire low and two round shot. After giving the said orders, I had time to stay and see one gun pointed and fired, and then returned to the hatchway, and repeated the order to fire low; and immediately after was returning to the quarter-deck, when I received an order from the commodore, by the sailing-master, to cease firing, which order was obeyed. I then gave orders to load the guns and run them out, and then repaired to the quarter-deck. As soon as I got on the quarter-deck, the Little Belt recommenced firing, which was returned immediately by the President, and continued a few minutes; when I received an order from Commodore Rodgers to cease firing, as he said some accident had happened to the Little Belt, her bow then bearing directly on the President's broadside, and she (the Little Belt) apparently ungovernable. It was at this time that Commodore Rodgers remarked that she (the Little Belt) must have received some unfortunate shot at the commencement of the action, or that she must be a vessel of force very inferior to what we had taken her for. About this time I observed the gaff of the Little Belt was down, mizzen topsail-yard on the cap, and, I believe, the main topsail-yard also. I did not then perceive any colors flying. I then went forward to have the pumps sounded, when I heard some hailing.

After I had attended to my duty, I returned aft, at which time the Little Belt was steering to the southward and eastward, and the President was lying to. About nine o'clock, P. M. we took in topgallant sails, and lay to with the mizzen topsail back, and head to the northward and westward. At this time I received orders to prepare for tacking, when I replied that the main and cross-jack braces were shot away; the commodore then gave orders to repair damages. About a quarter before eleven o'clock at night, having lost sight of the Little Belt, we wore to the southward and eastward, and filled away, the wind being about northeast, and something fresher than it had been; about forty minutes after midnight we backed the mizzen topsail, and lay to during the remainder of the night. At sunrise we discovered the Little Belt on our lee-beam, bearing nearly south-southwest, distant about eight miles; we set the foresail, and bore up for her; shortly after our bearing up for her, she took all her sails in except the main topsail, and was employed unbending them. At eight in the morning we hove to under her lee-beam, hailed her, and sent our boat aboard with Lieutenant Creighton; on his return, at nine o'clock, he reported her to be the British ship of war Little Belt, commanded by Captain Bingham. We then hoisted our boat up, and stood by the wind to the northward and westward; moderate breezes and clear weather.

Question by a member of the court. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes.

Question by a member of the court. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. How long do you suppose the firing between the President and the Little Belt continued?

Answer. Including the interval previously mentioned, from fourteen to eighteen minutes.

Question by Commodore Rodgers. Was the President at any time during the rencounter on fire?

Answer. Not to my knowledge.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt, at any time during the action?

Answer. No.

Question by Commodore Rodgers. After the Little Belt's fire was silenced, did Commodore Rodgers appear anxious to prevent further injury being done to her?

Answer. Yes, both times.

Question by Commodore Rodgers. Were there any other than round and grape shot fired at the Little Belt?

Answer. There were none other fired; we had no other than round and grape shot on deck.

Question by Commodore Rodgers. In the position the two ships were at the time Commodore Rodgers gave orders the second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. More injurious than any the Little Belt had received; probably it would have sunk her.

The court adjourned to meet again at the same place on Monday next at eleven o'clock in the forenoon of that day.

MONDAY, September 2, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of yesterday were read and approved by the court.

JOHN ORDE CREIGHTON, Esquire, was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President during the engagement on the night of the 16th day of May last, with His Britannic Majesty's ship the Lille or Little Belt?

Answer. Yes.

Question. Do you hold any, and what, post on board the said frigate the President?

Answer. Yes, first lieutenant.

Question. Where were you quartered on board the President the night of the action?

Answer. At the fourth division, on the upper deck.

Question. At what time did you discover the Little Belt, and how did she bear?

Answer. At half-past one P. M. on the day of the action, I discovered the Little Belt, she then bearing three or four points on our weather bow.

Question. At what time did you discover the Little Belt to be a man of war? and how were both ships steering at that time?

Answer. At half-past one, P. M. on the day of the action, I was under an impression the Little Belt was a man of war; we were upon a wind standing to the southward and eastward, and she before the wind standing for us.

Question. At what time did the frigate the President display her colors? and when did the Little Belt show her colors?

Answer. At two o'clock, P. M. when I came up from the gun deck, I saw the colors of the President flying; but I did not observe any colors flying on the Little Belt then, or at any time during the chase.

Question. At what time did the President come within hailing distance of the Little Belt?

Answer. About half-past eight, P. M.

Question. Was the first hail from the President or the Little Belt?

Answer. From the President.

Question. Was that hail answered?

Answer. Yes, the commodore hailed "ship a-hoy!" the answer from the Little Belt was halloo! after which Commodore Rodgers asked "what ship is that?" and the same question of "what ship is that?" was immediately repeated from the Little Belt. Commodore Rodgers again asked "what ship is that, I say?" to which no answer was given, but I immediately heard the report of a gun, but did not see from which ship it proceeded; but from not feeling any jar, my belief is it came from the Little Belt.

Question. Were you observing the Little Belt at the time you heard the report of the said gun?

Answer. I was not.

Question. At the time you heard the report of the said gun, had any gun been fired from the division you then commanded, or had any provocation been given by Commodore Rodgers to the commander of the Little Belt?

Answer. No gun had then been fired from my division, neither had any provocation been given by Commodore Rodgers to the captain of the Little Belt.

Question. During the chase of the Little Belt, or at any time previous to your coming up with her, what were the orders given by Commodore Rodgers with respect to firing?

Answer. The commodore called me to him, and directed me to see the locks of the guns of the fourth division half cocked, and the aprons laid on; and remarked to me, that he would not for any consideration have any accident happen, and ordered me not to fire on the chase unless she fired on us, or I received orders to that effect from him.

Question. Did you receive any orders from Commodore Rodgers to fire, previously to the Little Belt having fired at the President?

Answer. It was not until after the Little Belt had discharged her broadside at the President that I received orders from Commodore Rodgers to fire.

Question. Were the guns of the Little Belt silenced? and how soon after you received the above orders to fire?

Answer. The guns of the Little Belt were silenced in about five minutes from that time.

Question. After the fire of the Little Belt was silenced, did Commodore Rodgers appear anxious to prevent further injury being done to her?

Answer. Yes, the commodore made use of every exertion on the occasion to prevent further injury to the Little Belt, and went himself to some of the guns on the quarter-deck and ordered the captains of them to cease firing.

Question. Did the fire of the President then cease? and did the Little Belt afterwards recommence firing, and how soon?

Answer. The President then ceased firing, and in about three minutes after the Little Belt recommenced firing; and immediately the President renewed her fire, which lasted about five minutes, when the fire of the Little Belt was completely silenced; and I then heard an officer of the President (I think it was Lieutenant Perry,) say, somebody is hailing from the other ship, saying their colors are down and that they are in great distress.

Question. As soon as the Little Belt was a second time silenced, did Commodore Rodgers use every exertion to prevent further injury to her?

Answer. Yes, sir.

Question. At the time you heard the report of the first gun, did you hear any persons on board the President sing out she has fired into us?

Answer. I heard several persons say "she has fired into us;" meaning the Little Belt.

Question. Did you board the Little Belt the morning after the action?

Answer. Yes.

Question. Did Captain Bingham inform you he took the President for a French ship?

Answer. He did.

Question. What message were you charged with from Commodore Rodgers to Captain Bingham, when you boarded the Little Belt the morning after the action?

Answer. Commodore Rodgers ordered me to go on board the Little Belt, to ascertain the name of the ship and her commander, and to express his deep regret at what had taken place, and to say he regretted that the Little Belt had fired first; that had he known her force he would even have received a shot without returning it.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes.

Question. Are there any circumstances in that letter which you know to be incorrect?

Answer. I know of none.

Question by Commodore Rodgers. Was the President on fire at any time during the rencounter with the Little Belt?

Answer. She was not.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt at any time during the action?

Answer. Certainly not.

Question by Commodore Rodgers. Were there any other than round and grape shot fired at the Little Belt?

Answer. Not to my knowledge; from the fourth division, which I commanded, there were none other fired; there were none other than round and grape shot on either deck.

Question by Commodore Rodgers. In the position the two ships were at the time Commodore Rodgers gave orders the second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. It is more than probable it would have sunk the Little Belt.

Question by Commodore Rodgers. When you delivered Commodore Rodgers's message to Captain Bingham, did he ask you why the President had fired at all?

Answer. No; he asked me no question of that kind.

Captain HENRY CALDWELL was produced to the court, and sworn as a witness.

Question. Were you on board the United States' frigate the President during the engagement on the night of the 16th day of May last with the Little Belt?

Answer. I was.

Question. What is your station on board the President?

Answer. Commandant of marines.

Question. When the President had arrived within hailing distance of the Little Belt, did Commodore Rodgers hail her first?

Answer. Yes.

Question. What answer did Commodore Rodgers receive from the Little Belt?

Answer. I indistinctly heard a voice from the Little Belt, but I could not tell whether it was an answer to the commodore's hail, or whether the Little Belt hailed in return.

Question. Were you in a position to observe the Little Belt at the time the first gun was fired?

Answer. I was; I was looking directly at the Little Belt through the starboard gangway.

Question. From which ship was the first gun fired?

Answer. From the Little Belt. I saw the flash of her gun, and immediately heard the report. Commodore Rodgers, turning round to me, asked what the devil was that; and I replied, she has fired into us.

Question. Did Commodore Rodgers hail the Little Belt a second time? and was it then, and before he received any answer from her, that she fired into the President?

Answer. The commodore hailed a second time, and received no answer; but before he had time to take the trumpet from his mouth the Little Belt fired into the President.

Question. At this time had Commodore Rodgers given any provocation to the commander of the Little Belt?

Answer. None whatever.

Question. What were Commodore Rodgers's orders on board the President, before coming up with the Little Belt?

Answer. His orders were not to fire unless fired into, as we were not to be the aggressor on any account.

Question. At what time did the men under your command commence firing at the Little Belt?

Answer. Not until the President had received a second broadside from the Little Belt.

Question. After the President opened her fire upon the Little Belt, was the latter ship silenced, and how soon?

Answer. She was silenced, I think, in four or five minutes.

Question. When the Little Belt was silenced, did Commodore Rodgers appear anxious to prevent further injury being done to her?

Answer. He appeared very anxious to prevent further injury to the Little Belt, and gave immediate orders to cease firing.

Question. Did the President cease firing? and did the Little Belt afterwards renew her fire at the President, and how soon?

Answer. The President ceased firing; and the Little Belt in about two minutes renewed the action.

Question. Was the President's fire then renewed? and how long did it continue before the fire of the Little Belt was completely silenced?

Answer. The fire of the President was renewed, and continued about six or seven minutes before the guns of the Little Belt were silenced.

Question. When the fire of the Little Belt was a second time silenced, did Commodore Rodgers make every exertion to prevent further injury being done to her?

Answer. He did.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. None at all.

Question by Commodore Rodgers. Was the President at any time on fire during the action?

Answer. She was not.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt at any time during the action?

Answer. No.

The court adjourned to meet at the same place to-morrow morning at eleven o'clock.

TUESDAY, September 3, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

RAYMOND H. J. PERRY was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President during the engagement on the night of the 16th day of May last with His Britannic Majesty's ship the Little Belt?

Answer. I was, sir.

Question. Do you hold any, and what, station on board the United States' frigate the President?

Answer. I hold the station of junior lieutenant and signal officer.

Question. At what time were the colors hoisted on board the President?

Answer. About a quarter before two, P. M. on the day of the action.

Question. Were the colors of the President kept flying until she arrived alongside of the Little Belt?

Answer. They were.

Question. On the day of the said action, where were you quartered on, board the frigate President?

Answer. On the quarter-deck.

Question. Were you standing near Commodore Rodgers when he first hailed the Little Belt?

Answer. I was standing at his elbow.

Question. Had the Little Belt then hailed the President?

Answer. I did not hear the Little Belt hail the President.

Question. When Commodore Rodgers hailed the Little Belt, was there any reply from her, and, if any, what was the nature of it?

Answer. I did not hear any reply.

Question. Was sufficient time given by Commodore Rodgers for the Little Belt to have answered his hail?

Answer. There was sufficient time given in my opinion.

Question. Did Commodore Rodgers hail the Little Belt a second time, and, if so, how soon?

Answer. He in a few seconds hailed the Little Belt again.

Question. Did the commodore receive any answer to his second hail, and, if so, what was its purport?

Answer. I heard no reply from the Little Belt.

Question. At the time of Commodore Rodgers's second hailing, did you hear the report of a gun?

Answer. I did.

Question. Were you in a position to observe the Little Belt at the time the said gun was fired?

Answer. I was; I was standing looking out of the gangway at the Little Belt.

Question. Was the said gun fired from the Little Belt?

Answer. It was; I saw the flash and heard the report.

Question. At this time had any gun been fired from the President, or any provocation whatever been given by the commodore to the captain of the Little Belt?

Answer. No gun had at this time been fired by the President, and I know not of any provocation having been given by the commodore to the captain of the Little Belt.

Question. After the President opened her fire upon the Little Belt, was the latter ship silenced, and how soon?

Answer. The Little Belt was silenced, to the best of my recollection, in five or six minutes.

Question. When the fire of the Little Belt was silenced, did the commodore appear anxious to prevent further injury being done to her?

Answer. He did appear very much so; orders to that effect were passed from him to every division of guns.

Question. Did the fire of the President hereupon cease? and did the Little Belt renew her fire, and in what time?

Answer. The fire of the President ceased as soon as the orders were received; and in about two minutes after the fire of the Little Belt was renewed.

Question. Did the President then recommence her fire, and was the Little Belt again silenced, and how soon?

Answer. The President then recommenced her fire, and in about six minutes afterwards the guns of the Little Belt were silenced.

Question. When the fire of the Little Belt was silenced a second time, did Commodore Rodgers make every exertion to prevent further injury being done to her?

Answer. He did, sir.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. I know of none.

Question by Commodore Rodgers. Was the President at any time during the rencounter on fire?

Answer. No.

Question by Commodore Rodgers. Did the President sheer off with a view to avoid the Little Belt at any time during the action?

Answer. No.

Question by Commodore Rodgers. In the position the two ships were at the time I gave orders a second time to cease firing, what would, in your opinion, have been the effect of another broadside from the President?

Answer. Utter destruction to the Little Belt.

Question by Commodore Rodgers. At the time I gave orders to stop the fire of the President the second time, did you hear a hail from the Little Belt, saying "her colors are down?"

Answer. I heard three or four hails at that time from the Little Belt, which I understood to that effect, and so repeated them to the commodore.

Question by Commodore Rodgers. Has it been the invariable practice on board the President, as well as the usage of the service, to prepare for action before going alongside of a strange vessel of war?

Answer. It has.

Question by Commodore Rodgers. Did I, after the fire of the Little Belt was silenced, or at any other time, ask her commander if he had struck his colors? if not, be pleased to state to the court what my inquiry was.

Answer. The commodore did not then, or at any other time, ask the commander of the Little Belt if he had struck his colors; but the commodore's question was, "did you say you struck your colors?"

Question by Commodore Rodgers. What reply did the commander of the Little Belt make to my question of "did you say you had struck your colors?"

Answer. I could not distinctly hear the reply that was made to that question; but I heard at the time several of our men say, he, the commander of the Little Belt, says "Ay, ay, I am in great distress."

Question by Commodore Rodgers. Were lights displayed from the President during the night after the action, so that her position might have been observed by the Little Belt?

Answer. Yes.

ANDREW L. B. MADISON was produced to the court, and sworn as a witness.

Question. Were you on board the United States' frigate the President during the action, on the night of the 16th day of May last, with His Britannic Majesty's ship the Little Belt?

Answer. Yes.

Question. Do you hold any, and what, station on board the United States' frigate the President?

Answer. Lieutenant of marines.

Question. Where were you quartered on board the frigate *President* at the time of the action?

Answer. On the gangway.

Question. Where were you standing at the time Commodore Rodgers hailed the *Little Belt*?

Answer. I was standing on the combings of the main hatch, on the larboard side.

Question. Had the *Little Belt* then hailed the *President*?

Answer. No, sir.

Question. When Commodore Rodgers hailed the *Little Belt*, was there any reply from her, and, if so, what was the nature of it?

Answer. I heard no reply.

Question. Did Commodore Rodgers hail the *Little Belt* a second time, and, if so, how soon?

Answer. He did, in fifteen or eighteen seconds.

Question. Was sufficient time given by Commodore Rodgers for the *Little Belt* to have answered his first hail, before the commodore hailed her a second time?

Answer. There was.

Question. Did Commodore Rodgers receive any reply to his second hail, and, if any, what was its purport?

Answer. He received no reply, but the *Little Belt* fired a gun from near her gangway.

Question. Were you in a position to observe the *Little Belt* at the time she fired that gun?

Answer. Yes; I was looking directly at the *Little Belt* when she fired; saw the flash, and heard the report.

Question. When the *Little Belt* fired the said gun, had any gun been previously fired from the frigate *President*, or any provocation been given by Commodore Rodgers to the commander of the *Little Belt*?

Answer. No gun had then been fired from the *President*, nor had any provocation been given by the commodore to the commander of the *Little Belt*.

Question. What time elapsed before the *President* returned the fire of the *Little Belt*? and how many guns were fired from the *President* before the *Little Belt* commenced a general fire?

Answer. The *President* fired one gun in about six seconds after having received the shot of the *Little Belt*, and immediately the latter ship fired three guns, and instantly after the rest of her broadside and her musketry.

Question. After the *President* commenced firing upon the *Little Belt*, was the latter ship silenced, and in what time?

Answer. The *Little Belt* was silenced in six or seven minutes after that time, when immediately orders were passed to cease firing.

Question. Did the *President* then cease firing? and did the *Little Belt* thereupon renew her fire, and how soon?

Answer. The *President* ceased her fire, and the *Little Belt* in about two or three minutes after renewed her fire.

Question. Did the *President* then recommence her fire? and was the *Little Belt* again silenced, and how soon?

Answer. The *President* renewed her fire, which continued four or five minutes, when the guns of the *Little Belt* were silenced, and orders were immediately passed to me to cease firing.

Question. At the several times when the guns of the *Little Belt* were silenced, did Commodore Rodgers exert himself to prevent further injury being done to her?

Answer. Yes; orders were immediately passed to cease firing.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the *Little Belt*?

Answer. I have sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. None.

Question by Commodore Rodgers. Was the *President* at any time on fire, or did she sheer off during the action, with a view to avoid the *Little Belt*?

Answer. The *President* was not at any time on fire, nor did she sheer off during the action, with a view to avoid the *Little Belt*.

Captain CALDWELL of the marines was again produced to the court, and examined.

Question. What time elapsed before the *President* returned the fire of the *Little Belt*? and were any, and how many, guns fired from the *President*, before the *Little Belt* commenced a general fire?

Answer. Five or six seconds elapsed before the *President* returned the fire of the *Little Belt*, by firing one gun, and immediately the latter ship fired three guns, and instantly the rest of her broadside and her musketry.

The court adjourned to meet at the same place to-morrow morning, at 11 o'clock.

WEDNESDAY, *September 4, 1811.*

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, *President*; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

JACOB MULL was produced to the court and sworn as a witness.

Question. Were you on board the *United States'* frigate the *President* during the action on the night of the 16th day of May last with His Britannic Majesty's ship the *Little Belt*?

Answer. Yes, sir.

Question. Do you hold any, and what, station on board the said frigate the *President*?

Answer. The station of sailing-master.

Question. On the night of the 16th day of May last where were you quartered on board the said frigate the *President*?

Answer. On the quarter-deck.

Question. When within hailing distance, did Commodore Rodgers hail the *Little Belt*?

Answer. Yes, sir.

Question. Had the *President* at that time been hailed by the *Little Belt*?

Answer. No, sir.

Question. Did Commodore Rodgers hail the *Little Belt* again, and was sufficient time given for her to answer him before his second hail?

Answer. The commodore hailed the *Little Belt* a second time, sufficient time having been given to receive an answer from the *Little Belt* before the commodore's second hail.

Question. Was any, and what, answer given by the commander of the *Little Belt* to either hail of Commodore Rodgers?

Answer. There was an answer given, I think. To the first hail of the commodore, the commander of the *Little Belt* said halloo! to the second hail of Commodore Rodgers there was no answer, but instantly the *Little Belt* fired a shot, which I thought struck the frigate *President*.

Question. Were you looking at the *Little Belt* at the time she fired that shot?

Answer. I was, but could not see her hull.

Question. At the time the *Little Belt* fired the said gun, had any gun been fired from the *President*, or any provocation whatever been given by Commodore Rodgers to the captain of the *Little Belt*?

Answer. No gun had been fired from the *President*, nor had any provocation whatever been given by Commodore Rodgers to the captain of the *Little Belt*.

Question. What time elapsed before the *President* returned the first gun of the *Little Belt*? and were there any, and how many, guns fired from the *President* before the *Little Belt* commenced a general fire?

Answer. Perhaps three or four seconds elapsed before the *President* returned the said gun; there was only one gun fired from the *President* before the *Little Belt* commenced a general fire.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the *Little Belt*?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. None, sir.

Question by Commodore Rodgers. What was your impression as to the force of the *Little Belt*, from the time you first observed her, until the termination of the firing, or, indeed, until her force was ascertained the next morning?

Answer. I thought she was a large sized frigate, until we came in hail of her the next day.

Question by Commodore Rodgers. What was the duration of the action? and was there any cessation, and how long?

Answer. The action continued fourteen or fifteen minutes, during which time there was a cessation of the fire of both ships of about three minutes.

Question by Commodore Rodgers. When the *Little Belt*'s fire was finally silenced, could her guns have been brought to bear, had her commander wished to fire again?

Answer. They could.

Question by Commodore Rodgers. In the position the two ships were at the time I gave orders a second time to cease firing, what would, in your opinion, have been the effect of another broadside from the *President*?

Answer. I think it would have sunk the *Little Belt*.

Lieutenant JOHN ORDE CREIGHTON was again produced to the court and examined.

Question by Commodore Rodgers. What was your impression as to the force of the *Little Belt*, from the time you first observed her, until the termination of the firing, or, indeed, until her force was ascertained the next morning?

Answer. I was under the impression that the *Little Belt* was a frigate, until doubts were excited in my mind by the feeble resistance she made in the action; and on the following morning, I was still of opinion that she was a frigate when we first discovered her, and until we got so near her as to be certain of her force.

Question by Commodore Rodgers. Did I ask you, immediately on your return from the *Little Belt*, if her wheel had not been carried away?

Answer. Yes, sir, the commodore asked me that question.

Question by Commodore Rodgers. From the *Little Belt*'s manœuvres the night of the rencounter, did you suppose her wheel had been shot away?

Answer. I think there was great want of conduct on board the *Little Belt*; she did not make that defence which a ship of her force ought to have made.

Question by Commodore Rodgers. Did Captain Bingham inform you that he had not seen our colors?

Answer. Captain Bingham said to me the *President*'s colors had not been hoisted; I replied to him they had been hoisted from the moment we discovered him to be a ship of war; he then said your *mizzen* topsail would prevent me from seeing it; to which I replied, he must have seen our pendant, as it showed distinctly above the royals; he then said, yes, I recollect my officers, who are better acquainted here than I am, told me you were a burgee.

Question by Commodore Rodgers. Is it the usage of the service to prepare for action before going alongside of a strange vessel of war?

Answer. Yes, sir.

The court adjourned to meet to-morrow morning at 11 o'clock, at the same place.

THURSDAY, September 5, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

JOSEPH SMITH was produced to the court and sworn as a witness.

Question. Were you on board the United States' frigate the *President* on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the *Little Belt*?

Answer. I was on the night of that day on board the said frigate the *President*, and there was then an action between her and the said ship the *Little Belt*.

Question. Do you hold any, and what, station on board the said frigate the *President*? and where were you quartered at the time of the said action?

Answer. I am a midshipman, acting as master's mate on board the *President*, and at the time of the said action commanded the sub-division of the fourth division of guns on the fore-castle.

Question. On the night of the said action, did you hear Commodore Rodgers hail the *Little Belt*, and at what hour, and was there any, and what, reply given to the commodore?

Answer. At eight o'clock on the night of the said action, or nearly at that hour, I heard Commodore Rodgers hail the *Little Belt*; to which I did not hear any reply.

Question. Did Commodore Rodgers hail the *Little Belt* a second time, and how soon, and was there any, and what, reply from her?

Answer. The commodore hailed the *Little Belt* a second time in about five seconds, to which I heard no reply.

Question. Did you, at the time of Commodore Rodgers's second hail, or at any other, and what time, hear the report of a gun?

Answer. I saw the flash and heard the report of a gun almost immediately after Commodore Rodgers's second hail.

Question. When you saw the flash and heard the report of the said gun, were you in a position to observe the Little Belt?

Answer. Yes, sir, I was standing on the side of the after gun on the fore-castle, looking directly at the Little Belt.

Question. Was the said gun fired from the Little Belt?

Answer. It was, sir.

Question. When the Little Belt fired the said gun, had any gun been fired by the President, or any provocation whatever been given by Commodore Rodgers to the commander of the Little Belt?

Answer. At that time there had not any gun been fired from the President, nor had any provocation that I know of been given by the commodore to the captain of the Little Belt.

Question. Did the President return the fire of the Little Belt, and how soon? and did the President fire one or more guns in return?

Answer. The President returned the fire of the Little Belt, in four or five seconds, by firing one gun only.

Question. Did the Little Belt thereupon immediately commence a general fire?

Answer. I heard three guns fired from the Little Belt immediately after the President had fired the said gun.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. What was your impression as to the force of the Little Belt, from the time you first observed her, until the termination of the firing, or, indeed, until her force was ascertained the next morning?

Answer. I took her to be a frigate.

Question by Commodore Rodgers. What was the duration of the action, and was there any cessation, and how long?

Answer. I suppose the action to have lasted from twelve to fourteen minutes; there was a cessation of two and a half or three minutes.

Question by Commodore Rodgers. Did you twice, during the rencounter, receive orders to cease firing?

Answer. Yes, sir.

Question by Commodore Rodgers. At the several times the said orders to cease firing were passed to you, particularly the last, did Commodore Rodgers make every exertion to prevent further injury being done to the Little Belt?

Answer. Yes, both times; I received the last time the orders from three different officers to cease firing.

HENRY DENISON was produced to the court and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an engagement between her and His Britannic Majesty's ship the Little Belt?

Answer. I was then on board the said frigate the President, when an action took place between her and a vessel which afterwards proved to be the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the action aforesaid?

Answer. I am acting chaplain, and at the time of the said action was quartered on the quarter-deck.

Question. On the night of the said action, did you hear Commodore Rodgers, and at what hour, hail the Little Belt, and how often? and was there any, and what, answer given by her?

Answer. About a quarter past eight o'clock on the night of the said action, when within about seventy or eighty yards of the Little Belt, I heard Commodore Rodgers hail her, and ask, "what ship is that?" to which inquiry the Little Belt in about two seconds replied by putting the same question of "what ship is that?" after a short interval the commodore repeated his first question of "what ship is that?" to which no reply was given.

Question. Did you, at the time of Commodore Rodgers's second inquiry of "what ship is that?" or at any other, and what, time, hear the report of a gun?

Answer. Directly after Commodore Rodgers's second hail I heard the report of a gun.

Question. When you heard the report of the said gun, were you in a position to observe the Little Belt?

Answer. I was not.

Question. Was the said gun fired from the Little Belt?

Answer. From my position just at that moment, I could not see any flash, but from not then feeling any jar of the President, my belief was, that the said gun was fired from the Little Belt.

Question. At that time, had any gun been fired from the President, or any provocation been given by Commodore Rodgers to the captain of the Little Belt?

Answer. No gun had then been fired from the President, neither, in my opinion, had any provocation been given by Commodore Rodgers to the captain of the Little Belt, as no other conversation had passed between them than what I have mentioned took place at the several times of hailing.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. Not any.

MICHAEL ROBERTS was produced to the court, and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then any engagement between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am boatswain of the President, and was at the time of the said action quartered on the fore-castle.

Question. When within hailing distance, did either, and which, ship hail? and from which of the said ships did the first hail proceed?

Answer. When the President and the Little Belt were within hailing distance of each other, Commodore Rodgers first hailed the latter ship.

Question. Did you hear, and at what time, the report of a gun? and were you then observing the Little Belt, and did it proceed from her?

Answer. To the best of my recollection, at the time Commodore Rodgers hailed the Little Belt, I was standing on the larboard side of the fore-castle belaying the weather jib sheet, and then saw the flash; and instantly turning my head towards the Little Belt, I heard the report of a gun, and saw that it proceeded from her.

Question. When you saw the flash and heard the report of the said gun, had there been any gun fired from the President?

Answer. No, sir.

Question. At that time had Commodore Rodgers given any provocation whatever to the captain of the Little Belt?

Answer. None, that I heard or saw.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. No, sir.

The court adjourned to meet at the same place to-morrow morning at 11 o'clock.

FRIDAY, September 6, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

RICHARD CARSON was produced to the court and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an engagement between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the President, and at the time of the said action was quartered on the fore-castle and gangways.

Question. Did you, on the night of the said action, hear Commodore Rodgers hail the Little Belt, and at what hour, and how often? and was there any, and what, reply made to the commodore?

Answer. At about eight o'clock on the night of the aforesaid action, I heard Commodore Rodgers hail the Little Belt, by asking "what ship is that?" to which inquiry the Little Belt replied by repeating the question of "what ship is that?" In a short time the commodore hailed the Little Belt again, asking "what ship is that?" to which question she replied with a shot.

Question. Were you looking at the Little Belt when she fired the said shot, and did you see the flash, and hear the report of the gun which she then fired?

Answer. I was then looking at the Little Belt, and saw the flash, and instantly heard the report of the gun which she then fired.

Question. Was the said gun fired from the Little Belt without any previous provocation or justifiable cause?

Answer. There had then been no gun fired from the President, nor had any conversation other than the hailing I have previously mentioned passed between Commodore Rodgers and the captain of the Little Belt.

Question. Was the gun which had been fired from the Little Belt returned by the President, and how soon? and did she fire one or more guns in return?

Answer. The President immediately fired one gun only in return.

Question. Did the Little Belt, as soon as the gun she fired had been answered by the President, commence a general fire?

Answer. She did.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

MATTHEW C. PERRY was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an engagement between her and His Britannic Majesty's ship the Little Belt?

Answer. I was then on board the said frigate the President, when there was an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the said frigate the President, and at the time of the said action was stationed on the quarter-deck.

Question. On the night of the said action did you hear Commodore Rodgers hail the Little Belt, and at what hour, and how often? and was there any, and what, reply given to the commodore?

Answer. Commodore Rodgers, at about eight o'clock on the night of the said action, hailed the Little Belt and asked "what ship is that?" to which the captain of the Little Belt replied by echoing the commodore's previous question, of "what ship is that?" Immediately after, Commodore Rodgers again hailed the Little Belt by repeating his former inquiry of "what ship is that?" to which there was no reply, but instantaneously the Little Belt fired a gun.

Question. At the time the Little Belt fired the said gun, had there been any gun fired from the President, or any provocation given by Commodore Rodgers to the commander of the Little Belt?

Answer. When the Little Belt fired the said gun, the President had not fired at all; nor had any provocation been given by Commodore Rodgers to the captain of the Little Belt.

Question. Was the gun, which had been first fired from the Little Belt, answered by the President, and how soon? and did she fire one, or a greater number of guns in return?

Answer. The President, in from five to seven seconds, returned the said gun fired from the Little Belt, by firing one gun only.

Question. Did the Little Belt, immediately after the gun fired from her had been answered by the President, commence a general fire?

Answer. She did.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

SILAS DUNCAN was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. I was on that night on board the said frigate the President, and there was then an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the said frigate, and was at the time of the said action quartered in the foretop.

Question. On the night of the said action, did you hear Commodore Rodgers hail the Little Belt, and at what hour, and how often? and was there any, and what, answer given to the commodore?

Answer. Immediately before the action commenced between the President and the Little Belt, I heard Commodore Rodgers hail the latter by asking "what ship is that?" when, I think, the commander of the Little Belt replied by repeating the commodore's previous question. In a very short time afterwards Commodore Rodgers repeated his question, of "what ship is that?" to which I did not hear any reply.

Question. Did you, at the time of Commodore Rodgers's second hail, or at any other, and what, time hear the report of a gun, and did it proceed from the President or the Little Belt?

Answer. Immediately after Commodore Rodgers's second hail I heard the report of two guns in quick succession, but, from my position at the moment, I could not ascertain from which ship the report proceeded; but my impression was, that the first gun I heard was fired from the Little Belt, and that the President had fired a shot in return. At the time I heard the report of the first gun, the foretop-sail being between me and the Little Belt, I could not see her.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances related in that letter which you know to be incorrect?

Answer. I know of none.

JOHN H. CLACK was sworn as a witness.

Question. Were you on board of the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. I was at that time on board the said frigate the President, when there was an action between her and the said ship the Little Belt.

Question. Do you hold any, and what, station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I am a midshipman on board the said frigate, and was stationed at the time of the said action in the mizzen top.

Question. When the President came within hail of the Little Belt, did you hear Commodore Rodgers hail her, and how often?

Answer. When the President came within hailing distance of the Little Belt, I heard the commodore hail her twice.

Question. Was there any, and what, reply made from the Little Belt?

Answer. There was no reply from the Little Belt; but to the commodore's first hail the Little Belt hailed in return.

Question. Were you observing the Little Belt when the first gun was fired?

Answer. I could not see her when I heard the report of the first gun.

Question. Which ship fired the first gun?

Answer. I cannot positively say; the impression on my mind was, that the Little Belt fired the first gun.

Question. Were there any, and what, circumstances which induced you to believe that the Little Belt fired the first gun?

Answer. There were several; at the time the first gun was fired I did not feel any jar, but when, immediately after, I saw the President fire a gun, I very sensibly felt the jar.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. There are none.

The court adjourned to meet to-morrow at the same place, at 11 o'clock.

SATURDAY, *Septem̄ber* 7, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

THOMAS GAMBLE was sworn as a witness.

Question. Were you, on the night of the 16th day of May last, on board the United States' frigate the President, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. I was then on board the said frigate the President, when there was an action between her and the said ship the Little Belt?

Question. What was your station on board the said frigate the President, and where were you quartered at the time of the said action?

Answer. I was second lieutenant of the said frigate, commanding the first division of guns.

Question. When the said frigate came within hailing distance of the Little Belt, did Commodore Rodgers hail her?

Answer. When within hailing distance, I heard the commodore hail the Little Belt very distinctly.

Question. Was there any, and what, reply to Commodore Rodgers's hail from the Little Belt?

Answer. To the first hail of "ship ahoy!" of the commodore, the answer of the Little Belt was "halloo!" whereupon, Commodore Rodgers asked "what ship is that?" to which inquiry the Little Belt replied by repeating the same question, of "what ship is that?" In the course of four or five seconds after, the commodore again inquired "what ship is that?" to which there was no reply from the Little Belt.

Question. Was a gun fired at this time, and were you observing the Little Belt, and from whence did the fire proceed?

Answer. At the time of Commodore Rodgers's first hail, of "what ship is that?" I was looking out of a port at the Little Belt; and from her repetition of the commodore's previous question, I was under an apprehension that some difficulty might occur, and withdrew from the port; I then heard Commodore Rodgers hail the Little Belt again; immediately after which I heard the report of a gun, which I am confident proceeded from the Little Belt, as the report appeared distant, and I felt no concussion.

Question. When you heard the report of the said gun, had a gun been fired from the said frigate the President, or had any provocation whatever been given by Commodore Rodgers to the commander of the said ship the Little Belt?

Answer. At that time not a gun had been fired from the President, nor had any provocation been given by the commodore to the commander of the Little Belt.

Question. Are you sure that the first gun was not fired from the division that you commanded in the aforesaid action?

Answer. I am certain it was not. It was not possible that a gun could have then been fired from the division I commanded, without my knowledge.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. What were Commodore Rodgers's orders on board the frigate President, before coming up with the Little Belt?

Answer. The commodore's orders were, at this time, to be very particular not to fire a gun unless the chase fired first.

Question by Commodore Rodgers. What description of shot were fired from your division during the said encounter with the Little Belt?

Answer. From the division I then commanded, there was nothing but round and grape shot fired.

Question by Commodore Rodgers. Did you hear any hail from the Little Belt, previously to Commodore Rodgers having hailed her, and were you in a situation to have heard if there had been any previous hail from that ship?

Answer. My situation was such, that I must have heard if the Little Belt had first hailed the President; and I feel positive the first hail proceeded from Commodore Rodgers.

Question by Commodore Rodgers. Was the President at any time on fire during the rencounter with the Little Belt?

Answer. No, sir.

Question by Commodore Rodgers. Did the President at any time during the rencounter with the Little Belt sheer off with a view to avoid her?

Answer. She did not.

Question by Commodore Rodgers. In the situation the two ships were at the time the Little Belt's fire was finally silenced, what, in your opinion, would have been the effect of another broadside from the President?

Answer. It is my opinion it would have sunk the Little Belt.

Question by Commodore Rodgers. As soon as the fire of the Little Belt was finally silenced, did Commodore Rodgers exert himself to prevent further injury being done to her?

Answer. The commodore did; I heard him on the gun-deck, about the main hatch, ordering to cease firing.

Question by Commodore Rodgers. Did you see any colors hoisted on board the Little Belt during the chase, and were you then in a situation to have seen them had she displayed any?

Answer. I was in a situation to have seen the Little Belt's colors had she displayed any. I was sitting in the bridle port looking at her with a spy-glass the greater part of the chase, and did not observe any colors displayed by her.

Question by Commodore Rodgers. What was your impression as to the force of the Little Belt from the time you first observed her until the termination of the firing, or, indeed, until her force was discovered the next day?

Answer. I was under the impression she was a frigate of thirty-six or thirty-eight guns until the morning after the action.

ALEXANDER JAMES DALLAS was sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered on board the said frigate the President at the time of the said action?

Answer. I was at that time third lieutenant of the said frigate, commanding the second division of her guns.

Question. When within hailing distance, did you hear Commodore Rodgers hail the Little Belt?

Answer. Yes, sir.

Question. Was there any, and what, reply thereto from the Little Belt?

Answer. Halloo, was the reply thereto from the Little Belt.

Question. Did Commodore Rodgers thereupon ask "what ship is that?"

Answer. Yes, sir.

Question. Was there any, and what, reply to that question from the Little Belt?

Answer. The commodore's question of "what ship is that?" was reiterated from the Little Belt.

Question. Did Commodore Rodgers again hail "what ship is that?" and was there any, and what, reply thereto from the Little Belt?

Answer. I heard the commodore again say something, the tendency of which I did not distinctly comprehend, but immediately after a gun was fired from the Little Belt.

Question. Where were you when the Little Belt fired that gun, and were you then looking at her, and did you see the flash, and hear the report of the said gun?

Answer. I was leaning or sitting, I do not know which, looking at the Little Belt out of the first port forward of the starboard gangway, and saw a flash from her, and heard two reports.

Question. When you saw the flash and heard the reports aforesaid, had a gun been fired from the President, or had any provocation whatever been given by Commodore Rodgers to the commander of the Little Belt?

Answer. No gun had then been fired by the President, nor had any provocation been given by the commodore to the commander of the Little Belt.

Question. Was the gun you saw fired from the Little Belt returned by the President, and from which division, and how soon, and did the President fire one or more guns in return?

Answer. As soon as I perceived the flash and heard the reports from the Little Belt, I got in from the port and fired a gun from the second division, which I then commanded. The time between seeing the flash and hearing the reports and of firing the gun from the said division, I suppose to have been four or five seconds. The President fired only one gun in return.

Question. Did the Little Belt thereupon immediately commence a general fire?

Answer. Yes, sir.

Question. What were Commodore Rodgers's orders on board the President before coming up with the Little Belt?

Answer. They were to fire on no account without orders from the quarter-deck, or unless she fired first.

Question. Had you received any order other than the above orders?

Answer. I had not then received any other than the above orders.

Question. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. I heard no hail from the Little Belt previously to the commodore's having hailed her.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. There are none, sir.

Question by Commodore Rodgers. What description of shot were fired from the division you commanded during the said engagement?

Answer. Round and grape shot, and none other.

Question by Commodore Rodgers. Was the President on fire at any time during the said action?

Answer. No, sir.

Question by Commodore Rodgers. Did the President at any time during the said action sheer off with a view to avoid the Little Belt?

Answer. No, sir.

Question by Commodore Rodgers. In the situation the two ships were at the time the Little Belt's fire was finally silenced, what in your opinion would have been the effect of another broadside from the President?

Answer. Another broadside from the President would in all probability have sunk the Little Belt.

Question by Commodore Rodgers. As soon as the fire of the Little Belt was finally silenced, did Commodore Rodgers exert himself to prevent further injury being done to her?

Answer. He did. The commodore came down on the gun-deck and gave orders to cease firing.

The court adjourned, to meet on Monday next at the same place, at 11 o'clock in the morning.

MONDAY, *September 9, 1811.*

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of Saturday last were read and approved.

JOHN M. FUNK was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was then fourth lieutenant of the said frigate, commanding the third division, and was quartered on the gun-deck.

Question. When within hailing distance, did you hear Commodore Rodgers hail the Little Belt?

Answer. Yes, sir, I did.

Question. Was there any, and what, answer thereto from the Little Belt?

Answer. There was a reply thereto from the Little Belt, but I could not distinctly understand what was said.

Question. Did Commodore Rodgers hail the Little Belt again, and how soon, and was there any, and what, reply thereto from her?

Answer. After sufficient time had elapsed for an answer from the Little Belt, the commodore hailed her again, to which I did not hear any reply.

Question. Was a gun fired from the Little Belt, and at what time?

Answer. Immediately after the commodore again hailed the Little Belt, I heard the report of a gun, which I am confident proceeded from her, as the report came from that direction, and I felt no jar. I was not then looking at the Little Belt.

Question. When you heard the report of the said gun, had any gun been fired from the President, or had any provocation whatever been given by Commodore Rodgers to the commander of the Little Belt?

Answer. Not any gun had then been fired from the President, nor had any provocation then been given by the commodore to the commander of the Little Belt.

Question. Are you certain the first gun was not fired from the division you commanded in the said action?

Answer. Yes, sir, I am certain it was not.

Question. Was the gun which had been fired from the Little Belt returned by the President, and how soon? and did the President fire one or more guns in return?

Answer. It was returned by a single gun from the President in five or six seconds.

Question. Did the Little Belt thereupon commence a general fire?

Answer. Yes, sir.

Question. Did you receive any, and what, orders from Commodore Rodgers, before coming up with the Little Belt?

Answer. The orders I received, previously to coming up with the Little Belt, were not to fire without orders from the quarter-deck, unless she fired first.

Question. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. No, sir.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the said action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Question by Commodore Rodgers. What description of shot were fired during the action from the division you then commanded?

Answer. No other than round and grape shot.

Question by Commodore Rodgers. Was the President on fire at any time during the said action?

Answer. Not to my knowledge.

Question by Commodore Rodgers. Did the President, at any time during the said action, sheer off with a view to avoid the Little Belt?

Answer. No, sir.

Question by Commodore Rodgers. In the situation the two ships were at the time the Little Belt's fire was finally silenced, what, in your opinion, would have been the effect of another broadside from the President?

Answer. I think, sir, it would have sunk the Little Belt?

Question by Commodore Rodgers. As soon as the fire of the Little Belt was silenced, did Commodore Rodgers exert himself to prevent further injury being done to the Little Belt?

Answer. He did, sir.

PETER GAMBLE was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was quartered on the gun-deck, in the second division.

Question. Did the Little Belt commence the said action by firing the first gun?

Answer. At the time the first gun was fired, I was not looking at the Little Belt; but, in consequence of the report coming from the direction in which she then was, and from my not feeling any jar at that time, I am confident she fired the first gun.

Question. When you heard the report of the said gun, had any gun been fired from the division in which you were then stationed, or had any provocation been given by Commodore Rodgers to the commander of the Little Belt?

Answer. At that time no gun had been fired from the division in which I was then stationed, nor had any provocation, that I know of, been given by Commodore Rodgers to the commander of the Little Belt.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the said action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. I do not know that any circumstances therein stated are incorrect.

EDWARD BABBIT was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last? and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was quartered in the third division, on the gun-deck.

Question. Did the Little Belt commence the said action by firing the first gun? and were you then looking at her?

Answer. Yes, sir. I was looking at her when she fired the first gun, and saw the flash, and heard the report of it.

Question. Was the said gun fired from the Little Belt without any previous provocation or justifiable cause?

Answer. It was.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, dated off Sandy Hook, on the 23d day of May last, relative to the said action with the Little Belt?

Answer. I have heard it read.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. There are none.

Lieutenant JOHN ORDE CREIGHTON was produced and re-examined.

Question by a member of the court. During the night after the affair between the President and the Little Belt, had the President lights hoisted?

Answer. She had.

JACOB MULL was produced and re-examined.

Question. Was there any, and what, injuries sustained by the President, in the affair between her and the Little Belt, on the night of the 16th day of May last?

Answer. The President in that affair sustained none other than the injuries which follow: One boy was wounded; one shot struck her mainmast; another shot struck her foremast; two of the fore, two of the main, and one of the mizzen shrouds, the starboard maintop-mast, breast backstay, and some of the running rigging, were cut away, and several shot went through the sails.

Question. Did any shot from the Little Belt strike the hull of the President in the said affair?

Answer. Not one of any description.

EDWARD RUTLEDGE SHUBRICK was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was stationed forward on the gun-deck, in the first division.

Question. Did the Little Belt commence the said action by firing the first gun, and were you then looking at her? and did you see the flash, and hear the report of it?

Answer. She did commence the action, by firing the first gun. I was looking at her through one of the ports, and saw the flash, and heard the report of it.

Question. Was the said gun fired from the Little Belt without any previous provocation or justifiable cause?

Answer. The Little Belt fired the first gun, without any previous provocation or justifiable cause.

Question. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. No, sir; none.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. Yes, sir.

Question. Are there any circumstances stated in that letter which you know to be incorrect?

Answer. No, sir.

The court adjourned, to meet at the same place to-morrow morning, at 11 o'clock.

TUESDAY, *September 10, 1811.*

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

PHILIP DICKERSON SPENCER was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. I was then on board the said frigate, when there was an action between her and the said ship the Little Belt.

Question. What was your station, and where were you quartered, on board the said frigate the President at the time of the said action?

Answer. I was then a midshipman on board the said frigate, and was quartered in the third division on the gun-deck.

Question. Did the Little Belt commence the said action, by firing the first gun, and were you looking at her when you heard the report of the first gun which was then fired?

Answer. At the time the first gun was fired I was not looking at the Little Belt, but, from the direction in which the report came, and from not then feeling any jar, I am confident the first gun was fired from her.

Question. When you heard the report of the said gun, had any gun been fired from the division in which you were quartered, or had any previous provocation been given to the commander of the Little Belt?

Answer. No gun had then been fired from the division in which I was quartered; neither had any previous provocation, to my knowledge, been given to the captain of the Little Belt.

Question. Have you seen Commodore Rodgers's official letter to the Secretary of the Navy, bearing date off Sandy Hook, on the 23d day of May last, relative to the action with the Little Belt?

Answer. I have, sir.

Question. Are there any circumstances therein stated which you know to be incorrect?

Answer. Not any.

Question by Commodore Rodgers. Did you hear any hail from the Little Belt previously to Commodore Rodgers having hailed her?

Answer. I did not.

BREASTED BARNES was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the 16th day of May last, and was there then an action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate the President?

Answer. I was then carpenter of the said frigate, and was quartered on the gun-deck, to attend the pumps.

Question. Did the Little Belt commence the said action, by firing the first gun?

Answer. Yes, sir; she fired the first gun.

Question. Were you looking at the Little Belt when she fired the first gun? and did you see the flash, and hear the report of it?

Answer. I was standing forward of the mainmast, looking through a port at her, when I saw the flash, and heard the report of the gun which she then fired.

Question. When you saw the Little Belt fire the said gun, had any gun been previously fired from the President, or had any provocation been given to the commander of the Little Belt?

Answer. At that time, the President had not fired any gun, nor had any previous provocation been given to the commander of the Little Belt that I saw or heard.

Question. Were there any, and what, damages sustained by the said frigate the President, in her hull and spars, in the affair between her and the said ship the Little Belt, on the night of the 16th day of May, 1811?

Answer. There was not a single shot of any description that struck the hull of the President, but she received one shot in her mainmast, and one in her foremast, during that affair.

JOHN NIESS, ELIPHALET CARR, JOHN JONES, JAMES VEITCH, and TROPHEMUS DAVIS, were produced and sworn as witnesses.

JOHN NIESS was examined.

Question. Were you on board the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you quartered, on board the President at the time of the said action?

Answer. I was captain of the first gun of the first division on the gun-deck.

Question. Did the Little Belt commence the said action, by firing the first gun? and were you then looking at her?

Answer. She did, sir, fire the first gun. I was then looking at her out of the port, and saw the flash, and heard the report of it.

ELIPHALET CARR was interrogated.

Question. Were you on board of the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. Where were you quartered, and what was your station, on board the President at the time of the said action?

Answer. I was captain of, and quartered at, gun No. 2 in the first division on the gun-deck.

Question. Did the Little Belt commence the action, by firing the first gun? and were you then looking at her?

Answer. She fired the first gun. I was then looking at her, and saw the flash, and heard the report of it.

JOHN JONES was examined.

Question. Were you on board the United States' frigate the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. At what gun were you then quartered, and what was your station at the gun?

Answer. I was quartered at the gun No. 3 of the first division on the gun-deck, and was sail-trimmer.

Question. Are the persons now on board the President who, at the time of the said action, were first and second captains of gun No. 3 of the first division?

Answer. They are not. Their term of service having expired, they have been discharged.

Question. Did the President, or Little Belt, fire the first gun?

Answer. The Little Belt. I was looking at her out of a port, and saw the flash, and drew my head in, and heard the report of it.

JAMES VEITCH was produced and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of gun No. 4 of the first division, and was quartered at that gun.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. The Little Belt fired first. I was then looking at her, and saw the flash, and heard the report of the gun.

TROPHEMUS DAVIS, having been sworn, was produced and examined.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then quartered at gun No. 5 of the first division on the gun-deck, and was captain of the same.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. The Little Belt. I was looking at her out of a port, and saw her fire it.

JOHN LAYFIELD, BENJAMIN BROWN, EDWARD FITZGERALD, JAMES CORNWALL, and JOHN FITCH, were produced and sworn as witnesses.

JOHN LAYFIELD was examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of, and quartered at, gun No. 6 of the second division on the gun-deck.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. The Little Belt fired the first gun. I was looking out of a port, and saw her fire it.

BENJAMIN BROWN was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then quartered at gun No. 7 of the second division on the gun-deck, and was shot and wad man.

Question. Are the persons now on board the President who, at the time of the said action, were first and second captains of gun No. 7 of the second division? if not, where are they?

Answer. They are not now on board. The term of service of the first captain of that gun has expired, and he has been discharged; and the second captain has deserted.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. The Little Belt fired the first gun. I was then looking at her, and saw her fire it.

EDWARD FITZGERALD was called into court, and examined as a witness.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of, and quartered at, gun No. 8 of the second division on the gun-deck.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. The Little Belt. I was then looking at her, and saw her fire.

JAMES CORNWALL, having been sworn, was called into court and examined as a witness.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of, and quartered at, gun No. 9 of the second division on the gun-deck.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. The Little Belt, to the best of my knowledge. I was not then looking at her, but, from the report, and not feeling any jar, I believe she fired the first shot.

JOHN FITCH, having been previously sworn, was again called into court, and examined as a witness.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was second captain of, and was quartered at, gun No. 10 of the second division on the gun-deck.

Question. Where is the first captain of gun No. 10 of the second division?

Answer. He has deserted.

Question. Did the President, or the Little Belt, fire the first gun?

Answer. I saw the Little Belt fire the first gun.

The court adjourned, to meet at the same place to-morrow morning, at 11 o'clock.

WEDNESDAY, September 11, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, President; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

RICHARD THOMPSON, JOHN MASON, JAMES THOMPSON, DAVID LAWSON, and JAMES LEE, were produced and sworn as witnesses.

RICHARD THOMPSON was then examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was quartered at gun No. 11, in the third division on the gun-deck, and was fireman.

Question. Are the first and second captains of the said gun, No. 11, on board the frigate President?

Answer. The first captain of that gun is on board the said frigate, but is sick and confined to his hammock; and the second captain thereof has been discharged, his term of service having expired.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first shot. I was then looking at her out of a port, and saw the flash, and heard the report of her gun, just at the moment when Commodore Rodgers hailed her the second time.

JOHN MASON, having already been sworn, was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of gun No. 12 of the third division on the gun-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt. I had my eyes on her at the time, and saw the flash of the gun she then fired.

DAVID LAWSON was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of gun No. 14 of the third division on the gun-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her and saw the flash of her gun.

JAMES LEE was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of gun No. 15 of the third division on the gun-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt.

JAMES THOMPSON was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of gun No. 13 of the third division on the gun-deck, and was quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt. The second time the commodore hailed her I was looking at her, and saw the flash and heard the report of her gun.

EDWARD WALKER, MOSES DUNBAR, GEORGE SIMMONS, and JOHN McCORMICK, were produced to the court and sworn as witnesses.

EDWARD WALKER was examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of the first gun of the fourth division on the fore-castle, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. From the report of the gun that was first fired, and from not feeling any jar at that time, I am confident the Little Belt fired the first gun.

MOSES DUNBAR was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then second captain of the second gun of the fourth division on the fore-castle, and was then quartered at the same.

Question. Is the first captain of that gun now on board the said frigate?

Answer. No, sir; his term of service having expired, he has been discharged.

Question. Which ship fired the first gun?

Answer. The Little Belt fired first. I was then looking at her out of a port, and saw the flash and heard the report of her gun.

GEORGE SIMMONS was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then second captain of the third gun of the fourth division on the fore-castle, and was quartered at the same.

Question. Is the first captain of the said gun now on board the said frigate?

Answer. No, sir. He was discharged after his term of service had expired.

Question. Which gun fired the first ship?

Answer. The Little Belt fired first. I was then looking at her, and saw the flash and heard the report of her gun.

JOHN McCORMICK was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then second captain of the fourth gun of the fourth division on the fore-castle, and was quartered at the same.

Question. Is the first captain of that gun now on board the President?

Answer. He is not. His term of service having expired, he has been discharged.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her out of a port, when I saw the flash and heard the report of her gun.

WILLIAM CAMPBELL, THOMAS TAYLOR, PHILLIP WARNER, SAMUEL BROWN, RICHARD CAFFOL, EDWARD PATTERSON, JOHN ANDERSON, and JAMES WELCH, were produced to the court and sworn as witnesses.

WILLIAM CAMPBELL was examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was then captain of the first gun of the fourth division on the quarter-deck, and was then quartered at it.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her, and saw her fire it.

THOMAS TAYLOR was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was captain of the second gun of the fourth division on the quarter-deck, and was then quartered at it.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun five or six seconds before the President fired. I was then looking steadily at her, and saw the flash and heard the report of her gun.

PHILLIP WARNER was called into court and examined.

Question. Were you on board the President on the night of the action between her and the Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the President?

Answer. I was captain of the third gun of the fourth division on the quarter-deck, and was then quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking through a port at her, and saw the flash and heard the report of her gun.

SAMUEL BROWN was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was then your station, and where were you quartered, on board the said frigate?

Answer. I was second captain of the fourth gun of the fourth division on the quarter-deck, and was then quartered at it.

Question. Is the first captain of that gun now on board the President?

Answer. No, sir. He was discharged after his term of service had expired.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then looking at her, and saw the flash and heard the report of her gun.

RICHARD CAFFOL was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was second captain of the fifth gun of the fourth division on the quarter-deck, and was then quartered at that gun.

Question. Is the first captain of that gun now on board the President?

Answer. No, sir; he was discharged after his term of service expired.

Question. Which ship fired the first gun?

Answer. The Little Belt, I was then looking at her out of a port, and saw the flash and heard the report of her gun, as much as three or four seconds before the President returned it.

EDWARD PATTERSON was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was then captain of the sixth gun of the fourth division on the quarter-deck, and was quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun. I was then looking at her, and saw the flash and heard the report of it.

JOHN ANDERSON was called into court and examined.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was then captain of the seventh gun of the fourth division on the quarter-deck, and was quartered at that gun.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun. I saw two flashes from her at the time, and heard the report of her gun.

JAMES WELCH was called into court and interrogated.

Question. Were you on board the frigate President on the night of the action between her and the ship Little Belt?

Answer. Yes, I was, sir.

Question. What was your station, and where were you then quartered, on board the said frigate?

Answer. I was captain of the eighth gun of the fourth division on the quarter-deck, and was then quartered at the same.

Question. Which ship fired the first gun?

Answer. The Little Belt fired first. I was then looking at her, and saw the flash and heard the report of her gun three or four seconds before any gun was fired from the President.

Lieutenant JOHN ORDE CREIGHTON was called into court and again examined.

Question by Commodore Rodgers. When the Little Belt's fire was silenced a second time, ought she to have been kept away or brought to, to have brought her guns to bear upon the President?

Answer. At the time the Little Belt's fire was a second time silenced, her broadside was bearing on the President: as the Little Belt dropped astern of the President, she luffed up, but she should then have been kept away to have brought her guns to bear upon the President.

Question by Commodore Rodgers. At the time the Little Belt's guns were finally silenced, with the sail she had set at that time, had her rudder been free, could she have been kept away so as to have brought her guns to bear upon the President, had the commander of the Little Belt been so disposed?

Answer. At that time, had the rudder of the Little Belt been free, she could have been kept away so as to have brought her guns to bear upon the President.

Question by the same. When the Little Belt's fire was finally silenced, what do you suppose were Commodore Rodgers's motives for giving orders so instantaneously to stop the President's fire?

Answer. My opinion was, that Commodore Rodgers's orders proceeded from motives of humanity.

JACOB MULL was called into court and again examined.

Question by Commodore Rodgers. When the Little Belt's fire was finally silenced, what do you suppose were Commodore Rodgers's motives for giving orders so instantaneously to stop the President's fire?

Answer. I suppose the commodore's orders proceeded from motives of humanity.

ALEXANDER JAMES DALLAS was called into court and again examined.

Question by Commodore Rodgers. You have stated in your evidence that you heard two reports when you saw the Little Belt fire the first gun; what, in your opinion, did the said reports proceed from?

Answer. The one was the report of the gun from the Little Belt; and the other, I suppose, proceeded from the striking of the shot.

The court adjourned to meet at the same place to-morrow morning at 11 o'clock.

THURSDAY, September 12, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, president; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

SILAS H. STRINGHAM, a midshipman on board the frigate President on the night of the action between her and the Little Belt, was sworn as a witness and interrogated.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station on board the said frigate?

Answer. I was a midshipman on board of her.

Question. Which ship fired the first gun?

Answer. The Little Belt fired the first gun. I was then standing alongside of the commodore looking at her, and saw the flash and heard the report of her gun.

JAMES H. LUDLOW was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station on board the said frigate?

Answer. I was a midshipman on board of her.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then standing on a shot box, alongside of the commodore, looking at her, and saw the flash and heard the report of her gun.

DAVID GELSTON INGRAHAM was produced and sworn as a witness.

Question. Were you on board the United States' frigate the President on the night of the action between her and His Britannic Majesty's ship the Little Belt?

Answer. Yes, sir.

Question. What was then your station on board the said frigate?

Answer. I was a midshipman on board of her.

Question. Which ship fired the first gun?

Answer. The Little Belt. I was then standing in the starboard gangway, looking at her, and saw the flash and heard the report of her gun, before I heard the report of a gun from the President.

Lieutenant JOHN ORDE CREIGHTON was called into court and again examined.

Question. When you boarded the ship Little Belt the morning after the action, did you offer, by order of Commodore Rodgers, assistance to the commander of the Little Belt?

Answer. Yes, sir.

Lieutenant RAYMOND H. J. PERRY was called into court and again examined.

Question. At what hour, on the day of the action between the United States' frigate the President and His Britannic Majesty's ship the Little Belt, were the colors of the former hoisted? and how long were they kept flying?

Answer. The colors of the said frigate President were hoisted about a quarter before two, P. M. on the day of the said action, and were kept flying until noon of the following day.

Mr. President and Gentlemen of the Court:

I avail myself of the present moment to express my thanks for the patient investigation of the merits of the transaction which caused its convention; and I feel perfectly convinced that the evidence adduced is amply sufficient to ensure that my conduct in this affair will meet the approbation of every unprejudiced mind, as well for its general tenor, as for the lenity shown to an assumed enemy, whom I had it in my power to destroy by a single broadside more, and that too without any risk of injuring the ship under my command.

Many of the interrogatories, put by myself to the witnesses, may have appeared to the court superfluous, I fear; but when it considers the odious features of the statement which has been exhibited in the newspapers, said to be Captain Bingham's official statement to Admiral Sawyer, (dated His Majesty's sloop Little Belt, May 21, 1811, *latitude 35° 53', longitude 71° 49' west*, Cape Charles bearing *west, distant 48 miles*.) I am sure it cannot complain of the time I have taken up in proving, while I had it in my power, that unblushing representation to be palpably and wilfully false.

I should not now longer trespass on the time and patience of the court, were it not probable that the present proceedings may be published to the world, and a consequent desire that even my motive for chasing the Little Belt should be known; and this I am the more desirous of, as great pains have been taken by a few individuals, who call themselves Americans, to impose a belief that I chased with a hostile intention; not, however, because I entertain a hope of producing any change in the sentiments of men like themselves, (and for the honor of my country I hope there are but few such,) who are disposed to represent all the acts of their Government, as well as of its agents, in an odious light, but to undeceive not only my own countrymen, but even every liberal Englishman, who may have been deceived by their sophistry.

That I did chase the *Little Belt* I acknowledge; but that I did so with the intention of offering menace or insult to the British flag, I declare, in the presence of my God, is without any foundation whatever; neither would the orders under which I was acting authorize such a course, any more than they would have justified my submitting to an insult from a British or any other ship of war.

Without further observation or comment than is necessarily connected with the subject, the following are, therefore, my reasons for having chased that ship: On the 10th of May, being then at anchor off Annapolis, I got under way to proceed to my station at New York, in consequence of an order from the honorable the Secretary of the Navy to that effect, in which he acquainted me of his having issued this order owing to his being informed that the trade of New York had become interrupted by British and French cruisers. At this time, I discovered by the newspapers that a British frigate, supposed to be the *Guerriere*, had, in the vicinity of Sandy Hook, and during my absence from the station, impressed out of the American brig *Spitfire*, bound coastwise, a young man by the name of Diggio, an American, and apprentice to the master of the brig. On the 16th of May, at a little past meridian, being at the time in seventeen fathoms water, about fourteen or fifteen leagues to the northward and eastward of Cape Henry, and about six leagues from the land to the southward of Chingoteague, a sail was discovered to the eastward, standing towards us under a press of canvass, which I soon made out, by the shape of her upper sails, as they became distinguishable from our deck, to be a man-of-war. Not having heard of any other ship of war than the before-mentioned frigate being on our coast, I concluded (and more particularly from the direction in which she was discovered) that it was her, and accordingly determined to speak her, as well because I considered it my duty to know the names and characters, if possible, of all foreign cruisers hovering on our coast, as from an impression, if it turned out to be the vessel I had conceived, that her commander, from having learned, through the medium of the newspapers, the sensation which the before-mentioned outrage had produced throughout the United States, might be induced, if he was not totally regardless of American claims to justice, to mention that he had the young man in question on board, and would deliver him up to me, and, perhaps, at the same time, assign some cause for such a gross violation of the sovereign rights of the American nation. At any rate, whether he was so disposed or not, if I could learn from him that the man was on board, I should have it in my power to represent the same to my Government, and thereby be the means of more readily effecting his emancipation from vassalage, and the cruel necessity of fighting the battles of the very country whose officer had thus unlawfully enslaved him; and, in doing this, I considered I was doing no more than a duty imposed on me by my situation; consequently, I felt regardless if, in accomplishing it, a further attempt should be made to insult my country by offering violence to the flag flying over my head; as I was then, am now, and ever shall be, prepared to repel any such insult or injury, to the very utmost of the force under my command, and that, too, without regard to the consequences resulting therefrom.

These, gentlemen, were my motives for having chased the ship which I supposed to be the frigate that impressed Diggio, but which afterwards proved to be His Britannic Majesty's ship *Little Belt*; but, even if I had no such reason to justify my chasing, I maintain that the usage of nations, the treaty concluded in 1783 between the United States and Great Britain, as well as the British precedents, almost without number, gave me that right—if it be admitted that our country possesses any comparative or reciprocal rights whatever.

Although I admit I did chase the *Little Belt*, I nevertheless deny that her commander wished to prevent my coming up with him, otherwise he undoubtedly would not have kept away and set his studding sails when he was several miles to windward of me; added to this, his conduct was unfriendly, to say the least, as he declined showing his colors until after it was too dark to distinguish what they were; although he must have perceived, as well from the courses I steered, as from my colors, (of which he undoubtedly saw the pendant,) that I wished to speak him. Indeed, the several circumstances make it apparent to me that he was ignorant of our force, and only wished to procrastinate our meeting until after it should be dark.

JOHN RODGERS.

True copy from the original on file in the office of the Secretary of the Navy:

C. W. GOLDSBOROUGH, *Chief Clerk, Navy Dep.*

The Court of Inquiry, authorized and required by precept, issued by the honorable the Secretary of the Navy of the United States, bearing date the 24th of July, 1811, have, in conformity with the same, minutely examined into every circumstance stated in the letter of John Rodgers, Esq., bearing date off Sandy Hook, May 23, 1811, and addressed to the honorable the Secretary of the Navy of the United States, relative to the affair between the United States' frigate the *President* and His Britannic Majesty's ship the *Little Belt*; and having taken all the testimony that could, in any manner or degree, elucidate facts, do, in obedience to the aforesaid precept, state all the facts that have been disclosed.

First. It has been proved to the satisfaction of the court that Commodore Rodgers, on perceiving His Britannic Majesty's ship the *Little Belt* to be a ship of war, made every exertion to come up with her before dark.

Second. It has been proved to the satisfaction of the court that the flag of the United States was displayed on board the United States' frigate the *President* as soon as His Britannic Majesty's ship the *Little Belt* was discovered to be a ship of war, and was kept flying until noon of the following day.

Third. It has been proved to the satisfaction of the court that Captain Bingham acknowledged that the broad pendant of the United States' frigate the *President* had been distinguished, during the chase, from His Britannic Majesty's ship the *Little Belt*.

Fourth. It has been proved to the satisfaction of the court that no colors were perceived flying on board of His Britannic Majesty's ship the *Little Belt* until she hove to, and that it was then too dark to distinguish to what nation they belonged.

Fifth. It has been proved to the satisfaction of the court that Commodore Rodgers hailed His Britannic Majesty's ship the *Little Belt* first.

Sixth. It has been proved to the satisfaction of the court that Commodore Rodgers's hail was not satisfactorily answered.

Seventh. It has been proved to the satisfaction of the court that His Britannic Majesty's ship the *Little Belt* fired the first gun.

Eighth. It has been proved to the satisfaction of the court that the first gun fired by His Britannic Majesty's ship the *Little Belt* was without any previous provocation or justifiable cause.

Ninth. It has been proved to the satisfaction of the court that the shot fired from His Britannic Majesty's ship the *Little Belt* was returned from the United States' frigate the *President* by a single gun.

Tenth. It has been proved to the satisfaction of the court that the general fire was commenced by His Britannic Majesty's ship the *Little Belt*.

Eleventh. It has been proved to the satisfaction of the court that, after the firing had continued four or five minutes, His Britannic Majesty's ship the *Little Belt* ceased firing.

Twelfth. It has been proved to the satisfaction of the court that, after His Britannic Majesty's ship the *Little Belt* had ceased firing, and the fire of the United States' frigate the *President* had, in consequence thereof, ceased, the former ship, in about three minutes, recommenced her fire upon the latter.

Thirteenth. It has been proved to the satisfaction of the court that the second fire continued about five minutes, when His Britannic Majesty's ship the *Little Belt* was totally silenced.

Fourteenth. It has been proved to the satisfaction of the court that, in both instances, when the fire of His Britannic Majesty's ship the *Little Belt* was silenced, Commodore Rodgers exerted himself to prevent further injury being done to her.

Fifteenth. It has been proved to the satisfaction of the court that the United States' frigate the *President* was lying to, with lights hoisted, during the night after the affair with His Britannic Majesty's ship the *Little Belt*.

Sixteenth. It has been proved to the satisfaction of the court that Commodore Rodgers proffered aid to the commander of His Britannic Majesty's ship the *Little Belt* the morning after the rencounter.

Seventeenth. It has been proved to the satisfaction of the court, that, in consequence of the fire from His Britannic Majesty's ship the *Little Belt*, one boy was wounded on board the United States' frigate the *President*, one shot struck her mainmast, another struck her foremast, and some of her rigging was cut.

Eighteenth. It has been proved to the satisfaction of the court that the letter of Commodore Rodgers, bearing date off Sandy Hook, on the 23d day of May last, and addressed to the honorable the Secretary of the Navy of the United States, is a correct and true statement of the occurrences which took place between the United States' frigate the *President* and His Britannic Majesty's ship the *Little Belt*.

The court adjourned to meet to-morrow morning at Mechanics' Hall, in Broadway, in the city of New York.

FRIDAY, September 13, 1811.

The court met pursuant to adjournment: Present, Commodore Stephen Decatur, president; Captain Charles Stewart, Captain Isaac Chauncey, members.

The proceedings of the court of yesterday were read and approved.

The court thereupon adjourned *sine die*.

STEPHEN DECATUR, *President*.
WM. PAULDING, JUN., *Judge Advocate*.

True copy from the original, on file in the office of the Secretary of the Navy:

C. W. GOLDSBOROUGH, *Chief Clerk, Navy Dep.*

U. S. FRIGATE *PRESIDENT*, (off *Sandy Hook*,) May 23, 1811.

SIR:

I have the honor to acquaint you that, in obedience to your instructions of the 6th instant, I sailed from Annapolis on the 10th; but, owing to head winds, I did not get to sea until the 14th, on which day, off Cape Henry, I supplied the ship *Madison*, of Baltimore, belonging to Mr. James Bias, with an anchor and cable, she being in distress on account of having lost hers, except one which was not sufficient to ride by. On the 15th instant, Cape Henry bearing west-southwest, distant fifty miles, fell in with a second vessel, the brig *Sussex*, of New York, Neal, master, bound to Norfolk from Oronoko, in distress for provisions, which I supplied.

I regret extremely being under the necessity of representing to you an event that transpired on the night of the 16th instant, between the ship under my command, and His Britannic Majesty's ship of war the *Little Belt*, commanded by Captain Bingham, the result of which has given me much pain, as well on account of the injury she sustained, as that I should have been compelled to the measure that produced it, by a vessel of her inferior force. The circumstances are as follows: On the 16th instant, at twenty-five minutes past meridian, in seventeen fathoms water, Cape Henry bearing southwest, distant fourteen or fifteen leagues, a sail was discovered from our mast-head in the east, standing towards us under a press of sail. At half-past one, the symmetry of her upper sails (which were at this time distinguishable from our deck, and her making signals) showed her to be a man of war. At forty-five minutes past one, P. M., hoisted our ensign and pendant, when, finding her signals not answered, she wore and stood to the southward. Being desirous of speaking her, and of ascertaining what she was, I now made sail in chase, and by half-past three, P. M. found we were coming up with her, as, by this time, the upper part of her stern began to show itself above the horizon from our deck. The wind now began and continued gradually to decrease, so as to prevent my being able to approach her sufficiently before sunset, to discover her actual force, (which the position she preserved during the chase was calculated to conceal,) or to judge even to what nation she belonged, as she appeared studiously to decline showing her colors. At fifteen or twenty minutes past seven, P. M., the chase took in her studding sails, and soon after hauled up her coursers, and hauled by the wind on the starboard tack; she, at the same time, hoisted an ensign or flag at her mizzen peak, but it was too dark for me to discover what nation it represented; now, for the first time, her broadside was presented to our view; but night had so far progressed, that although her appearance indicated she was a frigate, I was unable to determine her actual force. At fifteen minutes before eight, P. M., being about a mile and a half from her, the wind at the time very light, I directed Captain Ludlow to take a position to windward of her, and on the same tack, within short speaking distance. This, however, the commander of the chase appeared from his manoeuvres to be anxious to prevent; as she wore, I hauled by the wind on different tacks, four times successively, between this period and the time of our arriving at the position which I had ordered to be taken. At fifteen or twenty minutes past eight, being a little forward of her weather beam, and distant from seventy to a hundred yards, I hailed, "What ship is that?" To this inquiry no answer was given; but I was hailed by her commander and asked "What ship is that?" Having asked the first question, I, of course, considering mine entitled, by the common rules of politeness, to the first answer, after a pause of fifteen or twenty seconds, I reiterated my first inquiry, "What ship is that?" and, before I had time to take the trumpet from my mouth, was answered by a shot, that cut off one of our main-topmast breast back-stays, and went into our mainmast. At this instant, Captain Caldwell, (of marines,) who was standing very near to me on the gangway, having observed, "Sir, she has fired at us," caused me to pause for a moment. Just as I was in the act of giving an order to fire a shot in return, and before I had time to resume the repetition of the intended order, a shot was actually fired from the second division of this ship, and was scarcely out of the gun, before it was answered from our assumed enemy by three others in quick succession, and soon after the rest of his broadside and musketry. When the first shot was fired, being under an impression that it might possibly have proceeded from accident, and without the orders of the commander, I had determined, at the moment, to fire only a single shot in return; but the immediate repetition of the previous unprovoked outrage induced me to believe that the insult was premeditated, and that, from our adversary's being at the

time as ignorant of our real force as I was of his, he thought this, perhaps, a favorable opportunity of acquiring promotion, although at the expense of violating our neutrality and insulting our flag. I accordingly, with that degree of repugnance incident to feeling equally determined neither to be the aggressor nor to suffer the flag of my country to be insulted with impunity, gave a general order to fire; the effect of which, in from four to six minutes, as near as I can judge, having produced a partial silence of his guns, I gave orders to cease firing, discovering, by the feeble opposition, that it must be a ship of very inferior force to what I had supposed, or that some untoward accident had happened to her. My orders in this instance, however, (although they proceeded alone from motives of humanity, and a determination not to spill a drop of blood unnecessarily,) I had, in less than four minutes, some reason to regret, as he renewed his fire, of which two thirty-two pound shot cut off one of our fore-shrouds and injured our foremast. It was now that I found myself under the painful necessity of giving orders for a repetition of our fire against a force which my forbearance alone had enabled to do us any injury of moment. Our fire was accordingly renewed, and continued from three to five minutes longer, when, perceiving our opponent's gaff and colors down, his main-topsail-yard upon the cap, and his fire silenced, although it was so dark that I could not discern any other particular injury we had done, or how far he was in a situation to do us further harm, I nevertheless embraced the earliest moment to stop our fire, and to prevent the further effusion of blood. Here a pause of half a minute, or more, took place, at the end of which our adversary not showing a further disposition to fire, I hailed and again asked, "What ship is that?" and learned, for the first time, that it was a ship of His Britannic Majesty; but owing to its blowing rather fresher than it had done, I was unable to learn her name. After having informed her commander of the name of this ship, I gave orders to wear, run under his lee, and haul by the wind on the starboard tack, and heave to under topsails, and repair what little injury we had sustained in our rigging, &c. which was accordingly executed; and we continued lying to, on different tacks, with a number of lights displayed, in order that our adversary might the better discern our position, and command our assistance in case he found it necessary during the night. At daylight, on the 17th, he was discovered several miles to leeward, when I gave orders to bear up and run down to him under easy sail; after hailing him, I sent a boat on board, with Lieutenant Creighton, to learn the names of the ship and her commander, with directions to ascertain the damage she had sustained, and to inform her commander how much I regretted the necessity, on my part, which had led to such an unhappy result; at the same time to offer all the assistance that the ship under my command afforded, in repairing the damages his had sustained. At nine, A. M., Lieutenant Creighton returned with information that it was His Britannic Majesty's ship the *Little Belt*, commanded by Captain Bingham, who, in a polite manner, declined the acceptance of any assistance, saying, at the same time, that he had on board all the necessary requisites to repair the damages sufficiently to enable him to return to Halifax. This, however, was not the most unpleasant part of Captain Bingham's communication to Lieutenant Creighton; as he informed him that, in addition to the injury his ship had sustained, between twenty and thirty of his crew had been killed and wounded.

The regret that this information caused me was such, you may be sure, as a man might be expected to feel, whose greatest pride is to prove, without ostentation, by every public as well as private act, that he possesses a humane and generous heart; and with these sentiments believe me, sir, that such a communication would cause me the most acute pain during the remainder of my life, had I not the consolation to know that there was no alternative left me between such a sacrifice, and one which would have been still greater, namely, to have remained a passive spectator of insult to the flag of my country, whilst it was confided to my protection; and I would have you to be convinced, sir, that, however much individually I may previously have had reason to feel incensed at the repeated outrages committed on our flag by British ships of war, neither my passion nor prejudices had any agency in this affair.

To my country I am well convinced of the importance of the transaction, which has imposed upon me the necessity of making you this communication. I must, therefore, from motives of delicacy, connected with personal considerations, solicit that you will be pleased to request the President to authorize a formal inquiry to be instituted into all the circumstances, as well as every part of my conduct connected with the same.

The injury sustained by the ship under my command is very trifling, except to the fore and main masts, which I before mentioned; no person killed, and but one (a boy) wounded.

For further particulars I refer you to Captain Caldwell, who is charged with the delivery of this communication.

I have the honor to be, with the greatest respect, sir, your obedient servant,

JNO. RODGERS.

P. S. The *Little Belt* is a corvette, about the size of the *John Adams*, but, owing to her great length, her having a poop and topgallants, fore-castle, and room to mount three more guns of a side than she actually carries, her deep bulwark, and the manner of stowing her hammocks, she has the appearance of a frigate, and would always be taken for such from the view we had of her during the chase, as we never had a sight of her broadside until it was too dark to ascertain that she only carried one tier of guns. She is, by Steele's list, (1809) rated at twenty guns.

JNO. RODGERS.

The Honorable PAUL HAMILTON, *Secretary of the Navy*.

True copy from the original on file in the office of the Secretary of the Navy:

CH. W. GOLDSBOROUGH, *Chief Clerk, Navy Dep.*

From Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, October 24, 1811.

I have had the honor to receive your letter of the 11th instant, enclosing a copy of the proceedings of a court of inquiry held by order of the President of the United States on the conduct of Commodore Rodgers in the late encounter between a frigate of the United States, the President, and His Majesty's ship the *Little Belt*, fixing on Captain Bingham the charge of having commenced the engagement, and claiming, in consequence, the attention of His Majesty's Government towards it as to an act of hostility on the part of the British officer.

I may be permitted to remind you, sir, that after I had ascertained from you that no hostile intentions on the part of the Government of the United States were connected with the proceedings of Captain Rodgers, all that I asked, in the first instance, was, that the President of the United States would be pleased to order an inquiry into his conduct, which had tended so seriously to interrupt the harmony subsisting between our two countries, and which, having hitherto received no palliation whatever from any evidence in contradiction to Captain Bingham's

statement as officially transmitted to His Majesty's Government, must have continued to appear to them to be utterly incapable of receiving any.

The document you have now done me the honor to communicate to me, with the copy annexed of Captain Rodgers's letter, (for the first time officially before me,) is, however, so far satisfactory, as it shows that Captain Rodgers has endeavored to exculpate himself, exhibiting the ground on which he rests his defence; and I shall without delay transmit it to be laid before His Royal Highness the Prince Regent. It certainly proves a most unaccountable difference to exist between the statement of the commander and officers of the Little Belt and those of the President as to the firing of the first gun; but I must remark that, from the concurrent testimony of several officers of the United States' ship as to the orders given by Captain Rodgers on nearing the Little Belt, there appears to have been an impression on his mind that an encounter was to ensue; and, as the Little Belt was evidently endeavoring to avoid him, such an idea, it would seem, could only have arisen from the opinion he entertained of his own proceedings as being likely to bring it on.

I take this occasion to acknowledge the receipt of your letter dated September 14, in answer to mine of the 2d, a copy of which I immediately forwarded to my Government.

I have the honor to be, with the highest consideration and respect,

Sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

IV. CORRESPONDENCE RELATIVE TO THE ATTACK BY THE BRITISH FRIGATE LEOPARD ON THE AMERICAN FRIGATE CHESAPEAKE.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, *October 30, 1811.*

I had already the honor to mention to you that I came to this country furnished with instructions from His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States of America in the affair of the Chesapeake frigate; and I had also that of acquainting you with the necessity under which I found myself of suspending the execution of those instructions, in consequence of my not having perceived that any steps whatever were taken by the American Government to clear up the circumstances of an event which threatened so materially to interrupt the harmony subsisting between our two countries as that which occurred in the month of last May between the United States' ship President and His Majesty's ship Little Belt, when every evidence before His Majesty's Government seemed to show that a most violent and wanton outrage had been committed on a British sloop of war by an American commodore.

A court of inquiry, however, as you informed me in your letter of the 11th instant, has since been held by order of the President of the United States on the conduct of Commodore Rodgers; and this preliminary to further discussion on the subject being all that I asked in the first instance as due to the friendship subsisting between the two States, I have now the honor to acquaint you that I am ready to proceed, in the truest spirit of conciliation, to lay before you the terms of reparation which His Royal Highness has commanded me to propose to the United States' Government, and only await to know when it will suit your convenience to enter upon the discussion.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

To the Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

WASHINGTON, DEPARTMENT OF STATE, *October 31, 1811.*

I have just had the honor to receive your letter of the 30th of this month.

I am glad to find that the communication which I had the honor to make to you on the 11th instant, relative to the court of inquiry which was the subject of it, is viewed by you in the favorable light which you have stated.

Although I regret that the proposition you now make in consequence of that communication has been delayed to the present moment, I am ready to receive the terms of it whenever you may think proper to communicate them. Permit me to add, that the pleasure of finding them satisfactory will be duly augmented if they should be introductory to a removal of all the differences depending between our two countries, the hope of which is so little encouraged by your past correspondence. A prospect of such a result will be embraced on my part with a spirit of conciliation equal to that which has been expressed by you.

I have the honor, &c.

JAMES MONROE.

Hon. AUGUSTUS J. FOSTER, &c.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, *November 1, 1811.*

In pursuance of the orders which I have received from His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States in the affair of the Chesapeake frigate, I have the honor to acquaint you:

First. That I am instructed to repeat to the American Government the prompt disavowal made by His Majesty, (and recited in Mr. Erskine's note of April 17, 1809, to Mr. Smith,) on being apprized of the unauthorized act of the officer in command of his naval forces on the coast of America, whose recall from a highly important and honorable command immediately ensued, as a mark of His Majesty's disapprobation.

Secondly. That I am authorized to offer, in addition to that disavowal on the part of His Royal Highness, the immediate restoration, as far as circumstances will admit, of the men who, in consequence of Admiral Berkeley's orders, were forcibly taken out of the Chesapeake, to the vessel from which they were taken; or, if that ship should be no longer in commission, to such seaport of the United States as the American Government may name for the purpose.

Thirdly. That I am also authorized to offer to the American Government a suitable pecuniary provision for the sufferers in consequence of the attack on the Chesapeake, including the families of those seamen who unfortunately fell in the action, and of the wounded survivors.

These honorable propositions, I can assure you, sir, are made with the sincere desire that they may prove satisfactory to the Government of the United States, and I trust they will meet with that amicable reception which their conciliatory nature entitles them to. I need scarcely add how cordially I join with you in the wish that they might prove introductory to a removal of all the differences depending between our two countries.

I have the honor to be, with the greatest respect and consideration,

Sir, your most obedient, humble servant,

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, November 12, 1811.

I have had the honor to receive your letter of the 1st November, and to lay it before the President.

It is much to be regretted that the reparation due for such an aggression as that committed on the United States' frigate the Chesapeake should have been so long delayed; nor could the translation of the offending officer from one command to another be regarded as constituting a part of a reparation otherwise satisfactory. Considering, however, the existing circumstances of the case, and the early and amicable attention paid to it by His Royal Highness the Prince Regent, the President accedes to the proposition contained in your letter, and, in so doing, your Government will, I am persuaded, see a proof of the conciliatory disposition by which the President has been actuated.

The officer commanding the Chesapeake, now lying in the harbor of Boston, will be instructed to receive the men who are to be restored to that ship.

I have the honor to be, &c.

JAMES MONROE.

The Hon. AUGUSTUS J. FOSTER, &c.

12th CONGRESS.]

No. 240.

[1st SESSION-

FRANCE.

COMMUNICATED TO CONGRESS BY THE MESSAGES OF NOVEMBER 5 AND 8, 1811, AND MAY 26, 1812.

NOVEMBER 7, 1811.

To the Senate and House of Representatives of the United States:

I now lay before Congress two letters to the Department of State; one from the present plenipotentiary of France, the other from his predecessor, which were not included among the documents accompanying my message of the 5th instant, the translation of them not being then completed.

JAMES MADISON.

MAY 26, 1812.

To the Senate and House of Representatives of the United States:

I communicate to Congress, for their information, copies and extracts from the correspondence of the Secretary of State and the minister plenipotentiary of the United States at Paris. These documents will place before Congress the actual posture of our relations with France.

JAMES MADISON.

[TRANSLATION.]

General Turreau to the Secretary of State.

SIR:

WASHINGTON, November 14, 1810.

Although you may have been already informed, through another official channel, of the repeal of the decrees of Berlin and Milan, it is agreeable to me to have to confirm to you this new liberal disposition of my court towards the Government of the States of the Union.

You will recollect, without doubt, sir, that these decrees were adopted in retaliation for the multiplied measures of England against the rights of neutrals, and especially against those of the United States; and, after this new proof of deference to the wishes of your Government, His Majesty the Emperor has room to believe that it will make new efforts to withdraw the American commerce from the yoke which the prohibitory acts of Great Britain have imposed upon it. You will, at the same time, observe, sir, that the clearly expressed intention of my Government is, that the renewal of commercial intercourse between France and the United States cannot alter the system of exclusion adopted by all Europe against all the products of the soil or of the manufactures of England or her colonies; a system, the wisdom and the advantages of which are already proved by its development and its success, and of which, also, the United States, as an agricultural and commercial Power, have a particular interest in aiding in and hastening the completion. Moreover, sir, this measure of my Government, and those which yours may think

proper to adopt, will prove the inutility of the efforts of the common enemy to break the ties of friendship which a humane and generous policy has necessarily formed between France and the United States, and which the actual crisis ought to draw closer. We ought hereafter, sir, to hope, or rather we may be assured, that new relations, still more close and more friendly, are about to be formed between Americans and Frenchmen, and that these two people will be more than ever convinced that their glory, their interest, and their happiness must eternally consecrate the principle and the conservation of these relations.

I seize with eagerness this occasion, sir, of renewing to you the assurance of my high consideration.

TURREAU.

Mr. Russell, Chargé to France, to Mr. Smith, Secretary of State.

SIR:

PARIS, January 16, 1811.

Your letter of the 8th of November, relative to the powers given by this Government to its consuls in the United States, under its decree concerning licenses, was received by me on the 11th instant, and the next day I communicated its contents to the Duke of Cadore in a note, a copy of which you will find enclosed.

I remain, &c.

JONATHAN RUSSELL.

The Honorable ROBERT SMITH, *Secretary of State.*

[Referred to in the preceding.]

Mr. Russell to the Duke of Cadore.

SIR:

PARIS, January 12, 1811.

The public journals and letters from General Armstrong have announced to the American Government an imperial decree, by which permission is to be granted to a stated number of American vessels to import into France, from certain ports of the United States, the articles therein specified, and to export, in return, such productions of the French empire as are also enumerated in said decree. This trade, it would appear, is to be carried on under the authority of imperial licenses, and can only be perfected by the act of the French consul residing within the jurisdiction of the United States, at the specified ports.

The United States have no pretension of right to object to the operation of commercial regulations, strictly municipal, authorized by the French Government to take effect within the limits of its own dominions; but I am instructed to state to you the inadmissibility, on the part of the United States, of such a consular superintendence as that which is contemplated by this decree, respecting a trade to be carried on under licenses.

France cannot claim for her consuls, either by treaty or custom, such a superintendence. They can be permitted to enjoy such legitimate functions only as are sanctioned by public law, or by the usage of nations growing out of the courtesy of independent States.

Besides, the decree in question professes to invest certain consuls with a power which cannot be regularly exercised in the United States without the tacit permission of the American Government; a permission that cannot be presumed, not only because it is contrary to usage, but because consuls thus acting would be exercising functions in the United States, in virtue of French authority only, which the American Government itself is not competent to authorize in any agents whatever.

If the construction given by the Government of the United States to this decree be correct, the Government of France should not, for a moment, mislead itself by a belief that its commercial agents will be permitted to exercise the extraordinary power thus intended to be given to them.

I pray your excellency, &c.

JONATHAN RUSSELL.

His Excellency the DUKE OF CADORE.

Mr. Russell to Mr. Smith, Secretary of State.

SIR:

PARIS, January 21, 1811.

On the 18th instant I received a note dated that day, from the Duke of Cadore, in answer to the representation which I had made to him on the 12th of this month relative to the exceptional powers intended to be exercised by French consuls in the United States, in perfecting the contemplated trade under licenses.

You will perceive with satisfaction, that not only these powers, but the system itself under which they were to have been exercised, have been abandoned.

I have the honor, &c

JONATHAN RUSSELL.

Hon. ROBERT SMITH, *Secretary of State.*

[Referred to in Mr. Russell's despatch of 21st January, 1811.]

[TRANSLATION.]

The Duke of Cadore to Mr. Russell.

SIR:

PARIS, January 18, 1811.

I have read with much attention your note of the 12th of January relative to the licenses intended to favor the commerce of the Americans in France. This system had been conceived before the revocation of the decrees of Berlin and Milan had been resolved upon. Now circumstances are changed, by the resolution taken by the United States to cause their flag and their independence to be respected. That which has been done before this last epoch can no longer serve as a rule under actual circumstances.

Accept, sir, the assurances, &c.

CHAMPAGNY, DUKE DE CADORE.

Mr. RUSSELL, *Chargé des Affaires of the United States of America.*

Mr. Russell to the Duke of Bassano.

PARIS, April 29, 1811.

Encouraged by the assurances which your excellency was pleased to give me in the conversation which I had the honor to hold with you yesterday, that the French Government was disposed to promote, as far as might be in its power, the success of the mission of the special minister of the United States to the court of Denmark, I dare persuade myself that your excellency will feel no hesitation in returning such an answer to the following inquiries, as shall place the facts to which they relate beyond the possibility of doubt or controversy.

1st. Did not the Minister of Foreign Relations, by a despatch, dated the 20th of April, 1808, authorize the consuls of France in the United States to deliver certificates of origin to vessels destined for neutral or allied ports, and prescribe the formalities required for such certificates?

2d. Was not the despatch of the Duke of Cadore, of the 30th of August last, the first that was received in the United States, either by the French minister or consul general there, prohibiting the further delivery by French consuls of certificates of origin except to vessels destined to French ports?

3d. Was not this last-mentioned despatch first received by General Turreau, on the 13th of November last, and for the first time communicated by him on that day to the French consuls? and were not these consuls in the official and authorized practice, until the said 13th of November, of furnishing certificates of origin to American vessels bound to neutral ports, or to ports belonging to the allies of France? and might not some of these consuls, by reason of their distance from the place of residence of General Turreau, have lawfully executed and delivered such certificates several days subsequent to that time?

These facts are directly established by the letter of General Turreau to Mr. Smith, of the 12th of November last, or necessarily inferred from the declarations contained in that letter; and I cannot permit myself to doubt that your excellency will readily repeat them in a form that shall claim the attention of the Danish Government, and induce it to correct any errors which an ignorance or misapprehension of them may have occasioned in its proceedings against American property.

I rely with the more confidence on the frankness of your excellency in according the request now presented to you, as a refusal might operate to the confiscation of much innocent property, and, at the same time, appear to falsify the lawful acts of the consuls and the official declaration of the minister of France in the United States.

I beg leave to renew to your excellency the assurances, &c.

JONATHAN RUSSELL.

His Excellency the DUKE OF BASSANO.

Copy of a letter from Mr. Russell to Mr. Smith, Chargé d'Affaires, &c.

SIR:

PARIS, May 10, 1811.

I hand you herewith the copy of a letter* to me from his excellency the Duke of Bassano, dated the 4th instant, and enclosing a list of the American vessels whose cargoes have been admitted by order of the Emperor.

As this list contains all the American vessels, except one only, whose papers were mislaid, which have arrived spontaneously in the ports of France since the 1st of November last, which had not already been admitted, the measure adopted by this Government may, perhaps, be considered to be of a general character, and a consequence of the actual relations between the two countries, growing out of the revocation of the Berlin and Milan decrees, so far as they violated the neutral rights of the United States.

I am, sir, your obedient servant,

JONATHAN RUSSELL.

JOHN S. SMITH, Esq., *Chargé d'Affaires of the United States at London.**Mr. Russell to Mr. Smith, Secretary of State.*

SIR:

PARIS, May 27, 1811.

By the first opportunity which presented itself after the admission of our vessels on the 4th May, I communicated this event to the American chargé d'affaires at London, in hopes that it might be useful there. The enclosed is a copy † of the note which I addressed to him on the occasion.

I am, sir, with great respect, &c.

JONATHAN RUSSELL.

The Hon. ROBERT SMITH, *Secretary of State.**Mr. Russell to the Secretary of State.*

SIR:

PARIS, June 9, 1811.

The case of the New Orleans Packet having apparently excited considerable interest, it may not be unacceptable to you to receive a more particular account of it than I have hitherto transmitted.

This vessel, owned by Mr. Alexander Ruden, of New York, left that place on the 25th of July, with a clearance for Lisbon, but actually destined for Gibraltar. Her cargo, likewise the property of Mr. Ruden, consisted of two hundred and seven whole tierces and thirty-one half tierces of rice, three hundred and thirty bags of Surinam cocoa, ten hogsheads of tobacco, six tierces of hams, fifty barrels of pork, sixty barrels of beef, two hundred barrels of flour, thirty tierces of beans, and sixty-four firkins of butter. On her passage to Gibraltar, she was boarded by an English frigate and an English schooner, and, after a short detention, allowed to proceed. On arriving at Gibraltar the 26th of August, Mr. Munro, the supercargo, proceeded to sell the cargo, and actually disposed of the flour, the beans, and the butter; when, about the 20th of September, a packet arrived there from England, bringing newspapers containing the publication of the letter from the Duke of Cadore of the 5th of August. On the receipt of this intelligence, Mr. Munro immediately suspended his sales, and, after having consulted with Mr. Hackley, the American consul at Cadiz, he determined to proceed with the remainder of his cargo to Bordeaux. He remained, however, at Gibraltar until the 22d of October, that he might not arrive in France before the 1st of No-

* See this copy in the enclosures of that of Mr. Russell's letter of the 15th July.

† Enclosed in Mr. Smith's letter of 22d July, 1810.

vember, the day on which the Berlin and Milan decrees were to cease to operate. He arrived in the Garonne on 14th of November; but, by reason of his quarantine, did not reach Bordeaux before the 3d of December. On the 5th of this month the director of the customs there seized the New Orleans Packet and her cargo, under the Milan decrees of the 23d November and 17th December, 1807, expressly set forth, for having come from an English port and for having been visited by an English vessel of war. These facts having been stated to me by Mr. Munro, or by Mr. Meyer, the American vice-consul at Bordeaux, and the principal one, that of the seizure under the Milan decrees, being established by the *procès-verbal*, put into my hands by Mr. Martin, one of the consignees of the cargo, I conceived it to be my duty not to suffer the transaction to pass unnoticed, and thereby permit it to grow into a violation of the engagements of this Government. While I was considering the most proper mode of bringing the conduct of the custom-house officer at the port under the eyes of his superiors, I learned of the arrival of the *Essex* at L'Orient. From the time at which this frigate was reported to have left the United States, I had no doubt that she had brought the proclamation of the President, announcing the revocation of the very decrees under which this precipitate seizure had been made. I could but think, therefore, that it was important to afford to this Government an opportunity of disavowing the conduct of its officer, so incompatible with the engagements on which the President had in all probability reposed with confidence, in season to show that this confidence had not been mistimed or misplaced. To have waited for the receipt of the proclamation, in order to make use of it for the liberation of the New Orleans Packet, appeared to me a preposterous and unworthy course of proceeding, and to be nothing better than absurdly and basely employing the declaration of the President that the Berlin and Milan decrees *had been* revoked as the means of obtaining their *revocation*. I believed it became me to take higher ground, and, without confining myself to the mode best calculated to recover the property, to pursue that which the dignity of the American Government required.

A crisis, in my opinion, presented itself, which was to decide whether the French edicts were retracted as a preliminary to the execution of our law, or whether by the non-performance of one party and the prompt performance of the other, the order in which these measures ought to stand was to be reversed, and the American Government shuffled into the lead where national honor and the law required it to follow. Uncertain what would be the conduct of this Government, but clear what it ought to be, I thought it politic to present briefly the honest construction of the terms in which the revocation of the decrees was communicated on the 5th of August, that the conditions might not be tortured into a pretext for continuing them. I believed this to be the more necessary, as no occasion had hitherto occurred for offering such an interpretation. I likewise supposed it to be desirable to take from this Government, by a concise statement of facts, the power of imputing neglect to the United States, in performing the act required of them, for the purpose of finding in this neglect a color for again executing the decrees. These were my views in writing promptly and frankly on the occasion.

So acceptable, indeed, did I suppose it would be to the feelings of the American Government to obtain at least an explanation of an act ostensibly proving the continued operation of the decrees, previous to communicating the proclamation of the President announcing their revocation, that, although I received this proclamation on the 13th of December, I deferred the communication of it to the Duke of Cadore until the 17th of that month; nor should I then have communicated it had not an interview with him on the 15th led me to believe that much time might be necessary to procure official reports from the custom-house relative to the seizure in question, and, that, until these reports were received, it would be impossible formally to explain or correct this proceeding. When, however, I declined, uninstructed as I was, incurring the responsibility of this protracted delay, and decided on communicating the proclamation before a satisfactory explanation was received, I took care to guard against any misconstruction, by explicitly declaring at the outset that this proclamation "had been issued alone on the ground that the revocation of the Berlin and Milan decrees did not depend on any condition previously to be performed by the United States."

The custom-house officers at Bordeaux commenced unlading the New Orleans Packet on the 10th of December, and completed this work on the 20th of that month, as appears by their *procès-verbaux* of those dates. That of the 20th expressly declares that the confiscation of this property was to be pursued before the imperial Council of Prizes at Paris, according to the decrees of the 23d of November, and the 17th of December, 1807, or, in other words, the decrees of *Milan*. The decree of the 23d of March, or the Rambouillet decree, is also mentioned; but as I wrote my note of the 10th of December with a view only to the letter of the Duke of Cadore, announcing the revocation of the Berlin and Milan decrees, and as the *procès-verbal* of the 5th appears to waive the application of the Rambouillet decree, as unnecessary, I took no notice of it.

On Monday, the 17th December, my remonstrance was submitted to a council of commerce, and referred by it to the director general of the customs for his report. From this time all further proceedings against the New Orleans Packet were suspended. The papers were not transmitted to the Council of Prizes, nor a prosecution instituted before that tribunal for the confiscation of the property, as was professedly the intention of the officers concerned in the seizure. This prosecution was not only abandoned, but on the 9th of January the vessel and cargo were placed at the disposition of the consignees, on giving bond to pay the estimated amount, should it definitively be so decided. Nothing is now wanted to complete the liberation of the New Orleans Packet and her cargo but the cancelling of this bond.

It appears, therefore, that the remonstrance of the 10th of December arrested the proceeding complained of before it had assumed a definite character, or unequivocally become a breach of faith, and not only rescued the property from the seizure with which it had been visited, but, by procuring its admission, placed it in a situation more favorable than that of many other vessels and cargoes which continued to be holden in a kind of mortmain, by the suspension of all proceedings with regard to them.

I have the honor to be, &c.

JONATHAN RUSSELL.

P. S. July 5th. I have the satisfaction to announce to you, that since writing the above, an order has been given to cancel the bond, and a letter just received from the commercial agent of the United States at Bordeaux informs me that it is actually cancelled.

Mr. Russell to Mr. Monroe.

SIR:

PARIS, July 14, 1811.

I have the honor to hand you herein, a copy of my note of the 8th instant to the Duke of Bassano claiming the release of twenty-three American seamen, stated to have been pressed into the French service at Dantzic, and in its vicinity.

When I called on the duke on the 9th he acknowledged the receipt of this note, and said that he should immediately write to the Minister of Marine on the subject. In the conversation which I had with him yesterday, he informed me that he had performed this engagement, and that the Minister of Marine had replied that no American citizens had been pressed by his orders; that the city of Dantzic had been required to furnish a certain number of seamen, and was alone responsible for the manner in which it had complied with this requisition. The Duke of Bassano also added that my note had been laid before the Emperor, and that His Majesty had ordered that, on the arrival of the seamen from Dantzic at Antwerp, where they were expected yesterday, all that were American citizens should be discharged, and the city of Dantzic should be required to furnish others in their stead. From the solicitude which the Duke of Bassano evidently discovered to get rid of the imputation of having pressed our citizens, I doubt not every thing will be done in this affair to remove all cause of complaint.

I am, sir, &c.

JONATHAN RUSSELL.

[Enclosed in the preceding.]

Mr. Russell to the Duke of Bassano.

SIR:

PARIS, July 8, 1811.

I have just received information by a letter from F. W. Zutze, Esq. who holds a commission as consul of the United States at Stettin, that on the 17th ultimo twenty-three American seamen passed that place, under escort of a French guard, to be put on board the ships of war at Antwerp. It is represented to me that these seamen had been forcibly pressed at Dantzic and other places on the Baltic, by order of his excellency the Minister of Marine. In confirmation of this fact, I have a letter from Captain Charles Payne, of the American ship *Atlantic*, taken into Dantzic by a French cruiser, stating that twelve of his men, including his mate, had been pressed in this way at that place. These twelve men probably constitute a part of the twenty-three above mentioned.

It is my duty to engage your excellency to cause an inquiry to be had by the competent authority into these facts, and to procure the release of all the seamen above mentioned, who are citizens of the United States.

I pray your excellency to accept, &c.

JONATHAN RUSSELL.

His Excellency the DUKE OF BASSANO.

Extract:—Mr. Russell to the Secretary of State of the United States.

PARIS, July 15, 1811.

On the 5th of that month (May) I received a note (No. 1) from the Duke of Bassano, dated the 4th, containing a list of sixteen American vessels, whose cargoes had been admitted by order of the Emperor. I immediately transmitted to you several copies of this communication, and I gave you, on the 8th, such an account (No. 2) of the admitted cases as might aid you in forming a correct estimate of the political value of the measure adopted in their favor.

Although I was fully impressed with the importance of an early decision in favor of the captured vessels, none of which had been included in the list above mentioned, yet I deemed it proper to wait a few days before I made an application upon the subject. By this delay I gave the Government here an opportunity of obtaining the necessary information concerning these cases, and of pursuing spontaneously the course which the relations between the two countries appeared to require. On the 11th, however, having learned at the Council of Prizes that no new order had been received there, I judged it to be my duty no longer to remain silent, lest this Government should erroneously suppose that, what had been done was completely satisfactory to the United States, and construing my silence into an acquiescence in this opinion, neglect to do more. I, therefore, on that day, addressed to the Duke of Bassano my note, (No. 3,) with a list of American vessels captured since the 1st of November. On the 16th, I learned that he had laid this note, with a general report on it, before the Emperor; but that His Majesty declined taking any decision with regard to it before it had been submitted to a council of commerce. Unfortunately this council did not meet before the departure of the Emperor for Cherbourg; and during his absence, and the festivals which succeeded it, there was no assemblage of this body. Immediately on receiving the communication of the Duke of Bassano of the 4th of May, I addressed him a note (No. 4) concerning the brig *Good Intent*, detained at St. Andero. Although this vessel had been in fact captured, yet, from the peculiar circumstances of the case, I hoped that she would be placed on the same footing as those which had been admitted. The answer (No. 5) which was returned by the Duke of Bassano, dated the 25th, I received the 28th, announced to me, however, that this affair must be carried before the Council of Prizes. Wishing to rescue this case from this inauspicious mode of proceeding, I again addressed him in relation to it in a note, (No. 6,) on the 2d of June. If I could not obtain at once the restoration of this vessel, it was desirable, at least, that she should be admitted to the benefit of the general measure, which I insinuated might be taken in favor of the captured class mentioned in my note of the 11th of May.

As in this note I have stated the case of the *Good Intent* to be analogous to those of the *Hare* and the *John*, it may be proper to explain to you both the points of resemblance and diversity, in order to reconcile this note with my declaration, that no captured vessel was on the list of the 4th of May. The cases agree in the destination to places under the authority of France, and in the arrestation by launches in the service of the French Government they differ in the *Hare* and *John*; having already, before they were taken, arrived at the port and within the territorial jurisdiction of the country to which they were bound; and the *Good Intent* having been taken without such jurisdiction, and conducted to a port to which she was not destined. The taking possession of the *Hare* and the *John* may be considered, then, as a seizure in port, and that of the *Good Intent* as a capture on the high seas.

On perceiving that the schooner *Friendship* was not named in the list of admitted vessels, I caused inquiry to be made at the custom-house concerning the cause of this omission. It was stated that her papers had been mislaid, but that search was making for them, and that when found a report would immediately be made. I waited for this report until the 18th of May; but finding it had not been made, I conceived it might be useful, in order to accelerate it and to render complete the admission of the entire class to which this case belonged, to attract towards the *Friendship* the attention of the Minister of Foreign Relations. With this view I presented to him my note (No. 7) of that date.

Having reflected much on the condition attached to the admission of the American cargoes, to export two-thirds of the proceeds in silks, and being persuaded that the tendency of this restriction, added to the dangers of a vigilant blockade, and to the exactions of an excessive tariff, was to annihilate all commercial intercourse between the two

countries, I believed it would not be improper for me to offer to this Government a few remarks on the subject. This I was the more inclined to do, as it was to be apprehended that this condition was not imposed as an expedient for temporary purposes only, but that it was intended to be continued as the essential part of a permanent system. In a note, therefore, of the 10th of June, (No. 8,) I suggested to the Duke of Bassano the evils which might be expected naturally to result from the operation of this restriction on exports. It is indeed apparent, that a trade that has to run the gauntlet of a British blockade, and is crushed with extravagant duties inwards, and shackled with this singular restriction outwards, cannot continue.

On the 14th of June, Mr. Hamilton, of the John Adams, reached Paris, and informed me that this vessel had arrived at Cherbourg. Unwilling to close my despatches by her, without being able to communicate something of a more definite and satisfactory character than any thing which had hitherto transpired, I immediately called at the Office of Foreign Relations; but the minister being at St. Cloud, I was obliged to postpone the interview which I sought until the Tuesday following. At this interview, I stated to him the arrival of the frigate, and my solicitude to transmit by her to the United States some *act* of this Government, justifying the expectation with which the important law which she had brought hither had undoubtedly been passed. I urged particularly a reply to my note of the 11th of May, relative to the captured vessels; and observed, that although the mere pecuniary value of this property might not be great, yet, in a political point of view, its immediate liberation was of the utmost consequence. I intimated to him, at the same time, that my anxiety was such to communicate by the John Adams a decision on these captures to the American Government, that I should detain this vessel until I had received it. He replied that his sentiments accorded perfectly with mine in this matter, and ascribed the delay which had taken place to the same causes as I have assigned. He assured me, however, that he would immediately occupy himself again with this business; and, unless a council of commerce should be holden within a few days, he would make a special report to the Emperor, and endeavor to obtain a decision from him in person. He approved my intention of detaining the frigate, and engaged to do whatever might depend on him, to enable me to despatch her with satisfaction. He added, that he had already made inquiries of the competent authorities concerning the Good Intent and the Friendship, and that when their reports should be received he would do whatever the circumstances of the cases might warrant.

I now suggested to him the evils which resulted to our commercial intercourse with France, from the great uncertainty which attended it, owing to the total want on their part of clear and general regulations. After making a few observations in explanation of this remark, I requested to know if he would have any communication to make to me on the subject, previous to the sailing of the John Adams. I was led to make this inquiry from information which I had indirectly obtained, that several resolutions for the regulation of our trade had been definitively decreed. He replied that no such communication would be made here, but that M. Serrurier would be fully instructed on this head. The resolutions just mentioned, as far as I have learned, are, to admit the produce of the United States (excepting sugar) without special permits or licenses; to admit coffee, sugar, and other colonial produce with such permits or licenses, and to prohibit every thing arriving from Great Britain or places under her control. He again mentioned the discovery of the regulation of the year 12, authorizing the certificates of origin for French ports only, or for ports in possession of the French armies; but declared that, after the most thorough examination of the archives of his department, no document or record had been found permitting these certificates to be granted for the ports of neutral or allied Powers. He again, however, professed a favorable disposition towards our negotiations in Denmark, and said, "le succès de la mission de Mons. Erving s'accorderait parfaitement avec nos sentimens, et ne contrarierait nullement nôtre politique." The success of the mission of Mr. Erving accords perfectly with our sentiments, and is not contrary to our policy.

With the view above stated, I detained the John Adams until the 9th instant. I had, from time to time, in the meanwhile, informed myself of the proceedings with regard to the captured vessels, and ascertained that in fact the Duke of Bassano had made a report in relation to them. The Emperor, it appears, however, still wished for the decision of his council of commerce; and the report was laid before them on the 1st of this month, being the first time they had assembled since the date of my letter of the 11th of May. I waited in daily expectation of hearing the result of their deliberations until the 9th instant, when, conceiving sufficient time had been allowed for receiving it, and not feeling perfectly at my ease under the responsibility I was incurring for the unauthorized detention of the John Adams, I determined to learn from the Duke of Bassano in person what I might reasonably expect in the matter. I accordingly procured an interview with him on the day last mentioned. I reminded him of what had passed at our conference on the 18th ultimo, and told him that, in consequence thereof, I had kept the ship, but that I could not with propriety detain her longer, without the evident prospect of obtaining from the French Government the release of the captured vessels.

He expressed a conviction of the justice of my observations, and assured me that he was in hourly expectation of receiving a decision on the captured cases, and hoped that the John Adams might not be permitted to return without it. I thereupon consented to keep my despatches open until the 13th, assuring him that I could not take upon myself to protract the detention of the John Adams beyond that period.

On the 13th, about 10 o'clock, I received a note from the Duke of Bassano, of which the enclosed (No. 9) is a copy. I waited upon him immediately, and was informed that the Two Brothers, the Good Intent, and the Star, three of the captured vessels, had been liberated. He added, that no unnecessary delay would be allowed in deciding upon the whole.

I shall despatch Mr. Hamilton this day, and I shall send with him a messenger, to be landed on the other side, who will carry to Mr. Smith an account (No. 10*) of what has been done here, to be used by him as he shall judge proper.

No. 1.

[Referred to in Mr. Russell's despatch of July 15.]

[TRANSLATION.]

The Duke of Bassano to Mr. Russell.

Sir:

PARIS, May, 4, 1811.

I hasten to announce to you that His Majesty the Emperor has ordered his Minister of Finance to authorize the admission of the American cargoes, which had been provisionally placed in deposite on their arrival in France.

I have the honor to send to you a list of the vessels to which these cargoes belong; they will have to export the amount of them in national merchandise, of which two-thirds will be in silks.

* See the letter from Mr. Russell to Mr. Smith, No. 10, dated 14th July, 1811, enclosed in Mr. Monroe's letter of 17th October, 1811, to Mr. Foster.

I have not lost a moment in communicating to you a measure perfectly in accord with the sentiments of union and of friendship which exist between the two Powers.

Accept, sir, the assurance of my high consideration.

DUC DE BASSANO.

No. 2.

[Referred to in Mr. Russell's despatch of July 15.]

Mr. Russell to the Secretary of State.

SIR:

PARIS, May 8, 1811.

I had the honor to address to you on the 6th instant, by various ports, several copies of the note of the Duke of Bassano to me on the 4th, containing a list of the vessels, the admission of whose cargoes had been authorized by the Emperor.

This list comprises all the American vessels which had arrived without capture in the ports of France or the kingdom of Italy, since the 1st of November, and which had not already been admitted, excepting the schooner Friendship.

The papers of the Friendship had been mislaid at the custom-house, and no report of her case made to the Emperor.

As the New Orleans Packet and her cargo had been given up, on bond, in January last, there can be no longer any question with regard to their admission, but to make their liberation complete the bond should be cancelled.

All the vessels mentioned in the list, excepting the Grace Ann Greene, had come direct from the United States, without having done or submitted to any known act which could have subjected them to the operation of the Berlin and Milan decrees, had these decrees continued in force.

The Grace Ann Greene stopped at Gibraltar, remained many days there, and, in proceeding thence to Marseilles, was captured by an English vessel of war. The captain of the Grace Ann Greene, with a few of his people, rose upon the British prize crew, retook his vessel from them, and carried her and them into the port to which he was bound.

The captain considered this recapture of his vessel as an act of resistance to the British orders in council, and as exempting his property from the operation of the French decrees, professedly issued in retaliation of those orders. He likewise made a merit of delivering to this Government nine of its enemies, to be treated as prisoners of war.

His vessel was liberated in December, and his cargo the beginning of April last, and there is some difficulty in precisely ascertaining whether the liberation was predicated on the general revocation of the Berlin and Milan decrees, or on a special exemption from them, owing to the particular circumstances of the case.

It is somewhat singular that this vessel was placed on the list of the 4th instant, when she had been liberated and her cargo admitted so long before.

It may not be improper to remark, that no American vessel captured since the 1st of November has yet been released or had a trial.

These are the explanations which belong to the measure I had the honor to communicate to you on the 6th instant, and may afford some assistance in forming a just appreciation of its extent and character.

I have the honor to be, sir, your most obedient servant,

JONATHAN RUSSELL.

No. 3.

[Referred to in Mr. Russell's despatch of 15th July.]

Mr. Russell to the Duke of Bassano.

PARIS, May 11, 1811.

I have the honor to present to your excellency a list of the American vessels which, according to the information I have obtained, have been captured by French privateers since the 1st of November last, and brought into the ports of France. All proceedings in relation to these vessels have been suspended in the Council of Prizes, with the same view, no doubt, as the proceedings in the custom-house had been deferred with regard to those which had arrived voluntarily. The friendly admission of the latter encourages me to hope that such of the former at least as were bound to French ports, or to the ports of the allies of France, or to the United States, especially those in ballast, will be immediately released; and that orders will be given to bring on the trials of the remainder, should such a course be judged indispensable, without any unnecessary delay.

The measure for which I now ask, being in perfect accord with the friendly sentiments which prevail between the two countries, I persuade myself will obtain the early assent of His Majesty.

I pray your excellency to accept the assurance of my highest consideration,

JONATHAN RUSSELL.

His Excellency the DUKE OF BASSANO, &c.

List of American vessels taken by French privateers since the 1st of November, 1810, and carried into the ports of France.

Vessels.	Where from.	Where bound.	Cargoes.	When taken.	Where brought.
Robinson Ova,	Norfolk,	London,	Tobacco, cotton, and staves,	Dec. 21, 1810,	Dunkirk.
Mary Ann,	Charleston,	London,	Cotton and rice,	Mar. 3, 1811,	Dunkirk.
Gen. Eaton,	London,	Charleston,	In ballast,	Dec. 6, 1811,	Calais.
Neptune,	London,	Charleston,	In ballast,	Dec. 7, 1811,	Dieppe.
Clio,	London,	Philadelphia,	English manufactures,	Dec. 7, 1811,	Vessel lost off Trequier, part of the cargo saved.
Two Brothers,	Boston,	St. Malo,	Cotton, indigo, potashes, codfish, fish oil, and dye-wood,	Dec. 20, 1811,	St. Malo. N. B. This vessel was taken within the territorial jurisdiction of France.
Star,	Salem,	Naples,	Coffee, indigo, fish, dye-wood, &c.	Feb. 2, 1811,	Marseilles.
Zebra,	Boston,	Tarragona,	40,000 staves,	Jan. 27, 1811,	Marseilles.

No. 4.

[Referred to in Mr. Russell's despatch of 15th July.]

Mr. Russell to the Duke of Bassano.

PARIS, May 6, 1811.

I feel it my duty to represent to your excellency that the American brig *Good Intent*, from Marblehead, with a cargo of oil, fish, cocoa, and staves, bound to Bilbao, was captured in December last by an armed launch in the service of the French Government, and carried into Santander. Mr. J. P. Rattier, the consul of His Majesty the Emperor at that place, has taken possession of the cargo, and sold that part which was perishable, retaining in his hands the proceeds, and placing in dépôt the articles unsold, until he shall receive the superior orders of his Government.

The present flattering appearance that the relations between France and the United States will be preserved on the most amicable footing, encourages me to hope that the case of the *Good Intent*, after the long detention that has occurred, will attract the early attention of the French Government, and that the property will be restored to the American owner.

I pray your excellency to accept, &c.

JONATHAN RUSSELL.

His Excellency the DUKE OF BASSANO,
Minister of Exterior Relations.

No. 5.

[Referred to in Mr. Russell's letter of July 15th.]

[TRANSLATION.]

SIR:

PARIS, May 25, 1811.

The object of the letter you have done me the honor to address to me the 7th of this month was to remonstrate against the sequestration of the American ship the "*Good Intent*," which had been carried into St. Andero, by a French vessel.

The Minister of Marine, to whom I hasten to write on this subject, has just answered me, that the case is carried before the Council of Prizes, which is alone competent to decide on the validity of the capture. He adds that it is before that tribunal that the owners of the *Good Intent* ought to be prepared to establish their rights, and that he will have no other agency in this affair than to cause to be executed the decision which shall be made.

Accept, sir, the assurance of my highest consideration.

LE DUC DE BASSANO.

Mr. RUSSELL, *Chargé des Affaires of the United States of America.*

No. 6.

[Referred to in Mr. Russell's letter of July 15th.]

Mr. Russell to the Duke of Bassano.

PARIS, June 2, 1811.

By the letter which your excellency did me the honor to address to me on the 25th ultimo, I perceive that the Minister of Marine declines interfering in the case of the American brig the *Good Intent*, except to enforce the decision which the Council of Prizes may render.

As the *Good Intent* was captured, bound to a port in the possession of the French armies, by a launch in the service of the French Government, I had persuaded myself that she would not be treated as a prize, but that she would be restored like the *John* and the *Hare*, at Civita Vecchia, without the delay of a formal trial. It was in this expectation, that I omitted to place her on the list of American vessels captured since the 1st of November last, which I had the honor to address to your excellency in my note of the 11th ultimo. If His Majesty the Emperor should find it improper, upon being made acquainted with the circumstances of this case, to distinguish it from cases of ordinary capture, I presume there will be no objection to extending to it the benefit of any general decision which may be taken in regard to those mentioned in the list aforesaid.

I pray your excellency to accept the assurance of my highest consideration.

JONATHAN RUSSELL.

His Excellency the DUKE OF BASSANO.

No. 7.

[Referred to in Mr. Russell's despatch of July 15th.]

Mr. Russell to the Duke of Bassano.

PARIS, May 18, 1811.

On examining the list of vessels whose cargoes have been admitted, and which your excellency did me the honor to enclose to me in a note dated the 4th of this month, I have discovered that the schooner *Friendship* has been omitted.

This vessel, as I am informed, arrived at Bordeaux on the 6th of December last with a cargo of coffee, which, from long detention, has suffered considerable damage. As there is no circumstance, within my knowledge, to distinguish the cargo of this vessel from those which have been admitted, I doubt not that her case will be inquired after, and that she will be placed upon the same footing as the others.

I pray your excellency to accept the assurance of my highest consideration,

JONATHAN RUSSELL.

His Excellency the DUKE OF BASSANO,
Minister of Exterior Relations.

No. 8.

[Referred to in Mr. Russell's despatch of July 15th.]

Mr. Russell to the Duke de Bassano.

SIR:

PARIS, June 10, 1811.

I conceive it to be my duty to represent to your excellency that the condition attached to the admission of American property in France, to export two-thirds the amount in silks, is attended with great inconvenience and loss to the American merchant.

A general requisition to export the net proceeds of imported cargoes in the produce and manufactures of the French empire, would have been so obviously intended to favor its industry, and to prevent any indirect advantage resulting to its enemy, by the remittance of exchange, that the right and the policy of the measure would have been universally acknowledged. The American merchant, in this case, permitted to select from the various and abundant productions of the arts and agriculture of France, those articles which the habits and tastes of the American people demanded, might freely and advantageously have exercised his commercial skill for the advancement of his interests, and hoped, from the profit on his investments here, to obtain an indemnity for the losses on his outward voyage.

The condition, however, imposed on him to receive two-thirds of these investments in a particular article takes from him the faculty of profiting of his experience and information, either in bargaining for his purchases, or in adapting them to the wants of the market for which they are intended. The holder of this article becomes, by this requisition, the master, not only of the price, but of the kind and quality of his merchandise; and his interest will strongly incite him to abuse the power which he feels. He knows full well that the purchaser cannot dispense with this merchandise, and that sooner or later, he must accede to the terms on which it is offered. Should, indeed, the American merchant, from his repugnance to invest his funds in an article forced upon him, loaded with the arbitrary exactions of the seller, refuse for a while to receive it, yet, beholding these funds inactive and wasting on his hands, and his vessel perishing in a foreign port, he must eventually yield to the duress which he suffers.

Such are some of the evils to which the condition in question will expose the American merchant in this country. In the United States it will be by him still more severely felt.

The overstock of the article forced by this condition on the market there exceeding the consumption, must necessarily become a drug; and the American merchant, after having taken it here against his will, and paid for it more than its ordinary value, will be compelled in the United States to keep it on hand, or to sacrifice it for the most it will bring. Thus alternately obliged to purchase and to sell under unfavorable circumstances, he will have to add to the losses of the outward voyage the losses on the returns, and the sum of them both may amount to his ruin.

These disasters of the merchant must inevitably impair, if not extinguish, the commercial intercourse between the two countries. This intercourse, exposed to unusual perils, and *oppressed with unprecedented burthens*, has already nothing in the voyage hither to tempt the enterprise of mercantile men; and should it be embarrassed with the restrictions of this condition, rendering the homeward voyage also unprofitable, it must undoubtedly cease. It is in vain to expect the continuance of any branch of trade which, in all its relations, is attended with loss to those who are engaged in it.

I have taken the liberty respectfully to submit these observations to your excellency, not without a hope that a consideration of them may lead to a remedy of the evils which they suggest.

I have the honor to be, &c.

JONATHAN RUSSELL, *Chargé d'Affaires U. S.*

No. 9.

[Referred to in Mr. Russell's despatch of July 15th.]

[TRANSLATION.]

PARIS, July 13, 1811.

The Minister of Foreign Relations has the honor to inform Mr. Russell, *chargé des affaires* of the United States, that he will be happy to receive him at any time to-day, before two o'clock, if it should be convenient to him.

He begs him to accept the assurance of his perfect consideration.

Mr. Serrurier to Mr. Monroe.

SIR:

WASHINGTON, July 23, 1811.

The new dispositions of your Government, expressed in the supplementary act of the 2d of March last, having been officially communicated to my court by the *chargé d'affaires* of the United States, His Imperial Majesty, as soon as he was made acquainted with them, directed that the American vessels, sequestered in the ports of France since the 2d of November, should be released. Their cargoes have been admitted, and some of them have departed, upon conforming with the municipal laws of the country; that is to say, by exporting wines, silks, and the products of French manufactures. Orders were to be given, at the same time, that all American vessels coming from the United States, and loaded with merchandise the growth of the country, should be admitted and received in all the ports of France.

I hasten, sir, according to the orders I have received, to make these dispositions known to your Government.

In order to prevent all difficulty in relation to the cargoes of vessels, the table indicating the merchandise of the growth of the United States has been prepared; and it has been thought that a rule could not be adopted more favorable and more sure, than the statement itself of the exportations made by the Americans during the year which preceded the embargo, viz: from the 1st October, 1806, to 30th September, 1807, a period during which your commerce of exportation was in full activity. I annex this table to my letter; coffee, sugar, and cocoa, are not included in this statement. These articles of merchandise have always been ranged in the class of colonial products; and whatever may be their origin, His Majesty, while favoring in his States many branches of cul-

ture, and many new establishments, with a view of supplying their place by indigenous productions, could not encourage indefinitely their exportation. Vessels arriving with permits, by means of which the importation of merchandise of this sort is authorized, will be admitted.

The introduction of tobacco is not prohibited. It forms the first object of culture of some of the States of the Union; and His Majesty, having an equal interest in the prosperity of all, desires that the relations of commerce should be common to all parts of the federal territory; but tobacco is under an administration (*en régie*) in France; the administration is the only consumer, and can purchase only the quantity necessary for its consumption. It became necessary that measures should be taken upon this subject, and they have been conformable to the common interest. Tobacco will be received in the ports of France, and placed in actual deposite (*en entrepôt réel;*) and if more arrives than the administration can purchase, the transmit of the surplus will be permitted across France for Germany, and other States of Europe, in which the American merchants may find a sale for it.

All the vessels of the United States which may arrive in France will have to discharge the custom-house duties to which the merchandise they may bring is subject; and their return must be effected by exporting an equal value in French wines, silks, and other articles of French manufacture, in the proportions determined by the regulations.

Merchandise of the growth of the United States, composing the cargoes of American vessels, must be accompanied with a certificate of origin, delivered by the French consuls of the port from whence the vessels departed.

I flatter myself, sir, that the communication of these dispositions of the Emperor in favor of American commerce will be as agreeable to your Government as it is to me to be the means of making it.

I have the honor, sir, to renew to you the assurance of my high consideration.

The Minister of France, SERRURIER.

Mr. MONROE, *Secretary of State.*

Productions of the soil and of the manufactures of the United States, exported from the 1st of October, 1806, to the 30th September, 1807.

Salt or smoked fish,	Horses,	Saddlery,
Dried or pickled do.	Mules,	Boots,
Whale and other fish oil,	Sheep,	Shoes, silk, and leather,
Whalebone,	Poultry,	Beer, porter, and cider in casks and
Spermaceti candles,	Mustard,	bottles,
Staves and heading,	Cotton,	Spirits from grain,
Shingles,	Wheat,	Starch,
Hoops,	Flour,	Candles,
Plank,	Rye meal,	Soap,
Timber,	Buckwheat meal,	Wax candles,
Lumber of all kinds,	Biscuit or ship bread,	Hair powder,
Masts and spars,	Indian corn,	Snuff,
Manufactures of wood,	Indian meal,	Tobacco, manufactured,
Oak bark and other dyes,	Rye,	Bricks,
Tar,	Oats,	Essence of bark,
Pitch,	Barley,	Linseed oil,
Rosin,	Buckwheat,	Spirits of turpentine,
Turpentine,	Beans,	Cards, wool, and cotton,
Skins and furs,	Peas,	Maple, and other brown sugar,
Ginseng,	Apples,	Bar iron,
Beef,	Potatoes,	Nails,
Tallow,	Rice,	Castings,
Hides,	Indigo,	Canvass and sail-cloth,
Horned cattle,	Tobacco,	Cables and cordage,
Pork,	Flax seed,	Spirits from molasses,
Hams and bacon,	Hops,	Refined sugar,
Lard,	Wax,	Chocolate,
Hogs,	Household furniture,	Gunpowder,
Butter,	Coaches and other carriages,	Copper, manufactured,
Cheese,	Hats,	Medicinal drugs.
Pot and pearl ashes,		

True copy:

The Minister of Foreign Relations, THE DUKE OF BASSANO.

Mr. Monroe, Secretary of State, to Joel Barlow, Esq.

SIR:

DEPARTMENT OF STATE, July 26, 1811.

It is the desire of the President that you should set out without delay for Paris, to commence the duties of the office of minister plenipotentiary to the Emperor of France, with which you are invested. A frigate, prepared for your accommodation, will receive you at Annapolis, and convey you to the most convenient port of that country. I enclose you a commission and letter of credence, with such other documents as are necessary to illustrate the subjects on which you will have to act.

With the ordinary duties of the office you are too well acquainted to require any comment on them in this letter. There are, however, some subjects of peculiar importance, which will claim your attention immediately after your reception. On these it is proper that you should know distinctly the sentiments of the President.

The United States have claims on France, which it is expected that her Government will satisfy to their full extent, and without delay. These are founded partly on the late arrangement by which the non-importation law of the 1st May, 1810, was carried into effect against Great Britain, and partly on injuries to their commerce committed on the high seas and in French ports.

To form a just estimate of the claims of the first class, it is necessary to examine minutely their nature and extent. The present is a proper time to make this examination, and to press a compliance with the arrangement, in every circumstance, on its just principles, on the Government of France. The President, conscious that the

United States have performed every act that was stipulated on their part with the most perfect good faith, expects a like performance on the part of France. He considers it peculiarly incumbent on him to request such explanations from her Government as will dissipate all doubt of what he may expect from it in future, on this and every other question depending between the two nations.

By the act of May 1, 1810, it was declared, that in case Great Britain or France should, before the 3d day of March, 1811, so revoke or modify her edicts, as that they should cease to violate the neutral commerce of the United States, which fact the President should declare by proclamation; and if the other nation should not, within three months thereafter, revoke or modify its edicts in like manner, then the 3d, 4th, 6th, 7th, 8th, 9th, 10th and 18th sections of the act entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France," &c. should, from and after the expiration of three months from the date of the proclamation aforesaid, be revived, and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce, or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify its edicts in the manner aforesaid.

This act, having been promulgated and made known to the Governments of Great Britain and France, the minister of the latter, by note bearing date on the 5th August, 1810, addressed to the minister plenipotentiary of the United States at Paris, declared that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st day of November following, but that this measure was adopted in compliance with the law of 1st May, 1810, to take advantage of the condition contained in it, and in full confidence that that condition would be enforced against Great Britain, if she did not revoke her orders in council, and renounce the new principles of blockade.

This declaration of the Emperor of France was considered a sufficient ground for the President to act on. It was explicit as to its object, and equally so as to its import. The decrees of Berlin and Milan, which had violated our neutral rights, were said to be repealed, to take effect at a subsequent day, at no distant period; the interval apparently intended to allow full time for the communication of the measure to this Government. The declaration had, too, all the formality which such an act could admit of, being through the official organ on both sides; from the French Minister of Foreign Affairs to the minister plenipotentiary of the United States at Paris.

In consequence of this note from the French Minister of Foreign Affairs of the 5th August, 1810, the President proceeded, on the 2d November following, to issue the proclamation enjoined by the act of May 1st of the same year, to declare that all the restrictions imposed by it should cease and be discontinued in relation to France and her dependencies. And in confirmation of the proclamation of the President, Congress did, on the 2d March, 1811, pass an act whereby the non-importation system provided for by the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 18th sections of the act entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies," was declared to be in force against Great Britain, her colonies, and dependencies, with a provision in favor of such vessels or merchandises as might be seized before it was known that Great Britain had revoked or modified her edicts, within the time and in the manner required by the said act, if such should be the case; and with a provision also in favor of any ships or cargoes owned wholly by citizens of the United States, which had cleared out for the Cape of Good Hope, or for any other port beyond the same, prior to the 2d day of November, 1810. Both of these provisions were, in strict justice and good faith, due to the parties to be affected by the law; they were also conformable to the spirit of the arrangement, to execute which the law was passed. As Great Britain did not revoke or modify her edicts in the manner proposed, the first provision had no effect.

I will now inquire whether France has performed her part of this arrangement.

It is understood that the blockade of the British isles is revoked. The revocation having been officially declared, and no vessel trading to them having been condemned or taken on the high seas that we know of, it is fair to conclude that the measure is relinquished. It appears, too, that no American vessel has been condemned in France for having been visited at sea by an English ship, or for having been searched or carried into England, or subjected to impositions there. On the sea, therefore, France is understood to have changed her system.

Although such is the light in which the conduct of France is viewed in regard to the neutral commerce of the United States since the 1st November last, it will, nevertheless, be proper for you to investigate fully the whole subject, and to see that nothing has been or shall be omitted on her part in future which the United States have a right to claim.

Your early and particular attention will be drawn to the great subject of the commercial relation which is to subsist in future between the United States and France. The President expects that the commerce of the United States will be placed in the ports of France on such a footing, as to afford to it a fair market, and to the industry and enterprise of their people a reasonable encouragement. An arrangement to this effect was looked for immediately after the revocation of the decrees; but it appears from the documents in this department, that that was not the case; on the contrary, that our commerce has been subjected to the greatest discouragement, or rather to the most oppressive restraints; that the vessels which carried coffee, sugar, &c., though sailing directly from the United States to a French port, were held in a state of sequestration, on the principle that the trade was prohibited, and that the importation of those articles was not only unlawful but criminal; that even the vessels which carried the unquestionable productions of the United States were exposed to great and expensive delays, to tedious investigations in unusual forms, and to exorbitant duties; in short, that the ordinary usages of commerce between friendly nations were abandoned.

When it was announced that the decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st November last, it was natural for our merchants to rush into the ports of France, to take advantage of a market to which they thought they were invited. All these restraints, therefore, have been unjust in regard to the parties who suffered by them; nor can they be reconciled to the respect which was due to this Government. If France had wished to exclude the American commerce from her ports, she ought to have declared it to this Government in explicit terms; in which case, due notice would have been given of it to the American merchants, who would either have avoided her ports, or gone there at their own hazard. But to suffer them to enter her ports, under such circumstances, and to detain them there under any pretext whatever, cannot be justified. It is not known to what extent the injuries resulting from these delays have been carried. It is evident, however, that for every injury thus sustained the parties are entitled to reparation.

If the ports of France and her allies are not opened to the commerce of the United States on a liberal scale, and on fair conditions, of what avail to them, it may be asked, will be the revocation of the British orders in council? In contending for the revocation of those orders, so far as it was an object of interest, the United States had in view a trade with the continent. It was a fair and legitimate object, and worth contending for while France encouraged it. But if she shuts her ports on our commerce, or burthens it with heavy duties, that motive is at an end.

That France has a right to impose such restraints is admitted; but she ought to be aware of the consequences to which they necessarily lead. The least that ought to be expected to follow would be, such countervailing restric-

tions on the French commerce as must destroy the value of the intercourse between the two countries, and leave to the United States no motive of interest to maintain their right to that intercourse, by a sacrifice of any other branch of their commerce. Adequate motives to such a sacrifice could only be found in considerations distinct from any reasonable pretensions on the part of France.

To the admission of every article, the produce of the United States, no objection is anticipated, nor does there appear to be just cause for any to the admission of colonial produce. A supply of that produce will be annually wanted in France and other countries connected with her, and the United States alone can furnish it during the war. It will doubtless be the interest of France and her allies to avail themselves of the industry and capital of the American merchants, in furnishing those articles by which the wants of their people will be supplied, and their revenue increased. Several of the colonies belonged to France, and may again belong to her. Great Britain, by securing to her own colonies the monopoly of the home market, lessens the value of the produce of the conquered colonies. France cannot be indifferent to the distresses of her late colonies, nor ought she to abandon because she cannot protect them. In pressing this important object on the Government of France, it will not escape your attention, that several important articles in the list of colonial productions are raised in Louisiana, and will, of course, be comprised among those of the United States.

You will see the injustice, and endeavor to prevent the necessity, of bringing, in return for American cargoes sold in France, an equal amount in the produce or manufactures of that country. No such obligation is imposed on French merchants trading to the United States. They enjoy the liberty of selling their cargoes for cash, and taking back what they please from this country in return, and the right ought to be reciprocal.

It is indispensable that the trade be free; that all American citizens engaged in it be placed on the same footing; and, with this view, that the system of carrying it on by licenses granted by French agents be immediately annulled. You must make it distinctly understood by the French Government that the United States cannot submit to that system, as it tends to sacrifice one part of the community to another, and to give a corrupt influence to the agents of a foreign Power in our towns, which is, in every view, incompatible with the principles of our Government. It was presumed that this system had been abandoned some time since, as a letter from the Duke of Cadore, of ———, to Mr. Russell, gave assurance of it. Should it, however, be still maintained, you will not fail to bring the subject without delay before the French Government, and to urge its immediate abandonment. The President having long since expressed his strongest disapprobation of it, and requested that the consuls would discontinue it, it is probable, if they still disregard his injunction, that he may find it necessary to revoke their exequators. I mention this, that you may be able to explain the motive to such a measure, should it take place, which, without such explanation, might probably be viewed in a mistaken light by the French Government.

It is important that the rate of duties imposed on our commerce, in every article, should be made as low as possible. If they are not, they may produce the effect of a prohibition. They will be sure to depress the article and discourage the trade.

You will be able to ascertain the various other claims which the United States have on France for injuries done to their citizens, under decrees of a subsequent date to those of Berlin and Milan, and you will, likewise, use your best exertions to obtain an indemnity for them. It is presumed that the French Government will be disposed to do justice for all these injuries. In looking to the future, the past ought to be fairly and honorably adjusted. If that is not done, much dissatisfaction will remain here, which cannot fail to produce a very unfavorable effect on the relations which are to subsist in future between the two countries.

The first of these latter decrees bears date at Bayonne, on the 17th March, 1808, by which many American vessels and their cargoes were seized and carried into France; and others, which had entered her ports in the fair course of trade, were seized, and sequestered or confiscated by her Government. It was pretended, in vindication of this measure, that, as under our embargo law no American vessel could navigate the ocean, all those who were found on it were trading on British account, and lawful prize. The fact, however, was otherwise. At the time the embargo was laid, a great number of our vessels were at sea, engaged in their usual commerce, many of them on distant voyages. Their absence, especially as no previous notice could be given to them, was strictly justifiable under the law; and as no obligation was imposed on them by the law to return, they committed no offence by remaining abroad. Other vessels, inconsiderable in number, left the United States in violation of the law. The latter committed an offence against their country, but none against foreign Powers. They were not *disfranchised* by the act. They were entitled to the protection of their Government, and it had a right to inflict on them the penalty which their conduct had exposed them to. The Government of France could withdraw them from neither of these claims. The absence of none of these vessels was a proof that they were trading on British account. The cargoes which they carried with them, the value of which was much enhanced by the embargo, were alone an ample capital to trade on. As the pretext under which these vessels were taken is no justification of the act, you will claim an indemnity to our citizens for every species of injury arising from it.

The Rambouillet decree was a still more unjustifiable aggression on the rights of the United States, and invasion of the property of their citizens. It bears date on the 23d March, 1810, and made a sweep of all American property within the reach of French power: It was also retrospective, extending back to the 20th May, 1809. By this decree, every American vessel and cargo, even those which had been delivered up to the owners, by compromise with the captors, were seized and sold. The law of March 1, 1809, commonly called the non-intercourse law, was the pretext for this measure, which was intended as an act of reprisal. It requires no reasoning to show the injustice of this pretension. Our law regulated the trade of the United States with other Powers, particularly with France and Great Britain, and was such a law as every nation has a right to adopt. It was duly promulgated, and reasonable notice given of it to other Powers. It was also impartial, as related to the belligerents. The condemnation of such vessels of France or England as came into the ports of the United States, in breach of this law, was strictly proper, and could afford no cause of complaint to either Power. The seizure of so vast a property as was laid hold of under that pretext, by the French Government, places the transaction in a very fair light. If an indemnity had been sought for an imputed injury, the measure of the injury should have been ascertained, and the indemnity proportioned to it. But, in this case, no injury had been sustained on principle. A trifling loss only had been incurred, and for that loss all the American property which could be found was seized, involving in indiscriminate ruin innocent merchants who had entered the ports of France in the fair course of trade. It is proper that you should make it distinctly known to the French Government, that the claim to a just reparation for these spoiliations cannot be relinquished, and that a delay in making it will produce very high dissatisfaction with the Government and people of these States.

It has been intimated that the French Government would be willing to make this reparation, provided the United States would make one, in return, for the vessels and property condemned under, and in breach of, our non-intercourse law. Although the proposition was objectionable in many views, yet this Government consented to it, to save so great a mass of the property of our citizens. An instruction for this purpose was given to your predecessor, which you are authorized to carry into effect.

The influence of France has been exerted, to the injury of the United States, in all the countries to which her power has extended. In Spain, Holland, and Naples, it has been most sensibly felt. In each of these countries the vessels and cargoes of American merchants were seized and confiscated under various decrees, founded on different pretexts, none of which had even the semblance of right to support them. As the United States never injured France, that plea must fail; and that they had injured either of those Powers, was never pretended. You will be furnished with the documents which relate to these aggressions, and you will claim of the French Government an indemnity for them.

The United States have also just cause of complaint against France for many injuries that were committed by persons acting under her authority. Of these the most distinguished, and least justifiable, are the examples which occurred of burning the vessels of our citizens at sea. Their atrocity forbids the imputation of them to the Government. To it, however, the United States must look for reparation, which you will accordingly claim.

It is possible that, in this enumeration, I may have omitted many injuries, of which no account has yet been transmitted to this Department. You will have it in your power to acquire a more comprehensive knowledge of them at Paris, which it is expected you will do, and full confidence is reposed in your exertions to obtain of the French Government the just measure of redress.

France, it is presumed, has changed her policy towards the United States. The revocation of her decrees is an indication of that change, and some recent acts, more favorable to the commercial intercourse with her ports, the evidence of which will be found in the copy of a letter from her minister here, of ———, strengthens the presumption. But much is yet to be done by her to satisfy the just claims of this country. To revoke blockades of boundless extent, in the present state of her marine, was making no sacrifice. She must indemnify us for past injuries, and open her ports to our commerce on a fair and liberal scale. If she wishes to profit of neutral commerce, she must become the advocate of neutral rights, as well by her practice as her theory. The United States, standing on their own ground, will be able to support those rights with effect; and they will certainly fail in nothing which they owe to their character or interest.

The papers relative to the *Impetueux*, the *Revanche de Cerf*, and the French privateer seized at New Orleans, will be delivered to you. They will, it is presumed, enable you to satisfy the French Government of the strict propriety of the conduct of the United States in all those occurrences.

The frigate which takes you to France will proceed to Holland, to execute an order from the Secretary of the Treasury relative to the interest due on the public debt. She will return to France to take Mr. Russell to England, and, after landing him, sail back immediately to the United States. The interval afforded by a visit to Holland will be sufficient to enable you to communicate fully and freely with the French Government on all the topics, to which it will be your duty to invite its attention, under your instructions. A short detention, however, would not be objected to, if you deemed it important to the interest of the United States.

I have the honor to be, &c.

JAMES MONROE.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, September 29, 1811.

I seize the first occasion to announce to you my arrival, though I have very little else to announce.

I landed at Cherbourg the 8th of this month, and arrived at Paris the 19th.

The Emperor has been residing for some time at Compeigne, and it unluckily happened that he set out thence for the coast, and for Holland, the day of my arrival here.

The Duke of Bassano, Minister of Foreign Relations, came the next day to Paris, for two days only, when he was to follow the Emperor, to join him in Holland. General Turreau and others, who called on me the morning after I reached Paris, assured me that the duke was desirous of seeing me as soon as possible, and with as little ceremony.

On the 21st I made my first visit to him, which, of course, had no other object than that of delivering credentials.

I expressed my regret at the Emperor's absence, and the consequent delay of such business as was rendered particularly urgent by the necessity of sending home the frigate, and by the approaching session of Congress, as well as by the distressed situation of those American citizens who were waiting the result of decisions which might be hastened by the expositions which I was charged to make on the part of the President of the United States.

He said the Emperor had foreseen the urgency of the case, and had charged him to remedy the evil, so far as could be done by dispensing with my presentation to His Majesty till his return, and that I might immediately proceed to business, as if I had been presented. He said the most flattering things from the Emperor relative to my appointment. He observed that His Majesty had expected my arrival with some solicitude for several months, and was disposed to do every thing that I could reasonably ask to maintain a good intelligence between the two countries.

The duke then proposed a second interview for the next day, which he said he hoped would be long and leisurely, that we might go over the whole range of business that was likely to come into discussion between us, declaring that he should be justified by the Emperor in delaying his journey one day for that purpose only, and that he had no other business to detain him in the capital. I accepted the invitation, and was with him two hours the next day.

I explained to him, with as much precision as possible, the sentiments of the President on the most pressing objects of my mission, and threw in such observations as seemed to arise out of what I conceived to be the true interest of France.

He heard me with patience and apparent solicitude, endeavored to explain away some of the evils of which we complain, and expressed a strong desire to remove the rest. He said that many of the ideas I suggested were new to him, and were very important; that he should lay them before the Emperor with fidelity, and in a manner calculated to produce the most favorable impression; desired me to reduce them to writing, to be presented in a more solemn form; and endeavored to convince me that he doubted not our being able, on the return of the Emperor, to remove all obstacles to a most perfect harmony between the two countries.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, October 29, 1811.

The Emperor stays in the north much longer than was expected. Having been assured by the minister that he would return by the 15th of October, and that during his tour he would make no stay in any one place, I con-

cluded, as I had the honor to state to you before, not to follow him. The frigate Constitution did not return from Holland till about the time that the Emperor was to have reached Fontainebleau, and during the last fourteen days the public have been in constant expectation of his arrival.

As the Minister of Foreign Relations, and, indeed, most of the other ministers, are with him, it has not been in my power to bring forward to advantage any propositions on the great objects of my mission; for I was convinced, for reasons mentioned in my first despatch, that these objects can be treated to the best advantage in presence, when frequent conversations can be mingled with formal official notes. My correspondence with the minister, therefore, has been hitherto confined to incidental matters not worth troubling you with.

It is now so fully believed that the Emperor will be here about the 10th of November, and it seems so important that something of a decisive nature should be communicated to you by the frigate, that it is thought best by Captain Hull, as well as myself, that she should go first over to Cowes with Mr. Russell, and return to Cherbourg for my despatches for you.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, November 21, 1811.

On the 9th of this month the Duke of Bassano arrived in Paris, and signified his arrival by a circular to the foreign ministers here. The next day, at one o'clock, I called at his house, having in my pocket the note dated 10th November.

My intention was, if possible, to have an interview with him before he should read the note, to prepare his mind on some points, which, being new to him, might be susceptible of further development than it would be convenient to give in writing.

Not finding the duke at home, I left the note, enclosing with it a written request for an interview, after he should have read the note. As yet, I have no answer; but, having met him once since, he assured me that a very great press of business occupied him every day at St. Cloud. He gave me no other reason for the delay thus far, and I have learned, through other channels, that they are discussing in the Emperor's councils of commerce and of state the principal points in my note. If this discussion is in good earnest, I shall probably have an answer of some sort before many days.

[Enclosed in Mr. Barlow's letter of November 21.]

Extract:—Mr. Barlow to the Duke of Bassano.

PARIS, November 10, 1811.

For all these considerations, and others which I have had the honor to explain to your excellency in conversation, I am confident that I shall urge nothing contrary to the true interests of France, when I propose that His Majesty the Emperor and King should order a prompt and effectual execution of the arrangement of the 5th of August and 2d of November, in the true and liberal spirit in which it was proposed; so that the privations which the United States imposed upon themselves, by excluding the productions of Great Britain and her dependencies, should, as far as circumstances will allow, be compensated by a free access to those of the continent of Europe, and that they may carry thither such means of purchasing those productions as their own soil and industry, those of other neutral nations, and those of the French colonies, will furnish.

Should His Majesty adopt this principle, the means of arriving at the end are so obvious, that it will not greatly add to the length of this note, if I here point them out. 1st. Let the American ships and cargoes now under seizure, capture, or sequestration, and the proceeds of such as have been sold which are now reserved for the party having right, be immediately restored to their owners, and they declared free to depart therewith for their country. This article is not intended to embrace any thing but genuine American property, as protected by the acknowledged law of nations.

2d. Such property, acknowledged to be American, as has been confiscated, and no longer in a state to be restored, will remain to be paid for in some manner the least onerous to the French treasury, to be determined on by a separate convention.

3d. A signification of His Majesty's pleasure, if such it be, to form a new commercial treaty with the United States, on principles of reciprocity, both with respect to the rate of duties, (as far as the different nature of the objects of our mutual commerce will permit,) and the facility of buying and selling, entering and departing with such articles as shall be agreed on, the produce of their respective countries, colonies, territories, and dependencies.

One principal reason why a system of this kind has been deferred so long, has doubtless been the difficulty of distinguishing American from English property, and of ascertaining the origin of produce. We regret as much as you can the frauds that have been committed in this respect. Our honor, as well as interest, is concerned in suppressing them. We are ready to enact and inflict penalties, and agree with the French Government on the marks, signals, and other measures most proper to attain the end.

I beg your excellency not to consider it improper or indiscreet in me to close this note by suggesting a cogent reason for desiring as speedy an answer to the principal propositions as the other weighty concerns of your department will admit. The frigate which brought me to France is detained only for this answer. Congress is now beginning its session, and the President will be anxious to lay before it as early as possible the result of these propositions; and it has happened, unluckily, that my arrival here at the moment of the Emperor's departure has already occasioned a considerable loss of time.

Mr. Monroe to Mr. Barlow.

SIR:

DEPARTMENT OF STATE, November 21, 1811.

I have the honor to transmit to you a copy of the President's message to Congress at the commencement of the session, and of the documents which accompanied it.

In this very interesting communication you will find that the President has done justice to both the belligerents. He has spoken of each as it deserves. To France he has given the credit due for the revocation of her decrees, while he has bestowed on those injuries which remain unredressed their merited censure. Of England he has

spoken in terms of censure only, because she had in no respect changed her unfriendly policy. Thus the whole subject of our foreign relations is presented fully and fairly before the Legislature and the public; and, I am happy to add, that so far as an opinion can now be formed of the impression made, the public sentiment is in strict harmony with that expressed by the Executive. Few, if any, seem to be willing to relinquish the ground which has been taken by the non-importation act; and most seem to be resolved, if Great Britain does not revoke her orders in council, to adopt more decisive measures towards her.

If the United States experience any embarrassment in the course which they are pursuing in support of their rights, or fail in the ultimate success, it will be owing to the conduct of the French Government. It cannot be doubted, if France remains true to her engagement, by a faithful observance of the revocation of her decrees, and acquits herself on the various other points on which you are instructed to the just claims of this country, that Great Britain will be compelled to follow her example; in which event the war will immediately assume a new character, such as has been the professed wish of both belligerents, mitigating its calamities to both of them, as well as diffusing the happiest effect on neutral States.

The part which France ought to act is a plain one. It is dictated in every circumstance by the clearest principles of justice and soundest maxims of policy. The President has presented to view, in the message to Congress, the prominent features of this plan, by stating equally our rights and injuries. It will scarcely be necessary for me to go into any of the details, which are already so well known to you. I will briefly advert to them.

It is not sufficient, in the final decision of a cause brought before a French tribunal, that it should appear that the French decrees are repealed. An active prohibitory policy should be adopted to prevent seizures on the principles of those decrees. All that is expected is, that France will act in conformity to her own principles. If that is done, neutral nations would then have an important object before them, and one belligerent at least prove that it contended for principle rather than for power; that it sought the aid of neutral nations in support of that principle, and did not make it a pretext to enlist them on its side to demolish its enemies. The abuses that are practised by French privateers in the Baltic, the channel, Mediterranean, and wherever else they cruise, have of late more especially reached an enormous height. In the Baltic they have been more odious, from the circumstance that it was expected that they had been completely suppressed there. Till of late these abuses were imputed to the privateers of Denmark, which induced the President to send a special mission to the Danish Government, which it was understood was producing the desired effect. But it is now represented that the same evil is produced by a collusion between the privateers of Denmark and those of France. Hence it assumes a worse character. To seizures equally unlawful is added, by carrying the causes to Paris, still more oppressive delays.

If the French Government is not willing to adopt the general rule alluded to in favor of American commerce, it is presumed that it will not hesitate to define explicitly the causes of seizure, and to give such precise orders to its cruisers respecting them, with an assurance of certain punishment to those who violate them, as will prevent all abuse in future. Whatever orders are given, it would be satisfactory to this Government to be made acquainted with them. The President wishes to know with great accuracy the principles by which the French Government intends to be governed in regard to neutral commerce. A frank explanation on this subject will be regarded as a proof of the friendly policy which France is disposed to pursue towards the United States.

What advantage does France derive from these abuses? Vessels trading from the United States can never afford cause of suspicion on any principle, nor ought they to be subject to seizure. Can the few French privateers which occasionally appear at sea make any general impression on the commerce of Great Britain? They seldom touch a British vessel. Legitimate and honorable warfare is not their object. The unarmed vessels of the United States are their only prey. The opportunities of fair prize are few, even should France maintain the British principle. Can these few prizes compensate her for the violation of her own principles, and for the effect which it ought and cannot fail to produce here?

Indemnity must be made for spoiliations on American property under other decrees. On this subject it is unnecessary to add any thing to your present instructions. They are detailed and explicit.

The trade by licenses must be abrogated. I cannot too strongly express the surprise of the President, after the repeated remonstrances of this Government, and more especially after the letter of the Duke of Cadore to Mr. Russell of the ——— last, informing him that that system would fall with the Berlin and Milan decrees, that it should still be adhered to. The exequators of the consuls who have granted such licenses would long since have been revoked if orders to them to discontinue the practice had not daily been expected, or in case they were not received, the more effectual interposition of the Congress to suppress it. It will certainly be prohibited by law, under severe penalties, in compliance with the recommendation of the President, if your despatches by the Constitution do not prove that your demand on this subject has been duly attended to.

It is expected also that the commerce between the United States and France and her allies will be placed on the basis of a fair reciprocity. If the oppressive restrictions which still fetter and harass our commerce there are not removed, it cannot be doubted that Congress will, as soon as it appears that a suitable change may not be expected, impose similar restraints on the commerce of France. Should such a state of things arise between the two countries, you will readily perceive the obvious tendency, or rather certain effect, on the relations which now subsist between them.

This is a short sketch of the policy which it is expected France will observe in regard to neutral commerce and the other just claims of the United States. A compliance with it will impose on her no onerous conditions, no concession in favor of the United States. She will perform no act which she is not bound to perform by a strict regard to justice. She will abstain from none, the abstinence from which is not dictated by the principles which she asserts and professes to support. What is also of great importance, the course pointed out cannot fail to prove in all its consequences of the highest advantage to her.

Among the measures necessary to support the attitude taken by this Government, it is more than probable that a law will pass authorizing all merchant vessels to arm in their own defence. If England alone, by maintaining her orders in council, violates our neutral rights, with her only can any collision take effect. But in authorizing merchant vessels to arm, the object will be to enable them to support their rights against all who attempt to violate them. This consideration ought to afford a strong additional motive to France to inhibit her privateers from interfering with American vessels. The United States will maintain their neutral rights equally against all nations who violate them.

You will find among the documents which accompany the President's message a correspondence between Mr. Foster and me, by which the difference relative to the attack on the Chesapeake is terminated. It was thought advisable not to decline the advance of the British Government on this point, although none was made on any other; and as the terms offered were such as had been in substance approved before, to accept them. The adjustment, however, of this difference does not authorize the expectation of a favorable result from the British Government on any other point. This Government will pursue the same policy towards Great Britain in regard to other injuries as if this had not been accommodated.

You will also find among the printed documents a correspondence with Mr. Foster respecting the Floridas. To his remonstrance against the occupation of West Florida by the troops of the United States, he was told that it belonged to them by a title which could not be improved. And to that relative to East Florida, he was informed that Spain owed the United States for spoiliations on their commerce, and for the suppression of the deposit at New Orleans, more than it was worth; that the United States looked to East Florida for their indemnities; that they would suffer no Power to take it, and would take it themselves, either at the invitation of the inhabitants, or to prevent its falling into the hands of another Power. With so just a claim on it, and without any adverse claim which, under existing circumstances, is anywise sustainable, more especially as the necessary severance of the Spanish colonies from Old Spain is admitted, and the known disposition and interest of the inhabitants are in favor of the United States, the idea of purchasing the territory otherwise than as it has been already more than paid for in the property wrongfully taken from the citizens of the United States, does not merit, and has not received, a moment's consideration here. You will, therefore, discountenance the idea every where and in every shape.

You will be furnished with a copy of my correspondence with Mr. Serrurier on the subject of a vessel called the *Balaou No. 5*, (formerly the *Exchange*) bearing a commission from the Emperor of France, lately libelled in the District Court of the United States for Pennsylvania. The decision of that court was in favor of a discharge of the vessel. An appeal was taken from it to the Circuit Court, by which the sentence was reversed. The cause was then carried by appeal, at the instance of the Government, to the Supreme Court of the United States, where it is now depending. The whole process in favor of the French Government is conducted on the part of, and at the expense of, the United States, without, however, making themselves a party to it.

This vessel is one of those that were seized under the Rambouillet decree. The French Government took her into service, as appears by the documents in possession of the commandant, and sent her with despatches to some distant quarter. She came into the port of Philadelphia, as it is said, in distress. She having on board a cargo, distress may have been a pretext. As this Government denies the justice of the Rambouillet decree, has remonstrated against, and expects an indemnity for losses under it, you will be sensible of the delicacy and difficulty which it has experienced in interfering in any respect in the case. To take the vessel from the court, and, of course, from the owner, and restore her to the French consul or other agent, even if under any circumstances lawful, would have excited universal discontent. I cannot dismiss this subject without remarking, that if the Government of France had not violated the rights of the United States by the Rambouillet decree, this case would not have occurred; and that it is painful to see a question connected with the public law originate under such circumstances.

The public vessel which takes these despatches to you has others for our chargé d'affaires at London. After landing Mr. Biddle, who is the bearer of yours, at some port in France, she will proceed immediately to the English coast, and land Mr. Tayloe, the messenger who is charged with those for London. It is expected that she will be subject to a short delay only on the English coast, and that your despatches will be prepared for her on her return to France. It is highly important to this Government to obtain without delay, or rather with the greatest possible despatch, correct information from you and from our chargé d'affaires at London, of the policy adopted, and the measures which have been already taken on the important interests depending with each Government, on which you have been respectively instructed. A short detention of the vessel for an obvious and useful purpose, as intimated heretofore, will not be objected to; but such a delay as has on some occasions occurred is utterly inadmissible.

I have the honor to be, &c.

JAMES MONROE.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, December 19, 1811.

Since the date of my last, (November 21,) I have had many interviews with the Minister of Foreign Relations. I have explained several points, and urged every argument for as speedy an answer to my note of the 10th as its very serious importance would allow. He always treats the subject with apparent candor and solicitude, seems anxious to gain information, declares that neither he nor the Emperor had before understood American affairs in the light in which they now appear, and always assures me that he is nearly ready with his answer.

But he says the Emperor's taking so long a time to consider it and make up his decision is not without reason, for it opens a wide field for meditation on very interesting matters. He says the Emperor has read the note repeatedly and with great attention; that he told him the reasoning in it was every where just, and the conclusions undeniable; but to reconcile its principles with his continental system presented difficulties not easy to remove.

From what the Emperor told me himself at the last diplomatic audience, and from a variety of hints and other circumstances remarked among the people about his person, I have been made to believe that he is really changing his system relative to our trade, and that the answer to my note will be more satisfactory than I had at first expected. But the unexpected and unreasonable delay has almost discouraged me of late.

I am extremely anxious to despatch the frigate, and, had I imagined the delay would have been so great, I would not have ordered her to return after landing Mr. Russell in England. There is, however, a kind of consolation thus far; the captain writes me that had she been ready to sail three weeks ago, the weather has been such ever since that she could not have left the port by this time.

I hope, and am pretty certain now, that I shall despatch a messenger to Mr. Morris in five or six days at latest.

I send this by Mr. Odin, of Boston, by way of England. I have given him a passport, as bearer of despatches, and he goes by Morlaix without expense to the United States.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, December 31, 1811.

I have now the honor to send you the answer of the Duke of Bassano to my note of the 10th of November, accompanied by a triplicate copy of that note.

This answer, if understood in its most liberal sense, may doubtless be considered full and satisfactory, as a basis for the future commercial relations between the two countries; for we can ask nothing better than a perfect reciprocity of advantages in those relations. But although an official declaration of the Emperor's intention and readiness to conclude a treaty on such principles may be fairly taken as an adoption of the principles, yet, considering

the irritation of the public mind in the United States arising from recent injuries, and the difficulty with which it can be brought to believe in a change of system so suddenly adopted and so vaguely announced, I thought it best to obtain, if possible, a more precise declaration as to certain points which had created so much difficulty.

Accordingly I asked an interview with the duke for the 28th. I went to him on that day with a paper in my hand, of which I here enclose a translation.

My intention was to induce him to sign that paper, or the principles it contained, either in its present form or such other form as he might deem more consonant with the dignity of his Government, such as putting them into the answer to a letter which I might write him, if he should think that the most eligible method.

After we had read over the paper together, and I had explained the motive of my proposition, he replied that every one of those principles was adopted by the Emperor, and would enter into the treaty, and therefore it would be useless to announce them in a separate declaration. I endeavored to convince him of the advantages that would result to France, as well as to the United States, from an immediate restoration of confidence among the American merchants. The great want of flour in France as well as Spain, and the accumulation of French produce perishing on hand for want of foreign commerce, were sufficient reasons for seizing the first occasion, not inconsistent with the Emperor's general system, for giving activity to neutral capital in the ports of the empire.

He then copied the heads of my paper, and said he would lay the proposition before the Emperor, and give me an answer the next day. I did not, however, get this answer till last night. He then invited me to an interview; and, after reading over the paper as before, and commenting on every clause, he declared the Emperor's decision precisely to the following effect: "It is not proper for me to sign this declaration; but you may notify it to your Government, word for word, as if it were signed; for the principles are all adopted, and from this day forward they will be in operation. I have given the order to the chief of the customs for what concerns his department; the Court of Prizes is ordered to expedite its part of the business, and I shall instruct the consuls to give the certificates of origin. But you will observe this regards only the produce of the United States. Colonial produce cannot for the present be admitted even in a French vessel, on a simple certificate of origin, without a special license."

I then desired him to cause one more order to be given from the proper department to the effect of repressing the rapacity of privateers. The Emperor owed it to his own dignity to order his courts to subject at least to cost and damages the owners of such privateers as should capture innocent ships without a pretext, a business that was long known to be carried on, as well it might be under the present system of certain impunity, with the sure prospect of a great deal of partial plunder, and the hope of an advantageous compromise with the claimants. He acknowledged that something ought to be done in the case.

His observation on colonial produce induced me to bring up again the subject of special licenses, repeating what I had often stated before, the just objection that the President had instructed me to insist upon against that system. He said that if the President desired it, it should be discontinued; but they had not yet been able to find a substitute. He declared to me, as he had often done before, that the Emperor would do any thing on this subject that should be most agreeable to the United States, provided it did not open a door to the introduction of English produce.

He always insists upon it that the special licenses are a clear advantage, as far as they go, to the commerce and navigation of the United States. The system is an extension of favor to them, inasmuch as it relaxes the principle of the French navigation act, which confines the carrying trade of the colonies to French ships.

He added that the Emperor did not pretend that this was out of pure friendship to the Americans. "We have need of coffee and sugar. We can get our supply in this way; but if you can point out another that shall be more agreeable to the President, without giving us the produce of English colonies, we shall adopt it."

Thus I think, sir, you have the whole idea before you. And I should be glad to receive your further instructions on the subject.

Should it be the intention of the President that I should proceed in the treaty of commerce, it will be necessary likewise to give me instructions, as precise as may be, on all the essential points that you wish to enter into it.

[Referred to in Mr. Barlow's letter of 31st December.]

[TRANSLATION.]

The Duke of Bassano to Mr. Barlow.

SIR:

PARIS, December 21, 1811.

I have the honor to announce to you that His Majesty the Emperor, by a decision of the 12th of this month, has ordered to be placed at the disposition of their Government twenty-three Americans, whom the town of Dantzic had, by mistake, comprised in a levy of sailors it had to furnish to France. These sailors had been sent to Antwerp, and afterwards to Rochefort; and these successive removals having rendered impracticable the immediate proof of their citizenship, every decision on that subject was necessarily deferred. The usage is to deliver to the nearest consul those who are claimed by his Government; therefore, the twenty-three American sailors could not be sent directly from Rochefort to Cherbourg as you desired, but the Minister of Marine has directed the Maritime Prefect of Rochefort to have them struck off the rolls, and to send them to Rochelle, there to be put at the disposition of the consul of the United States.

I hasten, sir, to apprise you of this, and I have the honor to renew the assurance of my high consideration.

THE DUKE OF BASSANO.

[Referred to in Mr. Barlow's letter of 31st December.]

[TRANSLATION.]

The Duke of Bassano to Mr. Barlow.

PARIS, December 27, 1811.

The undersigned, Minister of Foreign Relations, has laid before His Majesty the Emperor and King the note which Mr. Barlow, minister plenipotentiary of the United States of America, addressed to him on the 10th of last month.

If, since the revocation of the decrees of Berlin and Milan, the commerce between France and the United States has had but little activity, the cause must be sought for in the outrages which the British Government has exercised against the flag of the United States, and against the French flag, and in the cruises (*croisières*) which it has established on the ocean, and on the Mediterranean, on the coasts of France, and on those of America.

The undersigned has in his bureau a memorandum of a great number of American vessels taken at the entrance of the rivers of France; and the English papers every day mention that these vessels are condemned and delivered up to the captors, for having violated the blockade of 1806, or other orders of the British council.

Those American vessels which have escaped the enemy, and have entered the ports of France, have sold their merchandise to advantage; have taken return cargoes, and realized a profit on them, notwithstanding the enormous insurance they have been obliged to pay on account of the risk they run from British cruisers.

If the flag of the United States was respected, if it enjoyed the rights guaranteed to the navigation of neutrals by the law which has existed from time immemorial on this subject, and of which the treaty of Utrecht has specially recognised the principles, the commerce between the two countries would have its full development, and the relations of the citizens of the United States with the empire would open to their activity sources of considerable profit.

In fact, the tariff of the 5th of August established duties which are paid by the consumers, and which can have no other influence than on the price of the articles. The duties of two hundred or three hundred per cent., laid in England on wines, on teas, and on many other articles for a long time past, are, in like manner, nothing more than duties of consumption, which have no other effect than to raise the price, without in any manner injuring the commerce in them.

The merchants of the United States are not subjected in France to any duties, or to any obligations that are not equally imposed on French commerce, of which they moreover partake all the advantages. And whilst, in the United States, cargoes imported in French vessels pay ten per cent. more than if they had been imported in American vessels, the flag of the United States is treated in France as the imperial flag.

Nevertheless, a treaty of commerce, bottomed on the principle of a perfect reciprocity, could not fail to be entirely advantageous to both countries. The undersigned is authorized to negotiate, conclude, and sign such a treaty. It is with a lively satisfaction that he makes known to the minister plenipotentiary of the United States the intentions of His Majesty on this important object. The United States will be entirely satisfied on the pending questions, (*questions actuelles*;) and there will be no obstacle to their obtaining the advantages they have in view, if they succeed in making their flag safe.

The undersigned has the honor to renew to Mr. Barlow, minister plenipotentiary of the United States, the assurances of his high consideration.

THE DUKE OF BASSANO.

[Referred to in Mr. Barlow's despatch of December 31.]

The minister plenipotentiary of the United States and the undersigned Minister of Foreign Relations, being respectively authorized and now ready to negotiate and conclude a treaty of commerce between the two countries, and as several months must elapse before such a treaty can be completed and ratified, during which time their commercial interests may suffer loss from the uncertainty now existing in the United States relative to certain points that are intended to enter into that treaty, the undersigned declares it to be the Emperor's pleasure, that, in this interval, the commerce of the United States, in their own produce and that of the French colonies, shall be free in his ports; that is to say, the formalities necessary to prove the property and origin of the goods shall be as simple and expeditious as the nature of the cases will permit.

No cause whatever shall warrant the capture or detention of an American vessel at sea, or her seizure in a French port, or in any other port, by French authority, but a well-grounded suspicion of forgery in her papers.

No other papers shall be required but the passport and clearance by the American authorities, and a certificate of origin by a French consul; and the French consuls in the United States are ordered to give such certificates.

His Majesty will cause the liberation of all the remaining ships and cargoes, now in his ports, belonging to American citizens, as fast as the necessary inquiries now going on shall prove them to be such.

Mr. Barlow to the Secretary of State.

SIR:

PARIS, January 4, 1812.

Though Mr. Morris has been gone thirty-six hours, I send this by the mail, to take its chance of reaching Cherbourg before the sailing of the frigate, just to say that Mr. Biddle, the messenger by the *Hornet*, has reached me. I have scarcely had time to open the packets, but shall lose no time in obeying your instructions, as far as I am able, as soon as I find what they are; and I hope not to detain the *Hornet* after her return from England.

With great respect and attachment, your obedient servant,

J. BARLOW.

The Honorable the SECRETARY OF STATE.

[TRANSLATION.]

The Duke of Bassano to Mr. Barlow.

SIR:

PARIS, January 8, 1812.

You did me the honor to apprise me, on the 15th of December, that a certain number of Americans, making part of the crews of different vessels captured and carried into our ports, found themselves detained in France as prisoners of war. Evidence taken on their persons, and on board the vessels in which they served, denotes that eight among them have been seized under a neutral flag; those named Joel Wicker, Judah Swift, and Herman Dickenson, served on board the American ship *Friendship*; Littleton Addison, William Banks, Martin Kelly, and Richard Miller, belonged to the American ship *Spanish Lady*; and John Beadley to the Pappenburg vessel the *Catharine*.

His Majesty the Emperor, upon the report which I have presented to him, has ordered that these eight seamen, whatever may have been the causes of the capture of their vessels, be placed at the disposition of their Government.

The ancient decisions applicable to all seamen making part of the crew of an *enemy vessel*, whatever may be their citizenship (*nationalité*) do not permit to be extended to American seamen, found under such circumstances, the friendly measure of which I have the honor to inform you.

Accept, sir, the assurances of my high consideration, &c.

THE DUKE OF BASSANO.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, January 28, 1812.

In consequence of the note of the Minister of Foreign Relations, (of which I had the honor of sending you a copy by the frigate, and now send another copy,) announcing that he was authorized to negotiate and sign a treaty of commerce on principles of perfect reciprocity, I had some personal conferences with him on the nature of those principles. I then drew up the project of a treaty and sent it to him on the 17th instant.

I have reason to presume that, in a short time, say three or four weeks, the work may be finished, and the treaty ready to be submitted to the President. This being a matter of so much importance in itself, so essential, when finished, to have it despatched as soon as possible, by the safest and swiftest conveyance, and so improbable that at the time contemplated I shall be able to find any such conveyance but by a public ship, that I have concluded to detain the *Hornet*.

Having ventured on this resolution, I am now anxious to impart it to you, with the copies above mentioned, as soon as possible, and for this purpose I send the *Hornet* with this despatch to England, desiring Mr. Russell to forward it with such expedition and safety as may be in his power, as none can be had at present from this country.

The affair of the *Acastus*, now terminated, will be at least one more proof that the obnoxious decrees are in good faith annulled.

The ship *Acastus*, Captain Cottle, loaded with tobacco, and bound from Norfolk to Tonningen, was boarded by an English frigate, and afterwards taken by a French privateer and brought into Fécamp, for the fact of having been thus boarded. As soon as the Emperor was informed of this, by my letter of the 2d of December to the Duke of Bassano, he ordered the ship and cargo to be restored to her owner; all which I have had the honor to state to you, and I now state it to Mr. Russell.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, February 8, 1812.

Having an opportunity to send to London, which cannot be entirely relied upon for safety, I shall do little more than send you a copy of my last despatch.

Since its date I have had several conversations with the Minister of Foreign Relations relative to the progress of the treaty. He is at work upon it, and probably in good earnest; but the discussions with Russia, and the other affairs of this continent, give him and the Emperor so much occupation, that I cannot count upon their getting on very fast with ours.

But he endeavors to assure me that it shall not suffer much delay, and that most of the essential points that I insist upon will be agreed to. These declarations, however, are not sufficiently precise to be relied upon.

The *Hornet* sailed from Cherbourg the 1st of February, and may be expected back in a very few days.

Extract:—Mr. Barlow to the Secretary of State.

MARCH 3, 1812.

The *Hornet* returned to Cherbourg the second time about the 15th of February, where she yet remains, and where I am under the painful necessity of detaining her still longer, or of sending her home without the treaty. The alternative is disagreeable, but I do not hesitate, under all circumstances, to detain her. It is in the hope that we shall bring the affair to a conclusion, in time for her to arrive with the treaty, before Congress will adjourn.

Be assured that I spare no pains and omit no argument in urging forward this business.

Mr. Russell has written me again for additional proofs of the removal of the decrees. I have the honor to enclose to you a copy of my answer to him of yesterday, which I shall send by the same ship that takes this despatch, (the *Neptune*, for New York.) The captain, Hopkins, has promised to put the messenger, Mr. Frean, of South Carolina, on shore in England, without expense to the Government.

[Referred to in Mr. Barlow's despatch of March 3.]

Mr. Barlow to Mr. Russell.

MARCH 2, 1812.

It seems, from a variety of documents that I have seen, and, among others, the decision of Sir William Scott, in the case of the ship *Fox*, that the British Government requires more proof of the effectual revocation, by the French Government, of the Berlin and Milan decrees. Though it is not easy to perceive what purpose such additional proof is to answer, either for obtaining justice, or for showing why it is refused, yet I herewith send you a few cases in addition to what have already been furnished.

Among these I believe you will find such as will touch every point that was contemplated in those decrees, to prove them all to have been removed. If not, and still further proof after this should be deemed necessary, I can doubtless furnish it; for the subject is not exhausted, though your patience may be.

1st. The schooner *Fly*, Adams, of and from New York, loaded with cotton, sugar, and coffee, bound to St. Petersburg, taken by an English cruiser, and carried into Cowes, thence released, came into Havre, declared the facts as above, entered, sold her cargo, reloaded with French goods, and departed without molestation.

2d. The brig *Ann Maria*, of and from New York, D. Campbell, master, bound to a port in France, loaded with pot-ash, cotton, and staves, put into Falmouth, then came to Morlaix, entered, sold, bought, reloaded, and departed, as above.

3d. The ship *Neptune*, Hopkins, bound from London to Charleston, in ballast, taken, brought into Dieppe, restored by a decree of the Emperor, and departed again in ballast.

4th. Ship *Marquis de Someruelos*, with indigo, fish, and cotton, bound to Civita Vecchia, boarded by a British frigate, arrived at her port, declared the fact, entered, sold, and is now reloading for the United States.

5th. Ship *Phœbe*, from Boston to Civita Vecchia, colonial produce, boarded as above, arrived, entered, sold, and is now reloading for departure.

6th. Ship *Recovery*, of Boston, with pepper, boarded, arrived, entered, and treated as above at the same place; now selling her cargo.

7th. Brig *Star*, bound to Naples, with colonial produce, taken and carried into Toulon, for having touched at Gibraltar, under pretence of a violation of the decrees, and restored by the Emperor, on the express ground that the decrees no longer existed, as applicable to the United States.

It would be wrong to allege that any of these vessels were protected by special licenses. In the first place, only three of the seven had licenses; those were the *Fly*, the *Phoebe*, and the *Recovery*. 2dly, It is well known that licenses are not, and never were, given as protections against the effects of those decrees. The object of the licenses given to vessels of the United States is distinctly defined to be merely to guard against false papers, and to prove the regularity of the voyage. They are used only for colonial produce, and not at all for the produce of the United States; and we see, in every instance, that a vessel loaded wholly with produce of the United States, or in ballast, is respected by the Government here. At least, I know it has been so in every instance since my arrival, in September last; and there have been, I doubt not, thirty or forty such vessels in France within that period. But a vessel loaded with colonial produce, and sailing without a license, would be certainly confiscated, whether she had violated the supposed decrees or not. Indeed, the regulation about licenses is not a maritime regulation, and it has nothing to do with neutral rights. It is, strictly speaking, a *relaxation of the French navigation act*, in favor of such particular persons as obtain them, to enable such persons to bring goods of an origin foreign to the United States into France.

It is the same as if a vessel of the United States should, by a special relaxation of the English navigation act, obtain a license to bring Brazil sugars or French wines into England. Such a license would surely not be considered as a breach, on the part of England, of our neutral rights; neither would it be a breach of such rights to confiscate our vessels carrying such articles into England without a license. The violation of the navigation law, either of France or England, is not a neutral right, and therefore the punishment of such violation is not a breach of neutral right.

I have taken the liberty to be thus particular on this head, because, in several instances, during the discussion with the ministers of the British Government, I have seen a disposition in them to confound with the French maritime decrees not only this affair of special licenses, but several regulations merely fiscal and municipal, bearing no relation to neutral rights or to the decrees in question.

I will terminate this statement by repeating the solemn declaration that I made to you, in my letter to you of the 30th January, (and there is no impropriety in the repetition, since a greater length of time has given a wider scope to the declaration,) that, since my arrival in September last, there has not been a single instance of the application of the Berlin and Milan decrees to an American vessel or cargo, and that I have not heard of their having been so applied since the 1st of November, 1810; though many instances have occurred within that period in which they must have been so applied had they been in vigor.

It is difficult to conceive, probably impossible to procure, and certainly insulting to require, a mass of evidence more positive than this, or more conclusive to every unprejudiced mind.

J. BARLOW.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, March 15, 1812.

I have scarcely been able to get an interview with the Duke of Bassano for the last fifteen days, though he has appointed several. He has disappointed me in most of them, and I am sure with reluctance. Last evening I obtained a short audience, in which he declared that his great work of this continent was now finished, and he would be able after to-morrow to devote himself very much to the treaty with the United States, till it should be completed. And I left him rather with the hope, than the full expectation, that he will have it in his power to keep his promise.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, March 16, 1812.

Since I had the honor of writing to you yesterday, the *Moniteur* has come out with the *senatus consultum* of which I spoke. This I now enclose. This despatch goes by a safe hand for Bordeaux, there to be confided to some passenger, to go by one of our fast sailing schooners. You will notice that the minister, in his report, says nothing particular of the United States, and nothing more precise than heretofore of the revocation of the decrees.

This furnishes an additional motive for using all my efforts to get the treaty through, carrying with it an unequivocal stipulation that shall lay that question at rest. Its importance is surely sufficient to warrant my detaining the *Hornet*.

The Emperor did not like the bill we have seen before Congress, for admitting English goods contracted for before the non-importation law went into operation.

I was questioned by the Duke of Bassano on the bill, with a good deal of point, when it first appeared; and I gave such clear and decided explanations, as I thought at the time would remove all uneasiness. But I have since heard that the Emperor is not well satisfied. If Congress had applied its relieving hand to individual cases only, and on personal petitions, it would have excited no suspicions.

In consequence of my repeated remonstrances in cases of condemnation of American cargoes, on frivolous or false pretences, I think the career is somewhat arrested, and they now show a disposition to revise the judgments. The *Betsey*, the *Ploughboy*, and the *Ant*, are ordered for revision. The *Belisarius* is in progress, and is likely to be liberated, as you will learn by the correspondence I now have the honor to enclose respecting that case.

[Enclosed in Mr. Barlow's despatch of the 16th March.]

Mr. Barlow to the Duke of Bassano.

My Lord:

FEBRUARY 6, 1812.

I understand that the brig *Belisarius*, of New York, Captain Lockwood, and her cargo, is about to be confiscated, after report made to His Majesty, because this vessel and her cargo are liable to the decree of Milan of the 17th December, 1807.

As I know positively that this American vessel left *New York the 17th of June, 1811*, seven months after the revocation of the decrees of Milan and Berlin, laden with *permitted articles, the produce of the soil of the United States*, I am unable to account for this decision, without attributing it to an *error of date* committed in the report, in which it is possible that the year 1810 has been taken for the year 1811.

I take the liberty, therefore, to submit this remark to your excellency, well persuaded, if there has been an *error* in the report, the justice of His Majesty will order a revision of the affair.

I pray your excellency, &c.

His Excellency the DUKE OF BASSANO, &c.

JOEL BARLOW.

[Referred to in Mr. Barlow's despatch of March 16.]

Mr. Barlow to the Duke of Bassano.

PARIS, March 12, 1812.

The undersigned, minister plenipotentiary of the United States, has the honor to transmit, herewith enclosed, to his excellency the Duke of Bassano, Minister of Foreign Relations, copies of the protests of Thomas Holden, master of the American brig *Dolly*, of New York, and Stephen Bayard, master of the American ship *Telegraph*, of New York, by which his excellency will learn that these vessels have been met with at sea by His Imperial and Royal Majesty's ships the *Medusa*, Captain Ravel, and the *Nymph*, Captain Plassaw, who, after having plundered them of a part of their cargoes, destroyed the remainder by burning the ships.

It is a painful task to the undersigned to be obliged so frequently to call the attention of his excellency to such lawless depredations. It appears to him that, in the whole catalogue of outrages on the part of the cruisers of the belligerents, of which the United States have such great and just reason to complain, there are none more vexatious and reprehensible than this.

Upon what ground can such spoliations be justified? Will it be alleged that the destruction of these vessels was necessary, in order to prevent their carrying information to the enemy, and thereby endanger the safety of these frigates upon a trackless ocean? This would be a poor defence. After boarding these peaceful traders, they might easily have led their course south, when they intended to go north. They could even have maintained their assumed character of British ships, under which, it seems, they began the commission of these flagrant acts, and thus have prevented all information of their cruising in those latitudes.

But it appears that plunder, and not safety, was the object for which they have thus disgraced the imperial flag. For his excellency will probably have learned from Brest, where the frigates entered, that the twenty boxes of spices and other articles taken from the *Telegraph* were smuggled on shore, and, it is said, were sold for the benefit of the equipage of the *Medusa*.

Thus is the property of citizens of the United States seized, condemned, and sold, by officers in the imperial navy, who became at once captors, judges, and vendors of the property of unoffending neutrals. Such disgraceful violations of every principle on which nations consent to live in peace ought never to go unpunished, and, surely, in this case they will not.

The undersigned, therefore, most earnestly calls on his excellency the Minister of Foreign Relations, as the official guardian of public right, to lay a statement of this outrage before His Majesty, in such a point of view as shall produce a speedy compensation to the captains Holden and Bayard, and the owners of the ships and cargoes, for the losses they have sustained; and His Majesty will doubtless take measures to avenge the dignity and signalize the justice of his Government by punishing such a crime in a manner to prevent its repetition.

The valuation of the *Dolly* and her cargo, and of the *Telegraph* and her cargo, is herewith enclosed; the delay in obtaining these valuations has retarded for some weeks the presentation of this letter; and the undersigned cannot but indulge the hope that his excellency will now give as early attention to the whole of the case as its importance manifestly demands.

The undersigned begs his excellency, &c.

J. BARLOW.

His Excellency the DUKE OF BASSANO.

[Enclosed in Mr. Barlow's despatch of 16th March.]

[TRANSLATION.]

The Duke of Bassano to Mr. Barlow.

SIR:

PARIS, March 15, 1812.

I have had the honor of informing you that the case of the ship *Belisarius* was terminated, and that I had advised the Minister of Commerce of the intentions of His Majesty.

It having been ascertained, on the first examination of this affair, that the ownership (*le pour-compte*) of a great part of the cargo was not proven; and this irregularity, as well as the insufficiency of the papers on board, being a formal contravention of the rules of navigation generally adopted and established at all times, the decision to which this part of the cargo might be liable had at first extended beyond it. But, on a circumstantial report, which I had the honor of presenting to the Emperor, His Majesty, who likes to carry into the examination of all the affairs on which you address me friendly dispositions, has ordered that the different questions which were submitted to him should be separated, to the end that a decision may be had in the first place on those which present themselves under the most favorable aspect.

In consequence, sir, the vessel and the part of the cargo of which the ownership (*le pour-compte*) is proven, will be given up to the proprietors; and as to the other articles of the cargo, which are not accompanied with the same kind of proof, the necessary time and facilities will be given to establish the fact of their being American property, conformably to the ancient rules.

Accept, sir, the assurance of my high consideration.

THE DUKE OF BASSANO.

Extract.—Mr. Barlow to Mr. Monroe.

PARIS, April 22, 1812.

I am obliged at last to dismiss the *Hornet* without the expected treaty, which I should have regretted more than I do, if your despatches, which I have had the honor to receive by the *Wasp*, had not somewhat abated my zeal in that work.

It really appeared to me that the advantages of such a treaty as I have sketched would be very great, and especially if it could be concluded soon.

It is true that our claims of indemnity for past spoliations should be heard, examined, and satisfied, which operation should precede the new treaty, or go hand in hand with it. This is dull work, hard to begin and difficult to pursue. I urged it a long time without the effect even of an oral answer. But lately they have consented to give it a discussion; and the minister assures me that something shall be done to silence the complaints, and on principles that he says ought to be satisfactory.

I shall not venture to detain the *Wasp* more than two or three weeks, and I hope by that time to have something decisive to forward by her.

From some expressions in your letters, I am in hopes of receiving soon some more precise instructions on these subjects.

My communication with England by Morlaix is almost entirely cut off. It is not so easy to send to London, unless by one of our own public ships, as it is to the United States. I now send your despatches and my own to Mr. Russell, by a messenger in the *Hornet*, whom I shall desire Captain Lawrence to put on shore, or into a pilot boat, on the coast of England.

This messenger, with Mr. Biddle, will leave Paris this night for Cherbourg, where the *Hornet* is ready to receive them.

[12th CONGRESS.]

No. 241.

[1st SESSION.]

DENMARK.

COMMUNICATED TO CONGRESS BY THE PRESIDENT'S MESSAGE OF NOVEMBER 5, 1811.*

Mr. Erving, Minister of the United States at Copenhagen, to the Secretary of State.

Sir:

COPENHAGEN, June 23, 1811.

Having had my audience of His Danish Majesty, on the 5th inst., on the 6th I addressed to Mr. De Rosenkrantz, Minister of State for Foreign Affairs, a note upon the subject of American cases, generally, then under adjudication by appeal before the High Court of Admiralty; and, on the 7th, a separate note respecting the cases of capture under British convoy: copies of those two notes, (A and B,) and the lists to which they refer, I have the honor herewith to submit. In an interview which I had with the minister on the 8th instant, in the course of conversation, he told me that, as the matter of both those notes was very important, and the latter particularly required a great deal of consideration, he must have them perfectly translated into the Danish language, to be laid before the King; therefore I must not expect very prompt replies; but, in the mean time, that he was sincerely desirous of doing, and would do, every thing in his power to forward our business towards a favorable termination. I suppose that the convoy question may be referred to His Majesty's Chancery, which is the highest tribunal, and that by which the King is accustomed to declare his will in matters which he does not submit to, or chooses to take out of the ordinary course of proceedings.

Having now fully informed myself of the business entrusted to me, it is with very great satisfaction that I find myself authorized to state to you that the evils which our commerce has suffered here, though very considerable, yet have not been quite so extensive as has been generally believed; and you will learn also, with particular pleasure, that the depredations of the Danish privateers have been discontinued since my arrival. I have prepared lists and statements, with a view to place the whole matter before you in the most particular, and at the same time most distinct and simple form. These will be completed when I have received returns from Norway and from Holstein respecting the fate of some few of the cases which occurred in the year 1809; in the mean time I can state the results to be nearly thus:

Captures in 1809, 38; condemnations in 1809, 12.

Captures in Norway in the year 1810, 36; of which are pending in the high court, 8; and not one has been finally condemned.

Captures in Holstein, Sleswick, and the Danish islands, in 1810, 68; condemned, 22; pending, 6.

Convoy cases in the year 1810, 18; condemned, 8; pending, 10.

Total amount of captures in 1809 and 1810, 160; total amount of condemnations, 42; of which were vessels which had broken the embargo or non-intercourse, or are otherwise not genuine American cases, 16; pending cases, including 10 convoy cases, 24.

In this year the only two vessels which reached these seas from the United States previous to my arrival were taken (in the beginning of April) and condemned in Norway; two others, just about the time of my arrival, were carried in, and are now under trial there; but, since the 11th instant upwards of forty vessels from the United States have passed through the Sound and gone up the Baltic, and more or less are every day passing without interruption. The papers of some few have been slightly examined in the subordinate court of *Elsineur*. There have been tried in the lower Prize Court of this place, and acquitted without delay, two or three; one of them with damages against the captors, being the first case in which damages have been given at Copenhagen. Finally, of the fourteen cases (not convoy cases) which were pending before the high court on my arrival, four have been acquitted. And though the privateersmen, and all concerned with them, (and the ramifications of their business are immense,) have made every effort to bring on condemnations, yet the tribunal, otherwise perhaps well disposed to proceed, has been steadily held back by the Government, and I see the best reason to hope that at least eight of the remaining ten cases will be acquitted. As to the convoy cases, my confidence is not so strong, yet even of them I do not despair. The ground on which they stand, I am aware, is not perfectly solid, yet I did not feel myself authorized to abandon them, and therefore have taken up an argument which may be difficult, but which I shall go as far as possible in maintaining.

I have had several interviews with Mr. De Rosenkrantz subsequent to that last mentioned, and have acquired additional reasons to hope for the King's perseverance in the change of system which has so happily taken place; but he discourages any expectation of indemnification for the injuries sustained by our commerce under that which now appears to be relinquished. Yesterday he told me very explicitly that against the definitive decisions of the high court I must not hope for any redress. He trusted that for the future we should not have any cause to complain, but for the past there was no remedy. I thought it not opportune to enter much into the matter at that time, and therefore contented myself with some general protestations against his doctrines.

I cannot close this letter without acknowledging the very great services of Mr. Isaacksen, our consul at Christiansand. You will observe, sir, in the lists which I shall send to you, that, of thirty-six vessels carried into the ports of Norway in the year 1810, only four were condemned in the inferior courts of that district. This has been wholly owing to the unwearied exertions of Mr. Isaacksen. He found our people in the most distressed situation, entirely friendless in the hands of, surrounded by, and ready to be sacrificed to, the rapacity of the privateersmen

* For this message, see Foreign Relations, vol. 1, (No. 32,) page 78.

and their connexions. He volunteered in their service; he boldly opposed himself to the host of their oppressors; he made each man's cause his own; he provided for every man's wants; in short, his intrepidity and independence, and disinterestedness of character, his constant zeal and industry, saved them from ruin; and with gratitude, very honorable to themselves, they never ceased to praise him.

With entire respect and consideration, sir, your most obedient servant,

GEORGE W. ERVING.

To the SECRETARY OF STATE.

[Referred to in Mr. Erving's despatch of June 23.]

A.

Mr. Erving to Mr. De Rosenkrantz.

SIR:

COPENHAGEN, June 6, 1811.

It was under the fullest conviction and strongest sense of the injustice which has prevailed in the sentences of the Danish tribunals on cases of American captures as well as an anxiety immediately to arrest the course of those excesses on the part of the privateers too much countenanced by such decisions, which are laying waste the property of American citizens, that I ventured on the 31st ultimo, and on the 2d instant, to request that the proceedings of the tribunals should be suspended, until, having had the honor of presenting my credentials to His Majesty, I should be enabled to enter into regular communication with your excellency.

In this first formal address to you upon the subject of the reclamations with which I am charged, it is incumbent upon me to express the extreme surprise and concern with which my Government has seen the property of its innocent citizens, whilst employed in fair and legal commerce, ravaged by the cruisers of a nation, between which and the United States the most perfect harmony has always hitherto subsisted; against which they have never heretofore found any cause of dispute, or any ground of offence; and to which they felt themselves attached, not merely by the ordinary ties of reciprocal good offices, but by a common interest in the defence and preservation of those neutral rights which have so much contributed to the political importance of Denmark; by which her prosperity has been so greatly promoted, and which formerly, foremost among nations, she has so magnanimously and successfully contended for. But at the same time that I make this reflection, so necessary and so obvious, I must also say that the President retains an entire confidence in the personal good dispositions of His Majesty, in his steady adherence to those great and liberal principles, and to those just political views which so eminently distinguish his character; and the President assures himself that it is only necessary that His Majesty should be made acquainted with the nature and extent of the injuries which the rights of the United States as a neutral nation, and the property of their citizens, have suffered, and are still exposed to, to induce him to apply an immediate and an adequate remedy to the evils complained of. His Majesty, on his part, cannot fail to feel that confidence in the correct views and honorable intentions of the United States, which their uniform conduct in all their negotiations and transactions with other Powers has so justly entitled them to; nor can he be indifferent when the friendly relations and mutual good dispositions which have hitherto so invariably subsisted between the two countries, and which it is so much the interest of each to maintain, are in question.

Animated by the most just and friendly dispositions, the American Government, whilst it resists all aggressions on its neutral rights, and will never cease to oppose all violations of the public law which may offend them, solicitously avoids any interference with the rights of others; nor will it admit, under cover of its name and authority, any practices which may have that tendency: it has therefore seen, with the most indignant sensibility, various instances of the prostitution of its flag by unprincipled adventurers in Europe; and I have it in express command to assure His Majesty of its determination to discountenance, by all practicable means, such proceedings, and of its sincere disposition to co-operate with His Majesty in detecting and punishing all similar frauds and impostures.

Your excellency will perceive, in the frankness of these observations, and in the loyalty of this declaration, the true character of the American Government; they will also, I trust, strengthen my title to that confidence on the part of His Majesty, which it is at once my duty and my desire to merit.

To carry into effect this twofold purpose of my Government, to protect the property of its citizens, and to cast off from any reliance on its protection those spurious and fraudulent cases (if any such actually exist) which have injured the character of the American trade, and jeopardized the interests of American citizens, I will enter into candid explanations with your excellency upon all the questions which arise on the cases now pending, so as to establish the *bona fide* character of the vessels under adjudication, and thus remove from before His Majesty every obstacle to that course of justice which he is always desirous to observe, and to a manifestation of the amicable and conciliatory feelings towards the United States, which it is confided prevail in his mind.

I have the honor herewith to transmit to your excellency two lists, containing, together, twenty-eight cases of American capture, being those now actually pending before the Supreme Court of Admiralty, on appeal, or waiting for His Majesty's decision. The list No. 1, comprising twelve of the whole number, are "convoy cases"—that is, cases in which no question has been raised as to the genuine character of the vessels, but wherein the decision rests upon the clause "D," of the eleventh article of the royal instructions of March 10, 1810, declaring as a cause of condemnation, "the making use of English convoy." I stated to your excellency, in conversation, as well as in the note which I took the liberty of addressing to you on the 2d instant, that it would be my duty to object to the principle assumed in that declaration. I trust that I shall be able to show you that it is entirely novel; that it has not any foundation in public law; and that it has not even such sanction as might be supposed derivable from the practice of other nations. Certainly much effort will not be necessary to prove that it is entirely repugnant to the broad ground of neutral right formerly occupied and firmly maintained by Denmark herself. But upon this point I propose forthwith to address to your excellency a separate note; in the present I will confine myself to observations on the cases (sixteen in number) mentioned in the list No. 2.

With respect to the "Egeria," Captain Law, I send to your excellency a separate note, in reply to that which you honored me on the 2d instant. That case must now stand so perfectly clear that I am sure I need not trouble you with any additional remark on it.

In the two cases, viz: the "Nimrod" and "Richmond," the sole objection made is to the French certificates of origin which they had on board. These are presumed to be forgeries, upon a supposition that at the time they bear date the French consuls in the United States had ceased to issue such certificates. Now the cases must be relieved from that objection, and the question which has been raised upon French certificates of origin be put at rest forever, by the facts which appear in the correspondence between the Secretary of State of the United States and General Turreau, the French minister; a copy of which I have herewith the honor to enclose, (No. 3.) Your excellency will observe that, in General Turreau's letter of December 12, replying to the Secretary's letter of November 28, it is expressly and unequivocally stated that the French consuls in America "had always delivered

certificates of origin to American vessels for the ports of France," and had also "*delivered them to vessels destined to neutral or allied ports,*" by the authority of the French Government; and that it was only by the United States' ship "Hornet," which arrived in America on the 13th November, 1810, that the French consuls received orders to discontinue the granting of such certificates to vessels bound to other ports than those of France. Your excellency will also perceive, in the Secretary of State's reply of December 18, how important this explanation was deemed by the President, in its application to the vessels of the United States taken by Danish cruisers, upon the ground of their having on board such certificates.

Of the thirteen remaining cases in the list No. 2, eight have been acquitted in the subordinate courts of Norway and at Flensburg, and are now depending in the high court, on the appeals of the captors; and five have been condemned in the subordinate courts, and are depending in the high court on the appeals of the American masters.

I annex to this note a summary of each class, (A and B,) showing the nature of the questions and objections which have arisen upon the several cases; and I do confide that, if your excellency will be pleased to lay it before the King, His Majesty will become immediately sensible to the undue proceedings of his tribunals, and will readily apply his royal authority to administer prompt and efficacious redress for the injuries and vexations which the commerce of the United States and its citizens are suffering.

I can only add, that, in all cases where any doubt shall arise respecting the authenticity of American documents, I have it fully in my power to establish the truth. And I beg leave to reassure your excellency, that on this point, as on every other, you shall not experience any proceedings on my part which will not conform to the strict honor and good faith, to the just and liberal sentiments which characterize, and to the friendly and conciliatory dispositions towards His Majesty, which influence the Government which I have the honor to represent.

I offer to your excellency assurances of the very distinguished respect and consideration with which I am always our excellency's most obedient servant,

GEORGE W. ERVING.

To Mr. DE ROSENKRANTZ, &c. &c.

[Received in Mr. Erving's letter of June 23, 1811.]

No. 1.

List of American vessels taken in company with the remainder of a fleet under convoy of a British gun-brig, and sent into Christiansand by five Danish gun-brigs, in July, 1810.

Vessels' names.	Captains.	Where from.	Where bound.	Where owned.
Ship Annawan, -	Donaldson, -	St. Petersburg, -	Philadelphia, -	Philadelphia.
Ship Hesper, -	Cushing, -	St. Petersburg, -	Boston, -	Newburyport.
Ship Hope, -	Rhea, -	St. Petersburg, -	Providence, R. I.	Providence.
Ship Janus, -	Gawn, -	St. Petersburg, -	Newburyport, -	Newburyport.
Barque Mary, -	Ropes, -	St. Petersburg, -	Salem, -	Salem.
Brig Elizabeth, -	Campbell, -	St. Petersburg, -	Philadelphia, -	Philadelphia.
Brig Hope, -	Meik, -	St. Petersburg, -	Marblehead, -	Marblehead.
Brig Polly, -	Graves, -	St. Petersburg, -	Marblehead, -	Marblehead.
Schooner Rebecca, -	Meik, -	Gottenburg, -	Marblehead, -	Marblehead.
Schooner Iris, -	Russel, -	Gottenburg, -	Salem, -	Salem.
Brig Sophia,* -	McIntire, -	Gottenburg, -	Liverpool, -	
Barque Eliza,* -	Luffkin, -	Gottenburg, -	Liverpool, -	

* These vessels are American, but the cargoes on freight supposed for English account. No appeal declared for either vessel.

No. 2.

List of American cases now pending before the High Court of Admiralty at Copenhagen, June 1, 1811.

Date of capture.	Vessels' names.	Captains.	Where owned.	Where from.	Where bound.	Where detained.
1810.						
May 14,	Ship Egeria, -	Law, -	New York,	New York,	St. Petersburg,	Fahrsund.
June 5,	Brig Minerva, -	Baker, -	Portland,	Portland,	St. Petersburg,	Fahrsund.
June 2,	Ship Oscar, -	Cunningham,	Baltimore,	Baltimore,	Gottenburg,	Heckiford.
July 31,	Ship Minerva Smyth, -	Mann, -	Philadelphia,	Philadelphia,	Kiel,	Kiel.
July 31,	Ship Fair Trader, -	Craig, -	Philadelphia,	Philadelphia,	Kiel,	Kiel.
July 31,	Brig Ariel, -	Butler, -	Philadelphia,	Philadelphia,	Kiel,	Kiel.
Aug. 18,	Ship Resolution, -	Eldridge, -	New York,	New York,	Gottenburg,	Christiansand.
Aug. 8,	Brig Nimrod, -	Smith, -	New York,	New York,	Elseneur,	Aalborg.
Aug. 8,	Ship William & Jane, -	Bunker, -	New York,	New York,	Russia,	Callenburg.
Aug. 29,	Brig Richmond, -	Jervis, -	Philadelphia,	Philadelphia,	Gottenburg,	Fahrsund.
October,	Ship Pittsburg, -	Yardsley, -	Philadelphia,	Philadelphia,	Gottenburg,	Heckiford.
October,	Ship Maria Theresa, -	Phleps, -	New York,	New York,	Kiel,	Fahrsund.
Novemb'r,	Ship Amiable Matilda, -	Hague, -	New York,	New York,	Kiel,	Fahrsund.
Decemb'r,	Ship Washington, -	Almy, -	New York,	New York,	Russia,	Callenburg.
1811.						
April 1,	Brig Rachel, -	Joseph, -	Salem,	Boston,	Russia,	Copenhagen.
April, -	Ship Charlotte, -	Pierce, -	Boston,	Boston,	Stockholm,	Isle of Bonholm.

[Referred to in Mr. Erving's despatch of June 23, 1811.]

B.

Mr. Erving to Mr. De Rosenkrantz.

COPENHAGEN, June 7, 1811.

SIR:

With my note of yesterday I transmitted to your excellency a list (No. 1) of the "convoy cases," twelve in number; the two last in that list are not depending on appeal before the high court, as is mentioned in a memorandum opposite to their names; the first eight vessels of the remaining ten were bound immediately from Petersburg and Cronstadt to the United States; they had all paid their Sound dues, and several of them had been examined before the Danish marine tribunals on entering the Baltic; and they were all arrested in going out by a British force, and compelled to join convoy. When that convoy was attacked by His Majesty's gun brigs, the Americans, not conscious of any illegality in the nature of their voyages, or of any irregularity in their own conduct, made not any efforts to escape. They were captured and brought into port. No question has been made as to the genuine American character of the vessels in question; but they have been condemned under the authority of the article "D," in the eleventh clause of His Majesty's instructions for privateers, issued on the 10th of March, 1810, which declares to be good prize all vessels "which have made use of British convoy either in the Atlantic or the Baltic." At the time of this declaration, these vessels were in Russia, on the point of sailing, and wholly ignorant of it. This is a brief history of the "convoy cases." It is now my duty to protest against the principle assumed in the instruction referred to, upon which they have been condemned. I shall endeavor to show to your excellency that it is wholly new, not founded in or supported by any reasoning to be derived from the law of nations; not even countenanced by precedents; and as wholly repugnant to the doctrines heretofore held by Denmark itself, as it is to the rights and to the interests of the United States.

That the belligerent has a right to ascertain the neutrality of vessels which he may meet with at sea, and, therefore, under certain suspicious circumstances, to bring such vessels into port for examination, I am not disposed to deny; it may also be allowed that the being found under enemy's convoy does afford such reasonable ground of suspicion against the vessels so found, as to authorize their being sent into port for examination; but this is the full extent of the belligerent right on this point. The examination had, and the vessels being found *bonâ fide* neutral, must be acquitted. To say that the neutral shall be condemned on the *mere fact* that he was found under enemy's convoy, is to impose upon him a necessity of sailing without protection, even against his own separate enemies; for the case might well happen, indeed has happened, that, though neutral with regard to the belligerent Powers, he has had an enemy against whom either of the belligerents was disposed to protect him. Of such protection the American commerce has often availed itself during the war between the United States and the Barbary Powers; nor was it ever supposed, by either of the great belligerent Powers, that such commerce, so protected by its enemy, had thus become liable to capture and confiscation. The case might also occur, that of two allied belligerent Powers, a third Power should be enemy as to one, and neutral as to the other; in that case, his seeking the protection of the common enemy of these allied Powers against that of them to which he was enemy, could not subject him to capture and confiscation by the allied Power with respect to which he was neutral; his right in either of these and in all cases to protect himself against his enemy, by availing himself of whatever convoy offers, is unquestionable. I state these arguments against the broad ground taken in the royal instructions above quoted; but it will be said that the belligerent, having also an unquestionable right to ascertain the neutrality of vessels, and belligerent rights being paramount to neutral rights, where the two happen to be in collision; hence the attempt of the neutral to deprive the belligerent of his right by putting himself under convoy, forms of itself a ground of capture and confiscation. To this I answer,

Firstly. That the belligerent rights, where they come into collision with those of neutrals, are not to be deemed, in *all cases*, paramount, and that nothing can establish such a general rule but force, which is not law or justice.

Secondly. That no presumption necessarily arises against the neutral from the mere circumstance of his being found under enemy's convoy; but that this point will depend upon the peculiar circumstances of each case.

Thirdly. That where the belligerent and neutral rights conflict, all other circumstances being equal, the plea of necessity ought to decide the question in favor of the neutral. In the case supposed, the belligerent is seeking the mere exercise of a right, but the neutral is occupied in his self-preservation.

Fourthly. Superadded to this reason, in favor of the neutral right, is one springing out of the immutable principles of equity; for since, according to modern practice, the neutral has no representative in the judicature by which his cause is tried, that it is no longer an umpirage or a court of arbitration, so his claim to a favorable leaning towards his right in all questionable cases is very much strengthened.

But it is also proper to inquire whether the vessels in question did in fact put themselves under convoy with a view to avoid examination by Danish cruisers. Now it appears, in the first place, that they did not seek convoy for any purpose, but that they were forced into it. Apart, however, from that question, there were not any Danish laws or ordinances which they knew of subjecting them to capture. Nor could they apprehend or anticipate any such; the less, as they had previously passed through the Sound or Belt in safety, and without convoy; hence they had not any motive to seek convoy as a protection against Danish cruisers. They had, indeed, other inducements to put themselves under convoy; the decrees of His Majesty the Emperor of France (since, happily for the harmony between the United States and France, repealed) were then in force; that system, working against the English orders in council, produced such a state of things with regard to the commerce of America, that scarcely one of its ships could move on the face of the ocean without being exposed, under this unfortunate co-operation of hostile systems, to capture and confiscation; hence it is not surprising if American vessels have, from time to time, been terrified into the convoy now of one party, now of the other. But had this happened in the cases before us, yet it would not have formed a just ground of capture and confiscation; for the merits or demerits of the Berlin and Milan decrees out of the question, those decrees have not been adopted by Denmark.

Indeed, at the time the vessels were taken, His Majesty had not assumed any course with respect to the American commerce from which evil was to be apprehended; hence, I beg leave to repeat, that the vessels in question cannot be presumed to have sought protection under British convoy for the purpose of avoiding his cruisers. But if the contrary had been proved, if it stood confessed that they had sought convoy against Danish cruisers, in that case they would have been liable to capture, certainly; but it is equally certain that they would not have been liable to condemnation.

I must again totally deny that the rule laid down in the article of the royal instructions above cited is supported by any principle to be found in the law; and I can confidently ask your excellency to show me any authorities in its favor. If the writers be silent on the subject, then their silence is to be construed favorably for the neutral; it supposes that his right to sail under convoy, in all cases, is indisputable; what is not expressed against this claim cannot be implied; but I will add that all the analogies to be drawn from the law are in favor of the neutral. In this view the rule laid down in the instructions, by its sweeping latitude, forms its own condemnation; for it would comprise not only vessels which might accidentally be within sight of, or at any indefinite distance

from an enemy's convoy, but vessels found in enemy's harbors under cover of his guns; but the law says, that neutral goods so found under his forts, within his territory, or even on board his vessels at sea, which is to be as immediately and totally under his protection as is possible; that these are not liable to confiscation, but shall be restored to the neutral owners. The doctrine laid down by Grotius, in the "*De Jure Belli ac Pacis*," on this point, has never been refuted, but has, on the contrary, been adopted by subsequent writers. Treaties, indeed, may have said otherwise; but treaties change not the law; they bind only the parties to them.

I may equally ask your excellency to show me examples in the practice of nations, countenancing the rule laid down in the royal order; and I can quote in favor of the neutral right the example of England, a power which neither your excellency nor myself are disposed to extol for her moderation in the exercise of her belligerent rights, or for any dispositions which she has manifested favorable to those of neutrals. England herself has never gone to the extent of condemning vessels upon the mere ground of their having been taken under enemy's convoy; but she has captured them in that situation, and acquitted them.

I might occupy your excellency's attention by expatiating on the conduct of Denmark in former times, by carrying back your view to a consideration of that great system of neutral rights which she so boldly adopted and so ably supported in the year 1780, which are again recognised in her convention with Sweden in 1794, which she has subsequently co-operated with Russia to establish, and the leading feature of which still appears in the very royal instructions on which I have been commenting. But it would be an ungrateful task, and not necessary to be undertaken, because the mere mention of the subject carries conviction to the mind on the point to which I would apply it, and because on every other I have already said more than enough to establish the chief position with which I began; viz: that nothing to be found in the law will authorize the condemnation of neutral property upon the mere fact of its being found under enemy's convoy, and that, therefore, on due proof of its neutrality, it must be acquitted.

I consider it to be a propitious circumstance that, in acting upon this very important question, His Majesty's Government is unembarrassed by the claims of privateersmen, and that the cases of these vessels are thus presented in the plainest form, unmixed with any extraneous matter; the captures having been made by public ships, leaving the fullest scope to the magnanimity and justice of His Majesty's disposition.

I am, &c.

GEORGE W. ERVING.

To His Excellency Mr. DE ROSENKRANTZ, *First Minister of State, &c.*

Mr. Erving to the Secretary of State.

SIR:

COPENHAGEN, July 15, 1811.

I have the honor herewith to enclose copies of my correspondence with this Government since my last communication, viz:

No. 1. Mr. De Rosenkrantz's note of June 28, in reply to mine of the 6th and 7th of June.

No. 2. My note to Mr. De Rosenkrantz of June 30, in reply to the above.

No. 3. Mr. De Rosenkrantz's note of July 9, in reply to mine of the 30th June.

On the 28th of June, I waited upon the minister for the purpose of conversing with him on such parts of his note of that date as respected the convoy cases, but did not obtain any thing more satisfactory than what is contained in it; on the 29th, he went into the country, from whence he did not return until the morning of the 2d inst.; in the mean time, the cases were pressed forward in the high court, and it was determined to condemn four of them instantly, as though it were to preclude the possibility of any further remonstrance on my part. I had received an intimation of this intention on the 30th of June, and then wrote to Mr. De Rosenkrantz, unofficially, hoping that he would be able to arrest the progress of the tribunal. On the 1st inst., having ascertained that intention, I again addressed him in the same way, and in terms rather more forcible. That communication, though unofficial, Mr. De Rosenkrantz, actuated by the most friendly motives, immediately sent to His Majesty, yet it failed of its intended effect; and on the 2d inst. four of the cases were condemned.

On receipt of the minister's last note, (on the 9th,) I again waited on him, and warmly remonstrated against this precipitate procedure, and the determination taken to condemn all the convoy cases, without admitting any justificatory pleas; he reverted to whatever is found in his written communications to support the determination, and yet seemed to regret that it had been taken; but withal was unable to effect, and did not afford the least encouragement to hope for, any modification of it; nevertheless, some of these are cases of great hardship, and I have concluded not to relax my efforts in their favor whilst any one of them remains uncondemned.

In every other respect the position of our affairs is not unsatisfactory; the privateers are discouraged, and nearly all our vessels pass without interruption. I transmit, herewith, lists and statements as correct as it is possible to make them, which place in the most distinct point of view whatever has passed in relation to, and the actual state of, the business with which I am charged.

With the most perfect respect and consideration, sir, your most obedient servant,

GEORGE W. ERVING.

To the SECRETARY OF STATE.

No. 1.

[Referred to in Mr. Erving's despatch of July 15.]

[TRANSLATION.]

Mr. Rosenkrantz to Mr. Erving.

COPENHAGEN, June 28, 1811.

The undersigned, Minister of State, chief of the Department of Foreign Affairs, has laid before the King his master the notes which Mr. Erving, special minister from the United States of America, addressed to him on the 7th current. He is charged to assure this minister that His Majesty has seen, with great satisfaction, that the President of the United States recognises the reciprocal utility of the relations which unite the two Governments.

The King, having always had it at heart to maintain a good understanding with the American Government, would be much pained if he could be convinced that the subjects of the United States, who have carried on commerce and navigation either in the ports of His Majesty, or in the waters which wash the shores of his States, or in the adjoining latitudes, have had just cause to complain of the treatment which they have met with there in consequence of the privateering which His Majesty has been forced to authorize, by the war into which the Danish nation have been drawn by the Government of Great Britain. His Majesty is persuaded that the vessels captured under the flag of the United States have not been brought into his ports, unless there was reason to suppose that the vessel

was not duly authorized to carry that flag, or that she was engaged in an illicit trade. The ordinance as to privateering, which was published on the 28th March of the last year, prescribed to those fitting out privateers the conduct they were to pursue, and it also fixed the responsibility to which they were subjected. The High Court of Admiralty watches over the execution of this ordinance, which has met the approbation of all the Governments of Europe.

If there have been many vessels under the American flag brought in, it is because there have been a great number of them furnished with false papers, that evidently carried on a simulated and justly prohibited commerce. It was naturally very difficult for the courts to distinguish at first the navigation which was fair and in rule, (*en règle*) from that which was devoted to the service of the enemy of Denmark. The conduct of the navigators who followed the latter compromised those who had nothing to reproach themselves with; but in every case where the High Court of Admiralty discovered that the papers on board proved that the vessel was really American, and that the captain had not made an improper use of them to cover the property of the enemy, passing it off as American, the vessels and the cargoes have been released. There was one cause of a seizure and of process against American vessels, which, in a certain degree, applied to those that produced false papers, or to those in whose documents there were irregularities. This was the certificate of origin granted to American vessels by the French consuls residing in the ports of the United States. The French Government caused it to be officially declared to the Court of Copenhagen, on the 22d September, that the consuls of France would not grant any more certificates of origin, and that every American vessel that had them on board had so far false papers, and was to be treated accordingly. Taking into view the strict and happy union which subsisted between the King and His Majesty the Emperor of the French, His Majesty could not but pay attention to this communication. He, therefore, ordered that the certificates of origin, which had been thus declared to be all false, should be considered by the prize courts as false documents which would authorize the condemnation of the vessel that had them on board. The undersigned having been afterwards informed by the *chargé des affaires* of His Majesty in the United States, and more recently by Mr. Erving, that the consuls of France in the United States had not received the order of their Government to abstain from granting these certificates until the 13th November of last year, by the *Hornet*, and that they had not ceased granting them until after that period; and having reported this to His Majesty, he immediately directed that the certificates in question should no longer be injurious to the vessels that were furnished with them, provided that these certificates bore date prior to the 13th November of last year.

The King has not confined himself to giving this proof of his attention to the remonstrance made to him on the part of the Government of the United States; His Majesty has also, having in view the representations made by the special minister of the United States, just ordered, that the cases of the following vessels under the American flag, brought into the ports of his dominions, viz: *Minerva*, Captain Baker; *Resolution*, Eldridge; *Pittsburg*, Yardsley; *Maria Theresa*, Phelps; *Amiable Matilda*, Hague; *Minerva*, Smith; should be reported to him by his *Chancery* before the definitive sentence was pronounced, in case the Supreme Court of Admiralty should find that the charges alleged by the captors were so well founded, as to make it probable that the sentence would be unfavorable to the vessels. Mr. Erving will be pleased to observe, that these are vessels acquitted in the first instance by the prize courts, and in whose cases appeals had been made by the captors. His Majesty has also determined to cause to be reported to him in the same manner the cases of the following vessels: *Oscar*, Captain Cunningham; *William and Jane*, Bunker; *Washington*, Alms; *Rachel*, Joseph; *Charlotte*, Peirce; in which the masters of the vessels have had recourse to an appeal to the decision of the Supreme Court. The undersigned flatters himself that Mr. Erving will find in this compliance of the King his master, an evident proof of the desire of His Majesty to see that the most exact justice may be observed towards the American vessels brought into the Danish ports. His Majesty, who has seen with great satisfaction that the President of the United States properly appreciates the sentiments of justice and equity which animate him, feels gratified in manifesting to him that he desires to preserve and to cultivate, on his part, the relations of good understanding and of amity which have always subsisted between the Danish Government and that of the United States of America. It is enjoined on the undersigned to charge Mr. Erving with assuring his Government that the intentions of the King his master are invariable in this respect.

In regard to vessels under the American flag, arrested at sea by Danish cruisers, and which were found under the convoy of British ships of war, Mr. Erving will permit the undersigned to have the honor of observing to him, that when the fact is fully proven, the searching after and the use made of the protection of the enemies of Denmark, in the seas which wash the shores of His Majesty's dominions, or in those which environ them, cannot be viewed by the Danish Government but as having taken from these vessels their original character of neutrals; but the King, not having been willing that the courts should attribute to vessels under the American flag the having been placed (*de s'être mis*) under the protection of his enemies, unless the fact was proven, has very recently directed that proofs the most evident be required to establish the fact, that a vessel under the American flag had been (*ait été*) under English convoy. The undersigned cannot but urge, in favor of the principle established by the eleventh article of the ordinance for privateering, the argument that he who causes himself to be protected, by that act ranges himself on the side of the protector, and thus puts himself in opposition to the enemy of the protector, and evidently renounces the advantages attached to the character of friend to him against whom he seeks the protection. If Denmark should abandon this principle, the navigators of all nations would find their account in carrying on the commerce of Great Britain under the protection of English ships of war, without running any risk. We every day see that this is done; the Danish Government not being able to place in the way of it sufficient obstacles. The undersigned will add a single observation, which will serve to convince Mr. Erving that this principle is, in the view of His Majesty, as just as it is invariable—it is, that every Danish vessel which should make use of English convoy is condemned, if she is convicted of it, in like manner as a foreign vessel. It is but too well known that, in all times during maritime wars, neutral navigation has been exposed to embarrassments and delays. The Danish navigation has had experience of it in its time. It is, therefore, that the King has established rules for privateering, which place the navigation truly neutral under cover from vexations. His Majesty would equally have wished entirely to have prevented captured vessels from experiencing delays of any importance when it was found that they had their papers or board, in order, (*en règle*), and that they had not improperly used them to carry on a simulated commerce on account of the enemy of Denmark. He is convinced that he has taken for this purpose all the measures in his power, and he is resolved carefully to watch over their execution. These measures, and the will (*volonté*) of the King offer sure guarantees to the commerce of the United States, that the vessels under their flag will be able to navigate in the seas and waters visited by the Danish cruisers, without any risk of being molested by them, or brought in, if their papers are in order, (*en règle*), and there is no reason to suppose that they have been improperly used. The vessel which is destined to carry into any port whatever produce and merchandise which are not admitted into that port according to the laws of the State to which it belongs, will not be considered as in rule, (*en règle*); and the navigators, who may aim at employing their vessels in this way, will only have to blame themselves if their enterprise leads to their injury.

The undersigned, in acquitting himself, as he had just done, of the orders of his sovereign, cannot deprive himself of the honor of again reminding Mr. Erving that the navigation and the commerce of the citizens of the United States found a reception and an outlet for the productions of their country in the ports under the dominion of the King of Denmark, at a time when they did not enjoy the same advantages in the ports of the greater part of the States of Europe. This circumstance will sufficiently prove to the American Government, that that of Denmark is fully aware of the reciprocal utility of the relations of commerce, and of good understanding between the two nations.

The undersigned has the honor of renewing to Mr. Erving the assurance of his high consideration,
ROSENKRANTZ.

[Referred to in Mr. Erving's despatch of July 15.]

No. 2.

Mr. Erving to Mr. Rosenkrantz.

COPENHAGEN, June 30, 1811.

The undersigned, special minister of the United States of America, has received the note which his excellency M. De Rosenkrantz, First Minister of State and chief of the Department of Foreign Affairs, was pleased to address to him on the 28th instant, in reply to the representations made by the undersigned, on the 6th and 7th instant, respecting the reclamations with which he is charged. He shall immediately transmit his excellency's said note to the Government of the United States, and is persuaded that the President will receive, with great satisfaction, the reciprocation which His Majesty has therein offered of the friendly sentiments which the undersigned was ordered to express. These dispositions, and the just and liberal views of His Majesty, with regard to the neutral commerce of the United States, as declared in his excellency's note, since they leave not the least doubt but that His Majesty has been wholly unaware of the great injuries which that commerce has lately sustained within his dominions, afford to the undersigned the happy presage of a favorable termination to the business with which he is entrusted, and a sure pledge that the harmony which has hitherto always subsisted between the two Governments will still be maintained in its full extent and perfection.

Thus assured of meeting, on the part of His Majesty's Government, with no dispositions but those which are of the most just and friendly character, it is with more than ordinary pleasure that the undersigned proceeds in the performance of his duty.

His excellency the Minister of State, after showing the causes which have occasioned the capture of so many vessels under the American flag, observes, that in all cases where the Supreme Tribunal of Admiralty has found that the papers on board such vessels prove their American character, and where their neutrality has not been abused by any attempt to cover enemy's property under simulated papers, both vessels and cargoes have been released. Such is undoubtedly the impression on the mind of His Majesty, who has been convinced that the inquiries pointed out by his instructions have been conducted with all the impartiality by which those instructions were dictated: but it can be shown, in a multiplicity of cases, that the high court has entered into matter entirely irrelevant to the object of the instructions; that it has given weight to evidence entirely inadmissible, and has resorted to pretexts for condemnation entirely insufficient. It shall be shown to His Majesty, that thus, contrary to his royal intention, a great mass of American property has been unjustly condemned in the high court, whether by a misconstruction or mal-application of His Majesty's regulations, the undersigned will not undertake to say; perhaps it may not be important to inquire, since he the source of this evil what it may, to the royal sense of justice only the injured now have to look, and they look with confidence, for redress. The details upon this subject will be voluminous. The undersigned will here point only to one, and that a recent decision, (being the first which presents itself,) by way of exemplification.

In the case of the American ship "Swift," Champlin.

In the high court, on the 11th March, 1811, this ship was condemned on an allegation that Captain Champlin had thrown some papers overboard; which allegation had no better or other support than the oaths of seven of the privateersmen who captured her.

It is to be observed on this sentence:

First, as to the alleged fact. The royal instructions of March, 1810, after stating what shall be deemed causes of condemnation, in the twelfth section states what shall be cause of suspicion and subject vessels to further examination; and in the article E, specifies the throwing overboard or destroying papers. This throwing overboard or destroying papers, then, constitutes ground of suspicion only, and authorizes further examination with a view to ascertain whether that fact can implicate the neutral character of the vessel. Now in the course of the further examination on this trial, the neutrality of the ship and the fairness of her voyage were fully established; the alleged circumstance with respect to her papers therefore remained naked, and unsupported by any sort of ground or pretext for condemnation, and yet she was condemned!

Secondly, as to the evidence. The American master objected that it was contrary to all the principles of justice and law to admit the evidence of privateersmen, who were parties interested in his condemnation; but the court decided that they were not interested, and that their evidence must be admitted, and that the evidence of the crew of the American ship should not be admitted to rebut it. The American master then went on to show that the witnesses were interested, and produced a contract made between them and the owners of the privateer, (the authenticity of which was acknowledged,) by which it appeared that the equipage of the privateer were to receive half of the next prize which they might take. Still the court determined that they were not interested in the condemnation of this ship, and that their evidence should be admitted! The American master then went on to prove that it was impossible they should have sworn truly; they had declared that the papers thrown overboard were of the size of about six inches square, and had been passed through a certain opening in the after part of the ship. The American master proved, by the examination and declaration of two Danish masters, that the privateersmen could not have seen them drop into the water as they had stated; and further, that the hole pointed out was not large enough for them so to have been passed through. But neither did these proofs produce any effect in favor of the American; he was predestined to condemnation; the court had no disposition to reject the evidence of the privateersmen, though the same privateersmen had produced two other men to swear that they had seen this same ship "Swift" at Liverpool; and Captain Champlin proved, that one day after the day in which this evidence stated that he was at Liverpool, he spoke to His Majesty's gun brig the "Sea Gull."

The undersigned trusts that any comment whatever upon such a sentence would be entirely superfluous—a sentence in direct violation of His Majesty's instructions; he will only add that the property *thus condemned* is valued at one hundred thousand Spanish dollars.

The explanation which the Minister of State gives as the objection made by the tribunals to French certificates of origin, and the order which His Majesty has now been pleased to issue on that subject, though applying only to two of the cases, viz: the "Nimrod" and "Richmond," named in the list transmitted to his excellency on the 6th instant, and both lately acquitted, cannot fail of being satisfactory; but observing therein that the notification made by the French Government was not till the 22d September, the undersigned cannot refrain from again adverting to the conduct of the high court, which, in a sentence given on the 22d December, in the case of the "Agent," Row, justified the capture of that ship in the month of June, upon the ground that she had with her papers a French certificate of origin; and upon that same ground, and upon that only, decreed that a sum of five hundred rix-dollars should be paid to the captors; precisely the same decision was given about the same time in the case of the "Julian," Abbot.

In the order which His Majesty has now issued with respect to the eleven cases pending in the high court, and as specified in the Minister of State's note, the undersigned recognises the determination of His Majesty to ensure justice to the American claims, and he has the honor to assure his excellency the minister that the President will receive with peculiar satisfaction the declaration of His Majesty, accompanying this act, and charging the undersigned to communicate to his Government His Majesty's invariable disposition to cultivate the good intelligence and friendly intercourse which ought always to subsist between the two countries.

When on every other point there is the pleasing prospect of a perfect accord, it is with regret that the undersigned feels the necessity imposed on him of differing in opinion with his excellency Mr. De Rozenkrantz on the subject of the convoy cases, and of contesting some of the doctrines which the minister has laid down as applicable to those cases.

His excellency has not thought proper to reply to the reasoning upon which the undersigned bases his reclamation, which therefore remains in its entire force; nor has he produced any thing which can be deemed satisfactory in support of the principle assumed in the royal instruction to which that reasoning has been applied. The Minister of State has produced, in favor of the principle in question, the single argument, that he who puts himself under the protection of another, does thereby take side with his protector, and renounces the advantages which belong to the quality of friend, as to him against whom he seeks protection. In vain are the books examined to discover the source from which this argument is drawn; in vain are history and the records of diplomacy resorted to, for authority or for any countenance given to the doctrine which it embraces. But these books and these records, have they lost their title to respect? Have they become a dead letter? His Majesty certainly does not assume to act on principles unknown to them, to originate a practice at once undefined in its limits, and rigorous in its character beyond all precedent; in hostility, also, with the ancient doctrines of Denmark, and a stranger to all her maritime codes; so much a stranger, as that it is not found even in the royal instructions issued on the 14th September, 1807. His excellency the Minister of State supposes an acquiescence in this new rule, upon the consideration that it is applied to Danish ships as well as to strangers. Certainly the United States will never dispute the equity or propriety of any law emanating from His Majesty's authority, and applied to his own subjects; but it is equally certain that they found their rights upon the public law only, and cannot consent to place them at the disposition of any partial authority, or to limit them by the convenience of the belligerent Powers. It is not readily conceived how Danish ships, or ships of the allies of Denmark, being subject to the capture of the enemy, can be found under his convoy; vessels carrying such flags and so found cannot but be enemy's property; but if, by whatever means, His Majesty's subjects do put themselves under enemy's convoy, they are doubtless guilty of a high crime, and richly merit all the punishment which his laws inflict. But is the same rule to be applied to the property and to the citizens of a neutral and independent Power?

Thus much the undersigned has found it his duty to say, in addition to what has been before stated, and remains unanswered, respecting the principle assumed in the royal instruction of March, 1810; but he finds one part of the minister's note which, as he apprehends, goes much beyond that instruction, and which would preclude the neutral from any kind of justification for being found under enemy's convoy.

It were a gross dereliction of the interests of the United States should the undersigned leave the least room for his excellency to suppose that the American Government will accede to the fiction propounded by his excellency, viz: that neutral vessels found under enemy's convoy "*have eo facto lost their original quality of neutrals.*" This idea was certainly more fully and distinctly expressed in conversation; and seeing that there are parts of his excellency's note which favor a different conclusion, he eagerly seizes the hope that it is not really intended to carry the doctrine to such an extent; yet, as in a matter of such importance nothing should remain equivocal, the undersigned, desirous of laying it before the President in the most distinct manner, requests that he may be favored with an explanation as to whatever is susceptible of misconstruction.

His excellency, pursuing the idea above cited, in mentioning the instructions which His Majesty has now given to his tribunals to direct their examinations on American vessels found under enemy's convoy, says, "*que les preuves les plus évidentes seront réquises pour prouver qu'un navire sous pavillon Americain ait été sous convoi anglais.*" Yet it is hoped that the words *ait été* are not intended to be connected with what is above quoted, but rather that they are to be governed by the sense of the words "*s'être mis sous la protection,*" found in the same sentence; by the words "*la recherche et l'usage faits,*" in the paragraph preceding; by the words "*se fait protégé,*" which will bear the same construction in the paragraph following; and, finally, by the words in the article "D," clause 2, of the royal instructions of March, 1810, construed "*using convoy,*" which must be supposed to mean a voluntary use of convoy, and cannot intend vessels which have been forced into, or have accidentally found themselves in, convoy. For to condemn vessels under such unfortunate circumstances, is that the course of a Power friendly to the neutral? This reflection so strengthens the above construction of the words used in the royal order of March 10th, as not to leave a possibility of supposing that His Majesty intended that such innocent vessels should be affected by it.

The undersigned cannot conclude this note without expressing his full confidence that the friendly dispositions professed by His Majesty will dispose him so to regulate the conduct of his tribunals upon the convoy cases, as to satisfy the just claims of the United States; or without assuring his excellency the Minister of State, in reply to the last observations in his note, that the American Government is also fully sensible of the value of the commercial and friendly relations which have always subsisted between the two countries.

G. W. E.

To His Excellency M. DE ROSENKRANTZ, *First Minister of State, &c.*

No. 3.

[Enclosed and referred to in Mr. Erving's despatch of July 15, 1811.]

Count Rosenkrantz to Mr. Erving.

COPENHAGEN, July 9, 1811.

The undersigned, Minister of State, and chief of the Department of Foreign Affairs, has seen, with very particular satisfaction, from the note of Mr. Erving, minister of the United States of America, under date of the 30th ultimo, that he was not disappointed in his expectation of finding that Mr. Erving would acknowledge the sentiments of justice and equity which animate the King his master, as well as the desire of His Majesty to maintain a good understanding with the Government of the United States. But it is not without pain that the same Minister of State sees that Mr. Erving remonstrates against the sentences already definitively pronounced. It is with the same sentiment that the undersigned finds himself charged by the orders of his sovereign to repeat to the minister of the United States that His Majesty cannot make any general change in the regulations of the ordinance for privateering issued on the 28th of March of last year, and, in consequence, none in the 11th, which, under the letter "D," declares that neutral vessels that make use of the convoy or protection of the vessels of war of Great Britain are to be considered as good prize, if the Danish privateers capture them under convoy. The undersigned must repeat that the rule laid down by that article of the ordinance will be followed by the prize courts whenever the proofs are clear that the vessels under American flags, as well as those of other nations, are found in a convoy under the protection of the enemies of Denmark. He does not wish to repeat here what he had the honor of stating on this subject in his preceding note, but he begs Mr. Erving to be so good as to observe to his Government that none of the Powers of Europe have called in question the justice of this principle.

Mr. Erving has observed that, notwithstanding the Danish courts had not been directed to consider the certificates of origin granted by the French consuls in the ports of America as false until after the 22d September of last year, there has nevertheless been imposed upon two vessels, acquitted by the Supreme Court of Admiralty, a fine, solely for having these certificates on board, as Mr. Erving has been informed. The undersigned, although he is not informed of these facts, will not call in question the assertion of the minister of the United States; and he must consequently suppose that the suspicion of the legality of these certificates was excited by the public declaration, which was before made on the part of the French Government, that the consuls of France were not authorized to grant the certificates in question, and that, for that reason, the courts have decided that the captors were justified in bringing in the vessels for examination.

ROSENKRANTZ.

No. 1.

[Received in Mr. Erving's letter of the 15th July, 1811.]

List of vessels carried into Norway in the years 1809 and 1810.

Mr. Isaacksen's list of vessels captured from April 30 to August 21, 1809, and sent into Christiansand and other ports of Norway, which list he transmitted to Government, gives a total of	36
Of this number there were released by the decision of the inferior courts, against which sentences the captors were induced not to appeal,	17
And there were released, cases in which captors did appeal,	3
And there were condemned, but the masters appealed to the high court which then sat at Christiansand,	16
	—36

Note. In the 17 cases released, the court decreed 9,500 rix-dollars costs, &c. against the American masters; over and above which they paid 19,800 rix-dollars to the captors, to induce them to forego their right of appealing.

The three cases in which the American masters refused to compromise with the captors, who therefore appealed to the high court which then sat at Christiania, were, viz:

Vessels' names.	Masters' names.	Where belonging.	Supposed value in dollars.	Remarks.
Joseph,	Turner,	Boston,	20,000	Cleared.
Harriet,	Child,	Baltimore,	26,000	Do.
Washington,	Janes,	Boston,	15,000	Do.

The 16 cases in which the masters of the American vessels appealed, were, viz:

Vessels' names.	Masters.	Where belonging.	Supposed value in dollars.	Decisions on the appeals in Christiania.
North America,	Drinkwater,	Portland,	55,000	Cleared, December 28, 1809.
Edward Henry,	Foster,	Gloucester,	7,000	do. November 20, 1809.
Ann,	Howe,	Boston,	25,000	do. do. 20, 1809.
Good Friends,	Thompson,	Philadelphia,	36,000	do. do.
Atlantic,	Fountain,	do.	20,000	do. December 28, 1809.
Belle Air,	Jacobs,	do.	60,378	do. do.
James,	Spofford,	do.	38,000	do. do.
America,	Stone,	Newburyport,	7,000	do. do.
Jane,	McClellan,	Portland,	23,000	Condemned, do. 18, 1809.
Suwarrow,	Leech,	Beverley,	20,000	do. do. 28, 1809.
Pacific,	Becketts,	Salem,	31,000	do. do. 18, 1809.
Commerce,	Skinner,	Philadelphia,	85,000	do. do.
Topaz,	Herrick,	Newburyport,	60,000	do. do.
Industry,	Bryant,	Norfolk,	-	do. do.
Adamant,	Stowle,	Baltimore,	-	do. in both courts.
Pigou,	Collett,	Philadelphia,	-	do. do.
Industry,	Cook,	Salem,	12,000	Cleared, (or Industry, Bryant, of Norfolk,)
Honolancet,	Randall,	Portsmouth,	25,000	Cleared.

The Adamant and Pigou were not included in Mr. Isaacksen's list. It was doubted whether they were *bona fide* American. Of the 36 mentioned in the list, only 6 were ultimately condemned.

List of American vessels captured and carried into the ports of Norway in the year 1810.

Vessels' names.	Masters.	Where owned.	Bound to.	Detained at.	Remarks.
1 Egeria,*	Law,	New York,	Russia,	Fahrsund,	Cleared, paying costs and 200 dollars. Captors appealed.
2 Venus,	Halstead,	do.	Gottenburg,	Christiansand,	Do. and sailed.
3 Portia,	Tubbs,	Norfolk,	Christiansand,	Hittero,	Do. paying 500 dollars.
4 Oscar,*	Cunningham	Baltimore,	Gottenburg,	Fleckford,	Condemned.
5 William Wilson,	Wigman,	do.	do.	do.	Cleared, paying costs. Captors appealed. Compromised.
6 Triton,	Hathaway,	Ned Bedford,	Fahrsund,	Fahrsund,	Do. damages awarded.
7 Columbine,	Jones,	New York,	Memel,	do.	Do. captors appealed. Compromised.
8 Saratoga,	Trient,	Boston,	Gottenburg,	Fleckford,	Do. do. do.
9 Zeno,	Stone,	do.	do.	Christiansand,	Captured by a French lugger. Papers sent to Paris.
10 Resolution,*	Eldridge,	New York,	do.	do.	Cleared, paying costs. Captors appealed.
11 Mary,	Wood,	Boston,	do.	Fahrsund,	Condemned. Captain appealed. Cleared.
12 Catharine,	Ockington,	do.	do.	do.	Cleared, paying 150 dollars. Captors appealed. Cleared again, paying 1000 dollars.
13 Ellen Maria,	Adams,	Newburyport,	Riga,	do.	Cleared. Captors appealed. Cleared.
14 Minerva*	Baker,	Portland,	Russia,	do.	Undecided.
15 Sylph,	Forbes,	New York,	Gottenburg,	do.	Cleared and sailed.
16 Ann,	Howe,	Boston,	Christiansand,	Christiansand,	Cleared. Discharged her cargo.
17 Agent,	Row,	Philadelphia,	Gottenburg,	Fahrsund,	Cleared, paying costs and 1000 dollars. Captors appealed. Cleared again.
18 Nancy,	Brice,	do.	do.	do.	Cleared with damages. Captors appealed. Compromised.
19 Julian,	Abbott,	do.	do.	Christiansand,	Cleared. Appealed. Cleared. Fined 1000 dollars and all expenses.
20 Hibernia,	Bush,	Norfolk,	do.	do.	Cleared, paying costs and 200 dollars to captors.
21 Cygnet,	Casenove,	Boston,	do.	Fahrsund,	Cleared, paying costs and 150 dollars to captors.
22 Nancy,	Briggs,	Rochester,	do.	Drontheim,	Cleared.
23 Hannah,	Dennis,	Newburyport,	Riga,	Christiansand,	Condemned. Captain appealed. Cleared.
24 Joseph,	Pedrick,	Marblehead,	Gottenburg,	do.	Cleared, paying costs and 200 dollars to captors.
25 Richmond,*	Jervis,	Philadelphia,	do.	do.	Do. do. do.
26 Aurora,	Curtis,	Marblehead,	Riga,	do.	Do. do. do.
27 Antelope,	Riley,	Georgetown,	Gottenburg,	Christiansand,	Cleared by both courts, paying costs.
28 Polly,	Lyon,	Marblehead,	Lubeck,	Fahrsund,	Cleared. Costs and 150 dollars to captors.
29 Lydia,	Chever,	do.	Salem,	Christiansand,	Papers sent to Paris.
30 Edward & Henry,	Foster,	Gloucester,	Russia,	Mandahl,	Cleared.
31 Betsey,	Fielding,	Beverley,	Gottenburg,	Fahrsund,	Condemned and cleared.
32 William & Henry,	Seabury,	Newport,	Russia,	Christiansand,	Cleared, paying costs.
33 Amiable Matilda,*	Hague,	New York,	Kiel,	Fahrsund,	Cleared. Appealed. Pending.
34 Maria Theresa,*	Phelps,	do.	do.	do.	Cleared. do. do.
35 Pittsburg,*	Yardsley,	Philadelphia,	Gottenburg,	Hittero,	Cleared. do. do.
Aurora	Hall,	Portsmouth,	Bergen,	Fleckford,	Condemned in both courts.
Volante,	Clark,	Charleston,	Liverpool,	do.	Condemned. No appeal.
36 Cornelius,	Bragdon,	Boston,	Gottenburg,	Fahrsund,	Cleared, paying costs and 200 dollars to captors.

N. B. The two last mentioned vessels but one, (Aurora and Volante,) were not found in the original list; they had been omitted under a belief that they were not genuine American cases.

Of the 36 cases believed to be genuine, there were cleared in the lower courts, cases in which the captors appealed,	17
There were condemned, cases in which the masters appealed,	4
There were acquitted, cases in which no appeal was prosecuted by the captors,	13
There were two cases, (viz: Lydia, Chever; and Zeno, Stone,) of French capture; papers in Paris,	2
	—36

Of the 21 appeals, there were acquitted in the high court, cases	13
Cases pending, marked with an asterisk, (*) Nos. 1, 4, 10, 14, 25, 33, 34, 35,	8
	—21

No. 2.

List of American vessels captured and carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1809. List made by Mr. Saabye, July 14, 1811.

Date of Sentence.	Vessels.	Masters.	Where belonging.	Arrived from.	Bound to.	Sentence of the prize court.	Sentence of the Admiralty.	Remarks.
April 8, July 11, July 29,	Rebecca, Commerce, Harriett,	Nimmo, Otis, Weeks,	Baltimore, - Portland,	Memel, - -	Teneriffe, - -	Condemned, Condemned, Cleared,	Condemned. Condemned. Cleared,	By paying 500 r. d. expenses of court.
Aug. 2, Aug. 4,	Hebe, Henry,	Ogle, Harris,	- Salem,	- -	- -	Cleared, Cleared,	No appeal, No appeal,	Do. do. By paying 200 r. d. expenses.
Aug. 14,	Spencer,	McCarthy,	-	-	-	Cleared,	No appeal,	By paying quarantine and pilot money, and expenses.
Aug. 21, Aug. 25,	Ann Louisa, Helvetius,	Roche, Baush,	- Philadelphia,	- -	- -	Condemned, Cleared,	Condemned. Cleared,	By paying 700 r. d. and expenses of court.
Aug. 26, Aug. 28, Aug. 28, Aug. 28, Aug. 30, Aug. 31, Oct. 2, Oct. 9, Oct. 28,	Annawan, Aurora, Hesper, Florida, Antelope, James, Two Friends, Concordia,	Donaldson, Marsters, Cushing, Stubb, Hopkins, Coffin, Livingston, Johnson,	- Salem, - - Boston, - Charleston, -	- - - - - - - -	- - St. Petersburg. - - - -	Cleared, Cleared, Cleared, Cleared, Cleared, Condemned, Condemned, Cleared,	Cleared, Cleared, Cleared, No appeal, Cleared, Condemned, Condemned, Cleared,	Do. 400 do. do. Do. 600 do. do. Do. 200 do. do. Do. 100 do. do. Do. 200 do. do. - - Do. expenses and Sound dues.
Nov. 25,	Moses Gill, Alexander, Mary Ann, Washington, David Gelston, Mary, Hetty, Susannah,	McCom, Hodge, Martin, Story, Swain, Borth, Hale, Shore, Handy,	- - - - - - - - -	- - - - - - - - -	- - - - - - - - -	Condemned, Cleared, Cleared, Cleared, Condemned, Cleared, Cleared, Cleared,	Condemned. No appeal. No appeal. No appeal. No appeal. No appeal. No appeal. No appeal.	

Of the above twenty-five cases there have been condemned, - - - - - 7
There have been acquitted, - - - - - 18

Total, - - - - - 25

List of American vessels captured and carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1810.

Number.	Vessels' names.	Masters.	Where owned.	Arrived from.	Brought into.	Sentence of the prize court.	Sentence of the Admiralty.
1	Orion,	-	McClellan,	New York,	New York,	Copenhagen,	Cleared,
2	Imogene,	-	Jewett,	Virginia,	Virginia,	Copenhagen,	Condemned,
3	Mary Pilke,	-	Myer,	Newburyport,	Newburyport,	Copenhagen,	Condemned,
4	Jason,	-	Allen,	Salem,	Cape de Verd,	Copenhagen,	Cleared,
5	Gosport,	-	Watger,	New York,	New York,	Copenhagen,	Cleared,
6	Lydia,	-	Crabtree,	Charleston,	Charleston,	Copenhagen,	Condemned,
7	Liberty,	-	Burtwell,	New York,	New York,	Copenhagen,	Condemned,
8	Othello,	-	Seaman,	New York,	New York,	Copenhagen,	Cleared,
9	Argo,	-	Wheelwright,	Norfolk,	Norfolk,	Copenhagen,	Condemned,
10	Pallas,	-	Head, or Keith,	New York,	New York,	Copenhagen,	Cleared,
11	Nereid,	-	Squires,	Charleston,	Charleston,	Copenhagen,	Condemned,
12	Mary,	-	Craycroft,	Philadelphia,	Philadelphia,	Copenhagen,	Cleared,
13	Live Oak,	-	Yarrell,	Scarborough,	Scarborough,	Copenhagen,	Cleared,
14	Drummond,	-	Butler,	Philadelphia,	Philadelphia,	Copenhagen,	Condemned,
15	Swift,	-	Champlin,	New York,	New York,	Copenhagen,	Condemned,
16	Columbia,	-	Sullivan,	Kennebunk,	Lisbon,	Copenhagen,	Cleared,
17	Mary,	-	Peterkin,	Baltimore,	Baltimore,	Copenhagen,	Cleared,
18	Franklin,	-	Adams,	Portland,	Terra Vechia,	Copenhagen,	Condemned,
19	Nonesuch,	-	Lively,	Baltimore,	Baltimore,	Copenhagen,	Cleared,
20	Herald,	-	Barron,	Petersburg, Va.	Petersburg, Va.	Copenhagen,	Condemned,
21	Georgia Planter,	-	Brown,	Petersburg, Va.	Petersburg, Va.	Copenhagen,	Condemned,
22	Ganges,	-	Tracy,	Boston,	Cadiz,	Copenhagen,	Condemned,
23	Devotion,	-	Millar,	New York,	New York,	Copenhagen,	Cleared,
24	Experiment,	-	Hill,	Baltimore,	Baltimore,	Copenhagen,	Cleared,
25	Hampton,	-	Holmes,	Newport,	Newport,	Copenhagen,	Condemned,
26	Waltner,	-	Lee,	New York,	New York,	Copenhagen,	Cleared,
27	Mars,	-	Balch,	N. Hampshire,	Wismar & Stral-		
					sund,	Copenhagen,	Cleared,
28	Cremer,	-	Swarey,	Boston,	Boston,	Copenhagen,	Cleared,
29	Charleston & Liver-	-	Clark,	Boston,	Cadiz,	Copenhagen,	Cleared,
	pool Packet,						No appeal.

LIST—Continued.

Number.	Vessels' names.	Masters.	Where owned.	Arrived from.	Brought into.	Sentence of the Prize Court.	Sentence of the Admiralty.
30	Unicorn,	- Frazier,	Baltimore,	Baltimore,	Copenhagen,	Cleared,	No appeal.
31	Asia,	- Ormsby,	Providence,	Providence,	Copenhagen,	Cleared,	No appeal.
32	Rambler,	- Adams,	Rhode Island,	Rhode Island,	Copenhagen,	Cleared,	No appeal.
33	Fisher Ames,	- Greenland,	Boston,	Alicante,	Copenhagen,	Condemned,	Condemned.
34	Statira,	- Palmer,	New York,	New York,	Copenhagen,	Cleared,	Cleared.
35	Catharine Jane,	- Darling,	New York,	St. Michael's,	Copenhagen,	Condemned,	Cleared.
36	American Hero,	- Leach,	Boston,	Boston,	Copenhagen,	Cleared,	No appeal.
37	Alknomar,	- Irish,	New York,	New York,	Copenhagen,	Cleared,	No appeal.
38	Magnet,	- Swett,	Portsmouth,	Cadiz,	Copenhagen,	Condemned,	Condemned.
39	Swift,	- Allen,	Providence,	Providence,	Copenhagen,	Cleared,	Cleared.
40	Bona,	- Bishop,	Baltimore,	Baltimore,	Copenhagen,	Cleared,	No appeal.
41	Rover,	- Groves,	Boston,	Boston,	Copenhagen,	Cleared,	No appeal.
42	Betsey,	- Wilson,	Salem,	Salem,	Copenhagen,	Cleared,	No appeal.
43	Rising Sun,	- Myer,	Baltimore,	Norfolk,	Copenhagen,	Cleared,	No appeal.
44	Express,	- Thomas,	Boston,	Gottenburg,	Copenhagen,	Cleared,	Cleared.
45	Lion,	- Bainbridge,	Philadelphia,	Philadelphia,	Copenhagen,	Cleared,	No appeal.
46	Washington,	- Dennis,	Marblehead,	Marblehead,	Callunborg,	Cleared,	Cleared.
47	Olive Branch,	- Howland,	New Bedford,	New Bedford,	Aalborg,	Condemned,	Condemned.
48	Fanny Sewell,	- Gale,	New York,	St. Michael's,	Aalborg,	Condemned,	Condemned.
49	Dolphin,	- Latham,	New York,	New York,	Aalborg,	Condemned,	Cleared.
50	Nimrod,	- Smith,	New York,	New York,	Aalborg,	Condemned,	Pending.
51	Susannah,	- Cassan,	Philadelphia,	Philadelphia,	Callunborg,	Condemned,	Cleared.
52	Industry,	- White,	Philadelphia,	Philadelphia,	Callunborg,	Cleared,	No appeal.
53	Dolphin,	- Brevoor,	Philadelphia,	Philadelphia,	Callunborg,	Cleared,	No appeal.
54	Philp,	- Williams,	Baltimore,	Baltimore,	Callunborg,	Condemned,	Cleared.
55	William and Jane,	- Bunker,	New York,	New York,	Callunborg,	Condemned,	Undecided.
56	Delaware,	- Gill,	New York,	New York,	Callunborg,	Cleared,	No appeal.
57	William and Henry,	- Seabury,	Newport,	Newport,	Callunborg,	Cleared,	No appeal.
58	Pallas,	- West,	Baltimore,	Baltimore,	Wordurborg,	Cleared,	No appeal.
59	Cleopatra,	- Brown,	Wiscasset,	Wiscasset,	Wordurborg,	Condemned,	No appeal.
60	Canton,	- Smith,	Providence,	Providence,	Wordurborg,	Condemned,	Condemned.
61	Flora,	- Connell,	Philadelphia,	Carlesham,	Naschon,	Condemned,	No appeal.
62	Henry,	- Thompson,	New York,	New York,	Callunborg,	Cleared,	No appeal.
63	William Gray,	- Foster,	Salem,	Salem,	Copenhagen,	Condemned,	Condemned.
64	Catharine,	- Endicott,	Salem,	Salem,	Copenhagen,	Cleared,	No appeal.
65	Washington,	- Almy,	New York,	New York,	Callunborg,	Condemned,	Pending.
66	Fair Trader,	- Craig,	Philadelphia,	Philadelphia,	Kiel,	Cleared,	Pending.
67	Minerva Smyth,	- Mann,	Philadelphia,	Philadelphia,	Kiel,	Cleared,	Pending.
68	Ariel,	- Butler,	Philadelphia,	Philadelphia,	Kiel,	Cleared,	Pending.

N. B. The Nereid, Squires, No. 11; Canton, Smith, No. 60; Flora, Connell, No. 61; and Fisher Ames, No. 33, are said to have been under very suspicious circumstances. Quere—as to the Canton.

In the Experiment, Hill, the high court awarded eight thousand five hundred rix-dollars damages to the captain.

The William Gray, Foster, was a peculiarly unjust condemnation; she had put into Copenhagen in distress, having lost a mast.

Of the foregoing list, comprising cases	-	-	-	-	-	-	68
There were cleared in the lower courts,	-	-	-	-	-	-	40
There were condemned in the lower courts, including the Canton, Flora, Nereid, and Fisher Ames,	-	-	-	-	-	-	28
							-68

Against the sixty-eight sentences so given by the lower courts—

The captors have acquiesced in acquittals,	-	-	-	-	-	-	28
The American masters have acquiesced in condemnations,	-	-	-	-	-	-	3
							-31

The captors have appealed in cases,	-	-	-	-	-	-	12
The American masters have appealed in cases,	-	-	-	-	-	-	25
							-37

Of the appeals there were cleared,	-	-	-	-	-	-	12
There were condemned, including Fisher Ames and Canton,	-	-	-	-	-	-	19
							-31

Pending cases, viz:

50 Nimrod, Smith,	55 William and Jane, Bunker,	66 Fair Trader, Craig,
67 Minerva Smyth, Mann,	65 Washington, Almy,	68 Ariel, Butler.

N. B. The Canton was bound from the United States to St. Petersburg, and I believe to have been the property of Samuel G. Arnold and Joseph Martin, of Providence. She was taken under British convoy.

No. 3.

List of American vessels taken in company with the remainder of a fleet under convoy of a British gun brig, and sent into Christiansand, by five Danish gun brigs, in July, 1810.

Vessels' names.	Captains.	From	Bound to	Owned at	Cargo.	Remarks.
Ship Annawan,	Donaldson,	St. Petersburg,	Philadelphia,	Philadelphia,	Sail-cloth, hemp, iron.	
Ship Hesper,	Cushing,	Do.	Boston,	Newburyport,	Do.	
Ship Hope,	Rhea,	Do.	Providence, R. I.	Providence,	Do.	
Ship Janus,	Gawn,	Do.	Newburyport,	Newburyport,	Do.	Condem'd July 9, 1811.
Barque Mary,	Ropes,	Do.	Salem,	Salem,	Do.	Do. July 2, 1811.
Brig Elizabeth,	Campbell,	Do.	Philadelphia,	Philadelphia,	Do.	
Brig Hope,	Meik,	Do.	Marblehead,	Marblehead,	Do.	Do. do.
Brig Polly,	Graves,	Do.	Marblehead,	Marblehead,	Do.	
Schooner Rebecca,	Meik,	Gottenburg,	Marblehead,	Marblehead,	Sundries,	Do. do.
Schooner Iris,	Russell,	Do.	Salem,	Salem,	Do.	Do. do.
Brig Sophia,	McIntire,	Do.	Liverpool,	} -	-	} These vessels American; but cargoes on freight, supposed for English account. No appeals made.
Barque Eliza,	Luffkin,	Do.	Do.			
Barque Minerva,	Jackson,	}	-	-	-	} Condemned. No appeals; they being, as has been supposed, under very unfavorable circumstances. Appealed, condemned.
Barque Eliza,	More,					
Barque Volunteer,	Leeds,					
Barque Margaret,	Porter,					
Barque Eliza,	Morgan,					
Barque Vermont,	Nichols,	-	-	-	-	

NOTE. The Annawan, Hesper, and Elizabeth, were tried in the prize court on their outward voyages, having been captured on entering the Baltic; they were acquitted, and paid their Sound dues.

The Hope, Rhea, had her papers endorsed by the British, both in going into and coming out of the Baltic.

The last eight vessels were condemned before my arrival at Copenhagen.

G. W. E.

No. 4.

It results from the foregoing lists:—

That the number of vessels carried into the ports of Norway, in the year 1809, was thirty-six, of which only six have been finally condemned. None are pending.

That the number of vessels carried into the ports of Norway, in the year 1810, was thirty-six, of which only eight are pending in the High Court of Admiralty at Copenhagen, and of which there has not been one final condemnation.

That the number of vessels carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1809, was twenty-five, of which seven were condemned and eighteen acquitted.

That the number of vessels carried into the ports of Holstein, Sleswick, and the Danish islands, in the year 1810, was sixty-eight, of which nineteen have been finally condemned, and six are yet pending.

That of eighteen convoy cases, eight have been condemned; they were desperate cases. Ten are yet pending, some of them more favorably circumstanced than others.

The pending cases of the foregoing lists are, viz:—

Of the Norway list of 1810, eight, viz: Egeria, Law; Oscar, Cunningham; Resolution, Eldridge; Minerva, Baker; Pittsburg, Yardsley; Maria Theresa, Phelps; Richmond, Jarvis; and Amiable Matilda, Hague. Papers sent to Paris in the cases of Lydia, Chevers, and Zeno, Stow.

Of the Danish list of 1810, six, viz: Nimrod, Smith; William and Jane, Bunker; Fair Trader, Craig; Minerva Smyth, Mann; Washington, Almy; and Ariel, Butler.

Of the convoy cases, ten, viz: Annawan, Donaldson; Hope, Rhea; Mary, Ropes; Hope, Meik; Rebecca, Meik; Janus, Gawn; Hesper, Cushing; Elizabeth, Campbell; Polly, Graves; and Iris, Russell.

No. 6.

Note of the further proceedings on the twenty-four pending cases subsequent to May 30, 1811, (including convoy cases,) viz:

From the foregoing statements may be seen the situation of American claims on the 30th of May, 1811. It appears that there were, viz:—

Captures in 1809,	-	-	63
Captures in 1810,	-	-	124
		Total,	187
Cleared,	-	-	114
Condemned,	-	-	31
Pending,	-	-	14
Condemned cases of a desperate character,	-	-	16
Cases transferred to Paris,	-	-	2
Convoy cases pending,	-	-	10
		Total,	187

Vessels.	Masters.	In list.	Date of.	Proceedings.
Amiable Matilda,	Hague,	Norway list, 1810,	June 5,	Released, paying costs.
Minerva,	Baker,	Norway list, 1810,	June 15,	Released.
Richmond,	Jervis,	Norway list, 1810,	June 11,	Released.
Nimrod,	Smith,	Denmark list, 1810,	June 15,	Released; sentence arrested on petition of captors to the King, but finally released.
Iris,	Russell,	Convoy case,	July 2,	Condemned.
Mary,	Ropes,	Convoy case,	July 2,	Condemned.
Hope,	Meik,	Convoy case,	July 2,	Condemned.
Rebecca,	Meik,	Convoy case,	July 2,	Condemned.
Janus,	Gawn,	Convoy case,	July 9,	Condemned.
Egeria,	Law,	Norway list, 1810,	July 13,	Acquitted—one thousand rix dollars.
William and Jane,	Bunker,	Danish list, 1810,	July 13,	Acquitted.

No. 7.

List of American vessels which have entered Norway, the Belt, or Sound, have been captured, or have passed without interruption, since the 30th of May, 1811, (or intelligence respecting which has been received since that date;) and note of the proceedings on such of them as have been detained; this list comprising the whole of American cases for the year 1811, viz:

Vessels.	Masters.	Of	From	Bound to	Cargo.	Owners.	Date.	Proceedings.
Rachel,	Joseph,	Salem,	Boston,	Russia,	Sugar, &c.	-	April 1,	Condemned in lower court; appeal pending.
Charlotte,	Pierce,	Boston,	Boston,	Stockholm,	Sugar, &c.	-	April 1,	Condemned in lower court; appeal pending.
Augusta,	Flint,	Salem,	Salem,	St. Petersburg,	Sugar, coffee,	Joseph Peabody,	June 11,	Cleared; no appeal.
Swift,	Clarkson,	Newburyport,	Newburyport,	Memel,	Cotton, rum,	Benjamin Merrill,	June 7,	Cleared.
Experiment,	Vibbert,	New York,	New York,	St. Petersburg,	Coffee, indigo, cloves,	Minturn and Champlin,	May 27,	Passed without interruption.
Concordia,	Johnson,	New York,	New York,	St. Petersburg,	Cotton, sugar, cocoa,	H. A. and J. G. Coster,	May 30,	Passed without interruption.
Orestes,	Allan,	Salem,	Salem,	St. Petersburg,	Sugar, pepper, indigo,	Hugh McCulloch, of Kennebunk,	May 30,	Passed without interruption.
William and Eliza,	Howland,	New Bedford,	New Bedford,	St. Petersburg,	Cotton, rice, tobacco,	William Roch & Sons,	May 30,	Passed without interruption.
Iris,	Woodbury,	Boston,	Boston,	St. Petersburg,	Cotton, logwood,	H. Gray,	May 30,	Passed without interruption.
Swift,	Daggett,	Providence,	Providence,	St. Petersburg,	Cotton, logwood,	Bullock and Richmond,	May 30,	Passed without interruption.
Washington,	Storey,	Salem,	Salem,	St. Petersburg,	Cotton, logwood,	William Orne,	May 30,	Passed without interruption.
Pauline,	Coffin,	New York,	New York,	Riga,	Coffee, cotton, mace,	F. and F. Didricks,	May 30,	Passed without interruption.
Horace,	Leach,	Salem,	Salem,	Stettin,	Cotton, ginger, hides,	William Gray,	May 30,	Passed without interruption.
Herald,	Silby,	Salem,	Salem,	St. Petersburg,	Cotton, logwood,	Silby & Co.	June 2,	Cleared with damages, being the first case of damages at Copenhagen.
Catharine,	Endicott,	Salem,	Riga,	Salem,	Iron, hemp, &c.	Peabody & Tucker,	June 3,	Passed.
Henry,	Harris,	Salem,	Salem,	St. Petersburg,	Sugar,	T. W. Ward & Co.	June 4,	Passed without interruption.
Union,	Proctor,	Marblehead,	Marblehead,	St. Petersburg,	Sugar,	W. and N. Hooper,	June 7,	Passed without interruption.
William,	Stanley,	Boston,	Boston,	Hemp,	Hemp, iron, duck,	W. R. Gray, Salem,	June 7,	Passed without interruption.
Adeline,	Felt,	Newport,	Newport,	St. Petersburg,	Cotton, ginger, &c.	Joseph White, Salem,	June 10,	Passed without interruption.
William,	Knight,	Boston,	Boston,	St. Petersburg,	Rum, cotton, &c.	Swift & Co.	June 10,	Passed without interruption.
Jason,	Frost,	Salem,	Salem,	St. Petersburg,	Sugar, coffee, &c.	Charles Saunders,	June 11,	Passed without interruption.

Vessels.	Masters.	Of	From	Bound to	Cargo.	Owners.	Date.	Proceedings.
Sukey,	Osgood,	Salem,	Salem,	St. Petersburg,	Sugar, coffee, &c.	Stephen Philips,	June 13,	Passed without interruption.
Sachem,	Howland,	Boston,	Boston,	St. Petersburg,	Cotton,	John Holland,	June 13,	Passed without interruption.
Mentor,	Ashton,	Salem,	Salem,	St. Petersburg,	Cotton, rum, &c.	J. Ashton & Co.	June 13,	Passed without interruption.
Sally,	Giddings,	Beverly,	Beverly,	St. Petersburg,	Rice, sugar, &c.	Leech, Stephens, and Killan,	June 13,	Passed without interruption.
John Adams,	Downing,	Boston,	Savannah,	St. Petersburg,	Cotton,	Waller and Foster,	June 13,	Passed without interruption.
Jewel,	Robinson,	Portland,	Portland,	St. Petersburg,	Rice, cotton, logwood,	William Widgery,	June 13,	
Columbia,	Dixon,	Philadelphia,	Philadelphia,	St. Petersburg,	Sugar, coffee, cotton,	Jno. Bohlan,	June 17,	
Success,	Porter,	Salem,	Salem,	St. Petersburg,	Cotton, logwood,	Jno. and Stephen White,	June 17,	
Adamant,	Eames,	Boston,	Boston,	Baltic,	Cotton, hides, wood,	Loring, Curtis, and the captain,	June 17,	Waiting to sell part of cargo.
Betsy,	Barker,	Boston,	Boston,	St. Petersburg,	Ginger, sugar, &c.	William Parsons,	June 19,	
Mary Ann,	Wilman,	Salem,	Salem,	St. Petersburg,	Sugar, coffee, indigo,	Silby and Stone,	June 19,	
Alexander,	Davis,	Boston,	Algiers,	St. Petersburg,	Oil,	W. R. Gray,	June 19,	
Transport,	Matthews,	New York,	New York,	St. Petersburg,	Mace, cotton, spice,	Leroy & Sons, Leroy, Bayard, and McEvers.	June 19,	
Hope,	Pearl,	Salem,	Newport,	St. Petersburg,	Cotton,	Samuel Gray,	June 20,	
Alknomac,	Iris,	New York,	New York,	St. Petersburg,	Cotton, bark, &c.	H. A. and J. G. Coster,	June 20,	
Rubicon,	Hovey,	Boston,	Savannah,	St. Petersburg,	Cotton, rice, logwood,	W. Gray,	June 21,	
Orient,	Andrews,	Marblehead,	Marblehead,	St. Petersburg,	Sugar and logwood,	R. Hooper & Sons,	June 21,	Detained by the commander of the gun-boats.
Dover,	Burroughs,	Providence,	St. Michael's,	St. Petersburg,	Lemons, 150 boxes,	S. G. Arnold and Jos. S. Martin,	June 21,	
Amsterdam Packet,	Bailey,	New York,	New York,	Baltic,	Tobacco, cotton, wood,	Minturn and Champlin,	June 20,	Waiting to be allowed to sell at Copenhagen.
Lady Madison,	Swain,	New York,	New York,	St. Petersburg,	Sugar, coffee, cotton,	Jacob Barker,	June 22,	
Arno,	Merchant,	Boston,	Boston,	St. Petersburg,	Sugar, cotton, &c.	Jno. Brazier,	June 22,	
John,	Reynolds,	Providence,	Providence,	St. Petersburg,	Tobacco, rice, cotton,	Richmond and Bullock,	June 22,	
Juno,	Page,	Salem,	Salem,	St. Petersburg,	Sugar, coffee, cotton,	J. W. Saunders & Co.	June 23,	
Hannah,	Lade,	Portsmouth,	New York,	St. Petersburg,	Sugar, coffee, cotton,	William Lade & Brothers,	June 25,	
Columbus,	Robin,	Plymouth,	New York,	St. Petersburg,	Cotton, &c.	D. and C. Jackson,	June 25,	
Dolly,	Parsons,	Newburyport,	Tonningen,	St. Petersburg,	Sugar, coffee, &c.	Step. Holland and Benj. Merrill,	June 25,	
Rebecca,	Searl,	Salem,	Salem,	St. Petersburg,	Cotton, logwood,	S. Page & Co.	June 25,	
William,	Goodwin,	Boston,	Lisbon,	St. Petersburg,	Fruit, &c.	C. Coolidge & Co.	June 25,	Taken and sent to Copenhagen.
Argo,	Barnes,	Baltimore,	Baltimore,	St. Petersburg,	Sugar, coffee, cotton,	Gooding and Hutchins,	June 26,	
Joseph,	Allan,	Boston,	Boston,	St. Petersburg,	Iron, hemp, &c.	Hindley and Gregory,	June 28,	Taken and sent to Copenhagen.
William Henry,	Seabury,	Newport,	Petersburg,	Charleston,	Sugar, cotton,	Loring and Curtis,	June 29,	Gone home.
Hugh Johnson,	Johnson,	Boston,	Boston,	St. Petersburg,	Sugar, indigo,	J. Thorndike,	July 8,	Passed without interruption.
Hope,	Lovett,	Boston,	Boston,	St. Petersburg,	Cotton, &c.	Bordman and Pope,	July 8,	Passed without interruption.
Cordelia,	Boit,	Boston,	Boston,	St. Petersburg,	Cotton,	Brown and Ives,	July 8,	Passed without interruption.
General Hamilton,	Holden,	New Orleans,	New Orleans,	St. Petersburg,	Cotton,	Cobb and Clapp,	July 8,	Passed without interruption.
Milford,	Weeks,	Portland,	Portland,	St. Petersburg,	Cotton, logwood,	William Rotch,	July 8,	Taken, but liberated.
George,	Howland,	New Bedford,	New Bedford,	Riga,	Rice, oil,		July 8,	

JULY 15, 1811.—Of these fifty-eight vessels, the "Rachel," Joseph, "Joseph," Allan, and "George," Howland, only are detained. There is no probability that either of them will be condemned. The two which have desired to sell their cargoes have been permitted to sell. More ships than those in the above list are known to have passed, but the names of them are not yet received.

G. W. E.

12th CONGRESS.]

No. 242.

[1st Session.]

GREAT BRITAIN.

REPORTED TO CONGRESS, NOVEMBER 29, 1811.

The committee to whom was referred that part of the President's message which relates to our foreign affairs, beg leave to report, in part:

That they have endeavored to give to the subject submitted to them that full and dispassionate consideration which is due to one so intimately connected with the interest, the peace, the safety, and the honor of their country.

Your committee will not encumber your journals and waste your patience with a detailed history of all the various matters growing out of our foreign relations. The cold recital of wrongs, of injuries and aggressions known and felt by every member of this Union, could have no other effect than to deaden the national sensibility, and render the public mind callous to injuries with which it is already too familiar.

Without recurring, then, to the multiplied wrongs of partial or temporary operation, of which we have so just cause of complaint against the two great belligerents, your committee will only call your attention, at this time, to the systematic aggressions of those Powers, authorized by their edicts against neutral commerce—a system which, as regarded its principles, was founded on pretensions that went to the subversion of our national independence; and which, although now abandoned by one Power is, in its broad and destructive operation as still enforced by the other, sapping the foundations of our prosperity.

It is more than five years since England and France, in violation of those principles of justice and public law, held sacred by all civilized nations, commenced this unprecedented system, by seizing the property of the citizens of the United States, peaceably pursuing their lawful commerce on the high seas. To shield themselves from the odium which such outrage must incur, each of the belligerents sought a pretext in the conduct of the other—each attempting to justify his system of rapine, as a retaliation for similar acts on the part of his enemy. As if the law of nations, founded on the eternal rules of justice, could sanction a principle, which, if engrafted into our municipal code, would excuse the crime of *one* robber, upon the sole plea that the unfortunate object of his rapacity was also a victim to the injustice of another. The fact of priority could be true as to one only of the parties; and, whether true or false, could furnish no ground of justification.

The United States thus unexpectedly and violently assailed by the two greatest Powers in Europe, withdrew their citizens and property from the ocean; and, cherishing the blessings of peace, although the occasion would have fully justified war, sought redress in an appeal to the justice and magnanimity of the belligerents. When this appeal had failed of the success which was due to its moderation, other measures, founded on the same pacific policy, but applying to the interests instead of the justice of the belligerents, were resorted to. Such was the character of the non-intercourse and non-importation laws, which invited the return of both Powers to their former state of amicable relations, by offering commercial advantages to the one who should first revoke his hostile edicts, and imposing restrictions on the other.

France, at length, availing herself of the proffers made equally to her and her enemy by the non-importation law of May, 1810, announced the repeal, on the 1st of the following November, of the decrees of Berlin and Milan. And it affords a subject of sincere congratulation to be informed, through the official organs of the Government, that those decrees are, so far at least as our rights are concerned, really and practically at an end.

It was confidently expected that this act on the part of France would have been immediately followed by a revocation on the part of Great Britain of her orders in council. If our reliance on her justice had been impaired by the wrongs she had inflicted, yet, when she had plighted her faith to the world that the sole motive of her aggressions on neutral commerce was to be found in the Berlin and Milan decrees, we looked forward to the extinction of those decrees as the period when the freedom of the seas would be again restored.

In this reasonable expectation we have, however, been disappointed. A year has elapsed since the French decrees were rescinded, and yet Great Britain, instead of retracing *pari passu* that course of unjustifiable attack on neutral rights, in which she professed to be only the reluctant follower of France, has advanced with bolder and continually increasing strides. To the categorical demands lately made by our Government for the repeal of her orders in council, she has affected to deny the practical extinction of the French decrees; and she has, moreover, advanced a new and unexpected demand, increasing in hostility the orders themselves. She has insisted, through her accredited minister at this place, that the repeal of the orders in council must be preceded, not only by the practical abandonment of the decrees of Berlin and Milan, so far as they infringe the neutral rights of the United States, but by the renunciation, on the part of France, of the whole of her system of commercial warfare against Great Britain, of which those decrees originally formed a part.

This system is understood to consist in a course of measures adopted by France, and the other Powers on the continent subject to or in alliance with her, calculated to prevent the introduction into their territories of the products and manufactures of Great Britain and her colonies, and to annihilate her trade with them. However hostile these regulations may be on the part of France towards Great Britain, or however sensibly the latter may feel their effects, they are, nevertheless, to be regarded only as the expedients of one enemy against another, for which the United States, as a neutral Power, can in no respect be responsible; they are, too, in exact conformity with those which Great Britain has herself adopted and acted upon, in time of peace as well as war. And it is not to be presumed that France would yield to the unauthorized demand of America what she seems to have considered as one of the most powerful engines of her present war.

Such are the pretensions upon which Great Britain founds the violation of the maritime rights of the United States—pretensions not theoretical merely, but followed up by a desolating war upon our unprotected commerce. The ships of the United States, laden with the products of our own soil and labor, navigated by our own citizens, and peaceably pursuing a lawful trade, are seized on our own coasts, at the very mouths of our harbors, and condemned and confiscated.

Your committee are not, however, of that sect whose worship is at the shrine of a calculating avarice. And while we are laying before you the just complaints of our merchants against the plunder of their ships and cargoes, we cannot refrain from presenting to the justice and humanity of our country the unhappy case of our impressed seamen. Although the groans of these victims of barbarity for the loss of (what should be dearer to Americans than life) their liberty—although the cries of their wives and children in the privation of protectors and parents have, of late, been drowned in the louder clamors at the loss of property; yet is the practice of forcing our mariners into the British navy, in violation of the rights of our flag, carried on with unabated rigor and severity. If it be our duty to encourage the fair and legitimate commerce of this country by protecting the property of the merchant,

then, indeed, by as much as life and liberty are more estimable than ships and goods, so much more impressive is the duty to shield the persons of our seamen, whose hard and honest services are employed, equally with those of the merchants, in advancing, under the mantle of its laws, the interests of their country.

To sum up, in a word, the great causes of complaint against Great Britain, your committee need only say, that the United States, as a sovereign and independent Power, claim the right to use the ocean, which is the common and acknowledged highway of nations, for the purposes of transporting, in their own vessels, the products of their own soil, and the acquisitions of their own industry, to a market in the ports of friendly nations; and to bring home, in return, such articles as their necessities or convenience may require; always regarding the rights of belligerents, as defined by the established law of nations. Great Britain, in defiance of this incontestable right, captures every American vessel bound to, or returning from, a port where her commerce is not favored, enslaves our seamen, and, in spite of our remonstrances, perseveres in these aggressions.

To wrongs so daring in character, and so disgraceful in their execution, it is impossible that the people of the United States should remain indifferent. We must now tamely and quietly submit, or we must resist by those means which God has placed within our reach.

Your committee would not cast a shade over the American name, by the expression of a doubt which branch of this alternative will be embraced. The occasion is now presented when the national character, misunderstood and traduced for a time by foreign and domestic enemies, should be vindicated.

If we have not rushed to the field of battle like the nations who are led by the mad ambition of a single chief, or the avarice of a corrupted court, it has not proceeded from a fear of war, but from our love of justice and humanity. That proud spirit of liberty and independence, which sustained our fathers in the successful assertion of their rights against foreign aggression, is not yet sunk. The patriotic fire of the revolution still burns in the American breast with a holy and unextinguishable flame, and will conduct this nation to those high destinies, which are not less the reward of dignified moderation than of exalted valor.

But we have borne with injury until forbearance has ceased to be a virtue. The sovereignty and independence of these States, purchased and sanctified by the blood of our fathers, from whom we received them, not for ourselves only, but as the inheritance of our posterity, are deliberately and systematically violated. And the period has arrived when, in the opinion of your committee, it is the sacred duty of Congress to call forth the patriotism and resources of the country. By the aid of these, and with the blessing of God, we confidently trust we shall be enabled to procure that redress which has been sought for by justice, by remonstrance, and forbearance, in vain.

Your committee, reserving for a future report those ulterior measures which, in their opinion, ought to be pursued, would, at this time, earnestly recommend, in the words of the President, "That the United States be immediately put into an armor and attitude demanded by the crisis, and corresponding with the national spirit and expectations." And, to this end, they beg leave to submit, for the adoption of the House, the following resolutions:

1. *Resolved*, That the military establishment, as authorized by existing laws, ought to be immediately completed, by filling up the ranks and prolonging the enlistments of the troops; and that, to encourage enlistments, a bounty in lands ought to be given, in addition to the pay and bounty now allowed by law.
2. That an additional force of ten thousand regular troops ought to be immediately raised, to serve for three years; and that a bounty in lands ought to be given to encourage enlistments.
3. That it is expedient to authorize the President, under proper regulations, to accept the service of any number of volunteers, not exceeding fifty thousand, to be organized, trained, and held in readiness to act on such service as the exigencies of the Government may require.
4. That the President be authorized to order out, from time to time, such detachments of the militia as, in his opinion, the public service may require.
5. That all the vessels not now in service, belonging to the navy, and worthy of repair, be immediately fitted up and put in commission.
6. That it is expedient to permit our merchant vessels, owned exclusively by resident citizens, and commanded and navigated solely by citizens, to arm, under proper regulations to be prescribed by law, in self-defence, against all unlawful proceedings against them on the high seas.

S P A I N .

REPORTED TO CONGRESS, DECEMBER 10, 1811.

HOUSE OF REPRESENTATIVES, *December 10, 1811.*

The committee to whom was referred so much of the President's message as relates to the Spanish American colonies, have, in obedience to the order of the House, deliberately considered the subject before them, and directed a report, in part, to be submitted to the consideration of the House, in the form of a public declaration, as follows:

Whereas, several of the American Spanish provinces have represented to the United States that it has been found expedient for them to associate and form federal Governments upon the elective and representative plan, and to declare themselves free and independent: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That they behold, with friendly interest, the establishment of independent sovereignties by the Spanish provinces in America, consequent upon the actual state of the monarchy to which they belonged; that, as neighbors and inhabitants of the same hemisphere, the United States feel great solicitude for their welfare; and that, when those provinces shall have attained the condition of nations, by the just exercise of their rights, the Senate and House of Representatives will unite with the Executive in establishing with them, as sovereign and independent States, such amicable relations and commercial intercourse as may require their legislative authority.

SIR:

HOUSE OF REPRESENTATIVES, *December 5, 1811.*

In behalf of the committee appointed to consider so much of the President's message of the 5th November as relates to the Spanish American provinces, I beg leave to inquire whether it is known to our Government that any of those provinces have declared themselves independent, or that material changes have taken place in their political relations. It is not expected, however, that my request will be understood to extend to those communications which, in the opinion of the Executive, it would be improper to disclose.

Be pleased, sir, to accept the assurance of my high consideration and respect,

SAM. L. MITCHELL.

HON. JAMES MONROE.

SIR:

WASHINGTON, DEPARTMENT OF STATE, *December 9, 1811.*

I have the honor to transmit to you, in compliance with the request contained in your letter of the 5th inst., a copy of the declaration of independence made by the provinces of Venezuela. This act was communicated to this Government by order of the Congress, composed of deputies from those provinces, assembled at Caraccas. It is not ascertained that any other of the Spanish provinces have, as yet, entered into similar declarations; but it is known that most, if not all of them, on the continent, are in a revolutionary state. The progress made in that direction by some of them will best appear in the documents which have already been communicated to you.

I have the honor to be, with great respect, sir, your obedient servant,

JAS. MONROE.

The Hon. SAMUEL L. MITCHELL, &c.

The Secretary of State to Messrs. Armstrong and Bowdoin.

GENTLEMEN:

DEPARTMENT OF STATE, *March 13, 1806.*

I have duly received from time to time your several letters, bearing dates 3d July, 10th and 15th of August, 10th September, 3d and 25th October, and 26th November.

Previous to the arrival of Mr. Skipwith with your despatches of September 10, our affairs with Spain had undergone the particular consideration of the President, with a reference as well to the change in the state of things in Europe as to the approaching session of Congress; and it had been determined, 1st, That the manner in which the negotiations at Madrid had been closed by Spain forbade any application whatever to her for a renewal of them; 2d, That the case should be presented to Congress for such provisions as it might be thought to require on their part; 3d, That, in the mean time, you should be charged to place before the French Government the necessity to which Spain, by refusing to concur in a diplomatic adjustment of her controversies with the United States, had reduced the latter of seeking justice by those ulterior measures which the occasion called for. It had also been determined by the President, with a view to enable the French Government, if it should be so disposed, to hasten by its mediating influence on Spain the change in her councils necessary to an amicable adjustment with the United States, and to bring Spain forward for the purpose, that you should be furnished with the terms which Spain might obtain from the United States.

On the receipt of your communications by Mr. Skipwith, the ideas disclosed by the French Government were considered as forming a sufficient basis for an anticipating provision by Congress, such as was made in reference to the convention of the 30th April, 1803; and it was accordingly determined, in pursuance of that example, to await the meeting of Congress, and lay the subject before them. This was done; and the act and resolutions, of which copies are enclosed, were the result of their discussions; a result which has been delayed by the forms of proceeding, and some variances of opinion on the occasion longer than might have been wished.

I now enclose the outline and substance of a conventional arrangement adapted to the views expressed by Congress, and such as the President authorizes you to conclude. You will lose no time in imparting it to the French Government in the manner you may deem most expedient; letting it know, at the same time, that no direct communication on the subject has been made to the Spanish Government; that after the reception given by Spain to the overtures made through an extraordinary mission to Madrid, followed by her military and menacing indications within and near the controverted territories, as explained in the annexed extracts, the United States, though ready to meet Spain in negotiation under the auspices of a common friend, do not consider it belonging to them to court a further negotiation in any form; that, consequently, the steps necessary on the part of Spain must be the result either of her own reflections, or of the prudent counsel which France may undertake to give her.

The President leaves to your own management the expression of those sentiments, which, without any improper condescensions on the part of the United States, will best conciliate the French Government to our objects. The ascendancy which it will have over that of Spain, if no change of circumstances intervene, and the preference of an amicable termination of our differences with Spain to an appeal to force, require that every honorable use should be made of the occasion which seems to offer itself.

Should the Emperor still be absent, without authority in any hands at Paris to take measures in concert with you for instituting the business, it must remain with you to decide according to the probable course of his movements on the most expedient and expeditious mode of holding the necessary communications with his cabinet. Rather than risk a delay which may lose a favorable crisis, it may be even advisable to repair to his military quarters. This is a step, however, to which there may be so many objections, that it will require very strong considerations to recommend it.

As soon as any authority at Paris shall be ready on the part of Spain, you will enter on the subject, and press it to a conclusion with as much celerity and decision as circumstances will justify. The terms stated as your guide require little explanation more than accompanies the several articles. The object with the United States is to secure West Florida, which is essential to their interest, and to obtain East Florida, which is important to them, procuring, at the same time, equitable indemnities from Spain for the injuries for which she is answerable, to all which the proposed exchange of territory and arrangement of the western boundary may be made subservient. The desire manifested by the House of Representatives in the resolution herewith enclosed, that such an exchange and arrangement may be found sufficient, without any price in money, will engage all your attention and exertions. If the exchange stated in the resolution with the Sabine river for our western boundary below the ridge, dividing the waters running into the Mississippi from those running into the gulf westward of the mouth of that river can be obtained, the exchange will be satisfactory, especially if accompanied with a reasonable provision for the indemnities due from Spain to citizens of the United States. If the exchange can be obtained even without this last provision, or without including the territory eastward of the Perdido, or any pecuniary payment for the territory westward

thereof, it is not to be rejected; but in that case it will be extremely desirable to make the authorized establishment of an interval of territory, not to be settled for a given period, subservient to a provision for indemnities.

In order to determine the price and the payments to Spain for the cession of territory, and to provide indemnities for the spoliations and other injuries for which Spain is responsible, you will add to the preceding articles others proper on those subjects. For the several modifications which will best comport with the convenience of our treasury and the sentiments of the secretary of that department, I refer to copies of a letter and paper from him, herewith enclosed, stating to you generally for your guide, 1st, That the sum to be made payable to Spain for her cession is not to exceed five millions of dollars; 2d, That as little as possible, and in no event more than two millions, are to be paid prior to the delivery of possession or the ratification; 3d, That as ample a provision as possible be made for indemnities, either by constituting a Board of Commissioners for settling them, or by a sum in gross, sufficient to cover their probable amount, which is not less than four millions of dollars, and distributable by the United States to such claimants, and in such proportions, as may be decided under their authority. This last mode of providing for the object will be much the best, if the sum in gross be equal to the amount of claims likely to be allowed by a Board of Commissioners; 4th, It is particularly desirable that, in defining the cases to be indemnified, the terms should be such as will embrace those where French subjects or citizens, as well as those where Spanish subjects were the wrong doers. If a sum in gross be stipulated, it may be expected that Spain will not object to a definition which will authorize the United States to apply it to both cases, especially if terms be chosen which will not expressly designate the contested French cases; 5th, In defining the cases, it will be proper to have in view those of every description which exist, more particularly depredations on the high seas, and unjust or unlawful injuries within the Spanish jurisdiction, whether in Old Spain or her colonies; in a word, all injurious acts, either to the United States or to their citizens, for which the Spanish nation is responsible, according to the principles of justice, equity, treaty, or the law of nations.

I have the honor to be, &c.

JAMES MADISON.

P. S. Particular care must be taken in case a convention shall be made which does not provide for the spoliations; or for the portion of them, subsequent to the convention of August, 1802, to guard against an abandonment, either express or constructive, of the just claims of our citizens on that account.

PROJECT OF A CONVENTION.

The United States and His Catholic Majesty, being desirous of terminating amicably all controversies now subsisting between them, and of providing more effectually for the maintenance of their future harmony, have appointed, &c.

ARTICLE 1.

Spain, acknowledging and confirming to the United States West Florida, cedes to them forever the same and East Florida, with the islands and waters thereon respectively depending; or if unattainable in that form, Spain cedes and confirms forever to the United States East and West Florida, with the islands and waters thereon respectively depending.

ARTICLE 2.

Possession of the said territory shall be delivered to a person or persons authorized by the United States to receive the same within ——— days, or less if practicable, after the exchange of the ratifications of this convention. With the said territory shall be delivered all public property, excepting ships and military stores, as also all public archives belonging to the same.

SEC. 2. Within ninety days after delivering possession, or sooner, if possible, the Spanish troops shall evacuate the territory hereby ceded.

SEC. 3. The inhabitants of the ceded territory shall be entitled to the same incorporation into the United States, and to the same protection in their religion, their liberties, and their property, as were stipulated to the inhabitants of the territory ceded to the United States by the treaty of the 30th of April, 1803, with the French republic.

SEC. 4. With the same motives in view which led to the seventh and eighth articles of the treaty above mentioned, it has been agreed between the contracting parties that the ships of France and Spain shall enjoy, in the ports of the hereby ceded territory, until the term of the twelve years therein mentioned shall be expired, the same privileges as to trade and duties as are therein stipulated, and during the same space of time no other nation shall have a right to the same privileges in the ports of the hereby ceded territory.

SEC. 5. In future and forever after the expiration of the said term of twelve years, the vessels of Spain shall be treated upon the footing of the most favored nations in the ports of the hereby ceded territory.

ARTICLE 3.

The boundary between the territory of the United States on the western side of the Mississippi, and the possessions of Spain, shall be the Colorado, (or the Guadaloupe, if attainable,) from its mouth to its most northerly source; thence, a right line to the nearest high lands, enclosing all the waters running directly or indirectly into the Mississippi or Missouri, and along the said high lands as far as they border on the Spanish dominions.

Observations on Article 1.

The object in these forms of expressing the cession is, to date that of West Florida as far at least as to the Perdido, from the date of the cession of Louisiana by France, and thereby invalidate the intervening sales of land, which it is understood have taken place corruptly or unfairly to a very great extent. If Spain should appear to acquiesce in a more explicit acknowledgment of our right under the French convention as far as the Perdido, it may be well to divide the territory eastward of the Mississippi by a reference to that river, instead of referring to it as divided into East and West Florida.

Observations on Article 3.

Although it may not be amiss to urge the claim of the United States to the Rio Bravo, and to propose that for the boundary, it is not expected that one more westwardly than the boundary delineated in this article will be favored by France or admitted by Spain.

ARTICLE 4.

It is agreed that a space extending thirty leagues on each side of the said boundary shall be kept by the parties respectively unsettled for the term of — years; or

That a space of thirty leagues on the side of the United States shall be unsettled for the term of —; or,

A space between the said boundary and some boundary beginning with a river eastward of the Colorado, and westward of the Sabine; or,

A space between the said boundary and the boundary beginning with the Sabine, and running thence from the source of the Sabine, a straight line, to the confluence of the rivers Osage and Missouri; and from the said confluence, a line running parallel with the Mississippi, to the latitude of its most northernmost source; and thence a meridian to the northern boundary of Louisiana.

ARTICLE 5.

[Here was inserted a copy of the provisions contained in the project of 1804, as to the interval not to be settled.]

Observations on Article 4.

These descriptions of a barrier interval are to be successively yielded according as Spain may be willing to cede therefor her territory eastward of the Mississippi, or to abate in the sum of money to be paid for East Florida, or to be liable in her engagements and provisions for indemnifying our citizens. It being impossible to foresee the various modifications and combinations which the subject may take in the course of negotiation, much must necessarily be left to your own judgment. It is to be understood that, in no event, the country eastward of the Sabine and the line from its source as above referred to, is to be included in the unsettled interval.

Mr. Armstrong to M. Yzquierdo.

PARIS, September 30, 1806.

The undersigned having been informed by the American chargé d'affaires at Madrid, that a minister had been appointed, on the part of His Catholic Majesty, to negotiate a settlement of the several points in controversy between the United States of America and His said Majesty; and having understood from His Majesty's ambassador at this court, that M. Yzquierdo was the minister thus appointed, it becomes the duty of the undersigned to inform his excellency that plenipotentiaries commissioned by the President of the United States to fulfil, on his part, this important object, are now in Paris, and equally prepared and disposed to enter on the proposed negotiation. The undersigned avails himself of this occasion to offer to M. Yzquierdo the assurance of his very high consideration.

JOHN ARMSTRONG,

Minister Plenipotentiary of the United States of America.

His Excellency M. YZQUIERDO, *Counsellor of State and of War.*

[TRANSLATION.]

M. Yzquierdo to General Armstrong.

PARIS, October 1, 1806.

The undersigned has received with interest the communications of his excellency General Armstrong, contained in his note of the 30th September last. He has the honor to make known to him that the negotiations on the different points in controversy between his Government and the United States of America are not within his actual political powers.

The undersigned profits of this occasion to present to his excellency General Armstrong the assurance of his high consideration.

E. YZQUIERDO, *Counsellor of State, &c.*

Extract:—The Secretary of State to Mr. Bowdoin.

MAY 25, 1807.

It is painful to find that the reserve and mystery which have so long enveloped our affairs with Spain still embarrass the efforts to bring them to a proper state. The protracted delay is certainly not a little hazardous to the peace of the two nations, which has thus far been preserved by the moderation of the United States, in spite of the folly of the other party. The conduct of Spain is not easily explained. Several causes have probably united in producing her obstinate repugnance to meet our reasonable overtures; perhaps the most powerful may have been a calculation that she would have, in any event, the support of one or the other of the two great rivals of Europe; and that her dexterity would be able to connect her with whichever of them should ultimately be ascendant. It would seem to be impossible, however, that a crisis can be much longer procrastinated. The obstructions which are thrown in the way of the trade through the Mobile, and even of the use of the river, by the Government of the United States for public purposes, are kindling a flame which will not be very manageable. The last letter from Mr. Erving, which was of —, communicated the Spanish decree, co-operating with that of November 21st by the French Emperor, which is in terms giving equal latitude with its prototype for depredations on our commerce, and which, if so executed, will add fuel to the flame. Mr. Erving promised that his next letter would not only give explanations on that subject, but have something to say as to our affairs generally with the Spanish Government.

Extract:—Mr. Madison, Secretary of State, to General Armstrong and Mr. Bowdoin.

DEPARTMENT OF STATE, July 15, 1807.

The enclosed copy of a proclamation, by the President, will inform you of a late extraordinary hostility and insult committed by a British ship of war on a frigate of the United States, near the capes of Virginia, and of the measures taken by the President in consequence of the outrage. The subsequent proceedings of the British squadron in our waters have borne a like stamp of hostility; and, although it may be found that these provocations have

not issued from, or may be disavowed and expiated by the British Government, it may also be found that the United States must take on themselves the reparation that is due to them. For this event it is necessary to be prepared, as well with a view to our finances as to other resources and arrangements.

In this state of things, the President, taking into consideration the objections to an application of the public funds to objects not immediately connected with the public safety, instructs you to suspend the negotiations for the purchase of the Floridas, unless it shall be agreed by Spain that payment for them shall, in case of a rupture between Great Britain and the United States, be postponed till the end of one year after they shall have settled their differences; and that, in the mean time, no interest shall be paid on the debt. You will, of course, understand it to be inconsistent with this instruction either to draw on the treasury, or to obtain a credit in Europe, for any part of the sum allotted for the purchase of the Floridas.

Should a bargain have been made for the Floridas, and payments stipulated, as contemplated by former instructions, you will press, in the most serious and emphatic manner, a re-modification of the terms which will adjust them to the instructions here given. Such a compliance may justly be expected in return for the advantages which Spain and her allies will derive in various respects from a contest between this country and their enemy. It may further be expected that, in consideration of these advantages to them, and of the general effect of war, or even a cessation of commerce with Great Britain, on the pecuniary faculties of the United States, the price demanded for the Floridas will be at least greatly reduced. To this consideration it may be added, that, whilst the pecuniary faculties of the United States will be so materially benumbed in the event of a rupture with Great Britain, those of Spain may be essentially aided, by the facility which that event will give to the command of her South American treasures through the United States. Finally, it is not unworthy of consideration, that the introduction of hostile relations between the United States and Great Britain, may remove objections hitherto felt by the latter to enterprises against the Floridas, and lead to a military occupancy of them with views very adverse to the policy of Spain.

Should Spain still obstinately persist in rejecting or retarding an arrangement concerning the Floridas, she must at least see the necessity of hastening a satisfactory one on other subjects, particularly in the case of the Mobile, for the free use of which, by the United States, orders ought to be sent without a moment's delay.

The President leaves to your own discretion the use to be made of observations of this kind, and entertains an entire confidence that your management of the whole business will be such as will best comport with the circumstances of the crisis, and conduce most to the object entrusted to you.

Extract:—Mr. Smith, Secretary of State, to General Armstrong.

DEPARTMENT OF STATE, *March 15, 1809.*

From the enclosed report of the Secretary of the Treasury, you will perceive that the appropriation of the two millions of dollars for the purchase of Florida, having expired on the 31st December last, has been carried to the credit of the surplus fund. From this and other considerations, it is deemed expedient, at present, to suspend the negotiation in relation to that subject.

Mr. Foster to Mr. Monroe.

SIR:

WASHINGTON, *July 2, 1811.*

The attention of His Majesty's Government has of late been called to the measures pursued by the United States for the military occupation of West Florida. The language held by the President at the opening of the late session of Congress, the hostile demonstrations made by the American forces under Captain Gaines, the actual summoning of the fort of Mobile, and the bill submitted to the approbation of the American Legislature for the interior administration of the province, are so many direct and positive proofs that the Government of America is prepared to subject the province of West Florida to the authority of the United States.

The Spanish minister in London, addressed a note, in the month of March last, to His Majesty's Secretary of State for Foreign Affairs, expressing, in sufficient detail, the feelings of the Government of Spain respecting this unprovoked aggression on the integrity of that monarchy.

Mr. Morier, in his note to Mr. Smith of December 15, 1810, has already reminded the American Government of the intimate alliance subsisting between His Majesty and Spain, and he has desired such explanations on the subject as might convince His Majesty of the pacific dispositions of the United States towards Spain. Mr. Smith, in his reply, has stated that it was evident that no hostile or unfriendly purpose was entertained by America towards Spain; and that the American minister at His Majesty's court had been enabled to make whatever explanations might comport with the frank and conciliatory spirit which had been invariably manifested on the part of the United States.

Since the date of this correspondence, Mr. Pinkney has offered no explanation whatever of the motives which have actuated the conduct of the United States in this transaction; a bill has been introduced into Congress for the establishment, government, and protection, of the territory of the Mobile, and the fortress of that name has been summoned without effect.

His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, is still willing to hope that the American Government has not been urged to this step by ambitious motives, or by a desire of foreign conquest and territorial aggrandizement. It would be satisfactory, however, to be enabled to ascertain that no consideration connected with the present state of Spain has induced America to despoil that monarchy of a valuable foreign colony.

The Government of the United States contends that the right to the possession of a certain part of West Florida will not be less open to discussion in the occupation of America than under the Government of Spain.

But the Government of the United States, under this pretext, cannot expect to avoid the reproach which must attend the ungenerous and unprovoked seizure of a foreign colony, while the parent State is engaged in a noble contest for independence, against a most unjustifiable and violent invasion of the rights both of the monarch and people of Spain.

While I wait, therefore, for an explanation from you, sir, as to the motives which led to this unjust aggression by the United States on the territories of His Majesty's ally, I must consider it as my duty to lose no time in fulfilling the orders of His Royal Highness the Prince Regent, by which I am commanded, in the event of its appearing on my arrival in this city that the United States still persevere, by menaces and actual demonstration, to claim the military occupation of West Florida, notwithstanding the remonstrances of His Majesty's *chargé des affaires*, and

the manifest injustice of the act, to present to you the solemn protest of His Royal Highness in the name and on the behalf of His Majesty, against an attempt so contrary to every principle of public justice, faith, and national honor, and so injurious to the alliance subsisting between His Majesty and the Spanish nation.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

DEPARTMENT OF STATE, July 8, 1811.

I have had the honor to receive the note which you have presented by the order of His Royal Highness the Prince Regent, to protest, in behalf of the Regency of Spain, against the possession lately taken by the United States of certain parts of West Florida.

Although the President cannot admit the right of Great Britain to interfere in any question relating to that province, he is willing to explain, in a friendly manner, the considerations which induced the United States to take the step against which you have been ordered to protest.

It is to be inferred, from your view of the subject, that the British Government has been taught to believe that the United States seized a moment of national embarrassment to wrest from Spain a province to which they had no right, and that they were prompted to it by their interest alone, and a knowledge that Spain could not defend it. Nothing, however, is more remote from the fact than the presumption on which your Government appears to have acted. Examples of so unworthy a conduct are unfortunately too frequent in the history of nations; but the United States have not followed them. The President had persuaded himself that the unequivocal proofs which the United States have given, in all their transactions with foreign Powers, and particularly with Spain, of an upright and liberal policy, would have shielded them from such unmerited a suspicion. He is satisfied that nothing is wanting but a correct knowledge of facts completely to dissipate it.

I might bring to your view a long catalogue of injuries which the United States have received from Spain since the conclusion of their revolutionary war, any one of which would most probably have been considered cause of war, and resented as such, by other Powers. I will mention two of these only; the spoiliations that were committed on their commerce to a great amount in the last war, and the suppression of their deposit at New Orleans just before the commencement of the present war, in violation of a solemn treaty; for neither of which injuries has any reparation or atonement been made. For injuries like those of the first class, it is known to you that Great Britain and France made indemnity. The United States, however, do not rely on these injuries for a justification of their conduct in this transaction, although their claims to reparation for them are by no means relinquished, and, it is to be presumed, will not always be neglected.

When I inform you that the province of West Florida to the Perdido was a part of Louisiana, while the whole province formerly belonged to France; that, although it was afterwards separated from the other part, yet that both parts were again reunited in the hands of Spain, and by her reconveyed to France, in which state the entire province of Louisiana was ceded to the United States in 1803; that, in accepting the cession and paying for the territory ceded, the United States understood and believed that they paid for the country as far as the Perdido, as part of Louisiana; and that, on a conviction of their right, they included in their laws provisions adapted to the cession in that extent, it cannot fail to be a cause of surprise to the Prince Regent that they did not proceed to take possession of the territory in question, as soon as the treaty was ratified. There was nothing in the circumstances of Spain at that time that could have forbidden the measure. In denying the right of the United States to this territory, her Government invited negotiation on that, and every other point, in contestation between the parties. The United States accepted the invitation in the hope that it would secure an adjustment and reparation for every injury which had been received, and lead to the restoration of perfect harmony between the two countries; but in that hope they were disappointed.

Since the year 1805, the period of the last negotiation with Spain, the province of West Florida has remained in a situation altogether incompatible with the welfare of these States. The Government of Spain has scarcely been felt there; in consequence of which the affairs of that province had fallen into disorder. Of that circumstance, however, the United States took no advantage. It was not until the last year, when the inhabitants, perceiving that all authority over them had ceased, rose in a body with intention to take the country into their own hands, that the American Government interposed. It was impossible for the United States to behold, with indifference, a movement in which they were so deeply interested. The President would have incurred the censure of the nation, if he had suffered that province to be wrested from the United States, under a pretext of wresting it from Spain. In taking possession of it, in their name, and under their authority, except in the part which was occupied by the Spanish troops, who have not been disturbed, he defended the rights and secured the peace of the nation, and even consulted the honor of Spain herself. By this event the United States have acquired no new title to West Florida. They wanted none. In adjusting hereafter all the other points which remain to be adjusted with Spain, and which it is proposed to make the subject of amicable negotiation as soon as the Government of Spain shall be settled, her claim to this territory may also be brought into view, and receive all the attention which is due to it.

Aware that this transaction might be misconceived and misrepresented, the President deemed it a proper subject of instruction to the ministers of the United States at foreign courts, to place it in a true light before them. Such an instruction was forwarded to Mr. Pinkney, their late minister plenipotentiary at London, who would have executed it, had not the termination of his mission prevented it. The President cannot doubt that the frank and candid explanation which I have now given, by his order, of the considerations which induced the United States to take possession of this country will be perfectly satisfactory to His Royal Highness the Prince Regent.

With great respect and consideration, I have the honor to be, sir, &c.

JAS. MONROE.

AUGUSTUS J. FOSTER, Esq., &c.

Mr. Foster to Mr. Monroe.

SIR:

PHILADELPHIA, September 5, 1811.

The Chevalier De Onis, who has been appointed minister from His Catholic Majesty to the United States, has written to inform me that he understands by letters from the Governor of East Florida, under date of the 14th ult., that Governor Matthews of the State of Georgia was at that time at Newtown, St. Mary's, on the frontiers of Florida, for the purpose of treating with the inhabitants of that province for its being delivered up to the United

States' Government; that he was, with this view, using every method of seduction to effect his purpose, offering to each white inhabitant, who would side with him, fifty acres of land, and the guarantee of his religion and property; stipulating, also, that the American Government would pay the debts of the Spanish Government, whether due in pensions or otherwise, and that he would cause the officers and soldiers of the garrisons to be conveyed to such place as should be indicated, provided they did not rather choose to enter into the service of the United States.

M. De Onis has done me the honor to communicate to me a note which he purposes transmitting to you, sir, in consequence of this detailed and most extraordinary intelligence, and considering the intimate alliance subsisting between Spain and Great Britain, as well as the circumstances under which he is placed in this country, he has urgently requested that I would accompany his representation with a letter on my part in support of it.

After the solemn asseverations, which you gave me in the month of July, that no intentions hostile to the Spanish interests in Florida existed on the part of your Government, I am wholly unable to suppose that Governor Matthews can have had orders from the President for the conduct which he is stated to be pursuing; but the measures he is said to be taking in corresponding with traitors, and in endeavoring, by bribery and every art of seduction, to infuse a spirit of rebellion into the subjects of the King of Spain in those quarters, are such as to create the liveliest inquietude, and to call for the most early interference on the part of the Government of the United States.

The Government of the United States are well aware of the deep interest which His Royal Highness the Prince Regent takes in the security of Florida, for any attempt to occupy the eastern part of which by the United States, not even the slightest pretext could be alleged, such as were brought forward in the endeavor to justify the aggression on West Florida.

I conceive it, therefore, to be my duty, sir, in consideration of the alliance subsisting between Spain and Great Britain, and the interests of His Majesty's subjects in the West India islands, so deeply involved in the security of East Florida, as well as in pursuance of the orders of my Government, in case of any attempt against that country, to lose no time in calling upon you for an explanation of the alarming steps which Governor Matthews is stated to be taking for subverting the Spanish authority in that country, requesting to be informed by you upon what authority he can be acting, and what measures have been taken to put a stop to his proceedings.

I have the honor to be, &c.

AUGUSTUS J. FOSTER.

The Hon. JAMES MONROE, &c.

Mr. Monroe to Mr. Foster.

SIR:

NOVEMBER 2, 1811.

I have had the honor to receive your letter of September 5th, and to submit it to the view of the President. The principles which have governed the United States in their measures relative to West Florida have already been explained to you. With equal frankness I shall now communicate the part they have acted with respect to East Florida.

In the letter which I had the honor to address to you on the 8th of July, I stated the injuries which the United States had received from Spain, since their revolutionary war, and particularly by spoliations on their commerce in the last war, to great amount, and of the suppression of their right of deposit at New Orleans, just before the commencement of the present war, for neither of which had reparation been made. A claim to indemnity for these injuries is altogether unconnected with the question relating to West Florida, which was acquired by cession from France in 1803.

The Government of Spain has never denied the right of the United States to a just indemnity for spoliations on their commerce. In 1802, it explicitly admitted this right by entering into a convention, the object of which was to adjust the amount of the claim, with a view to indemnity. The subsequent injury, by the suppression of the deposit at New Orleans, produced an important change in the relations between the parties, which has never been accommodated. The United States saw in that measure eminent cause of war, and that war did not immediately follow cannot be considered in any other light than as a proof of their moderation and pacific policy. The Executive could not believe that the Government of Spain would refuse to the United States the justice due to these accumulated injuries, when the subject should be brought solemnly before it, by a special mission. It is known that an envoy extraordinary was sent to Madrid, in 1805, on this subject, and that the mission did not accomplish the object intended by it.

It is proper to observe that, in the negotiation with Spain, in 1805, the injuries complained of by the United States of the first class, were again substantially admitted to a certain extent, as was that also occasioned by the suppression of the deposit at New Orleans, although the Spanish Government, by disclaiming the act, and imputing it to the Intendant, sought to avoid the responsibility due from it; that, to make indemnity to the United States for injuries of every kind a cession of the whole territory claimed by Spain eastward of the Mississippi was made the subject of negotiation, and that the amount of the sum demanded for it was the sole cause that a treaty was not then formed, and the territory ceded.

The United States have considered the Government of Spain indebted to them a greater sum for the injuries above stated, than the province of East Florida can, by any fair standard between the parties, be estimated at. They have looked to this province for their indemnity, and, with the greater reason, because the Government of Spain itself has countenanced it. That they have suffered their just claims to remain so long unsatisfied, is a new and strong proof of the moderation, as it is of their respect for the disordered condition of that Power. There is, however, a period beyond which those claims ought not to be neglected. It would be highly improper for the United States, in their respect for Spain, to forget what they owe to their own character, and to the rights of their injured citizens.

Under these circumstances, it would be equally unjust and dishonorable in the United States to suffer East Florida to pass into the possession of any other Power. Unjust, because they would thereby lose the only indemnity within their reach, for injuries which ought long since to have been redressed. Dishonorable, because in permitting another Power to wrest from them that indemnity, their inactivity and acquiescence could only be imputed to unworthy motives. Situated as East Florida is, cut off from the other possessions of Spain, and surrounded in a great measure by the territory of the United States, and having also an important bearing on their commerce, no other Power could think of taking possession of it, with other than hostile views to them. Nor could any other Power take possession of it without endangering their prosperity and best interests.

The United States have not been ignorant or inattentive to what has been agitated in Europe, at different periods, since the commencement of the present war, in regard to the Spanish provinces in this hemisphere; nor have they been unmindful of the consequences into which the disorders of Spain might lead, in regard to the provinces in question, without due care to prevent it. They have been persuaded that remissness on their part might invite the danger, if it had not already done it, which it is so much their interest and desire to prevent. Deeply

impressed with these considerations, and anxious, while they acquitted themselves to the just claims of their constituents, to preserve friendship with other Powers, the subject was brought before the Congress at its last session, when an act was passed authorizing the Executive to accept possession of East Florida from the local authorities, or to take it against the attempt of a foreign Power to occupy it, holding it in either case subject to future and friendly negotiation. This act, therefore, evinces the just and amicable views by which the United States have been governed towards Spain, in the measure authorized by it. Our ministers at London and Paris were immediately apprized of the act, and instructed to communicate the purport of it to both Governments, and to explain, at the same time, in the most friendly manner, the motives which led to it. The President could not doubt that such an explanation would give all the satisfaction that was intended by it. By a late letter from the American chargé d'affaires at London, I observe that this explanation was made to your Government in the month of — last. That it was not sooner made was owing to the departure of the minister plenipotentiary of the United States before the instruction was received.

I am persuaded, sir, that you will see, in this view of the subject, very strong proof of the just and amicable disposition of the United States towards Spain, of which I treated in the conference to which you have alluded. The same disposition still exists, but it must be understood that it cannot be indulged longer than may comport with the safety as well as with the rights and honor of the nation.

I have the honor to be, &c.

JAS. MONROE.

12th CONGRESS.]

No. 244.

[1st SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, MARCH 9 AND 13, 1812.

MARCH 9, 1812.

To the Senate and House of Representatives of the United States:

I lay before Congress copies of certain documents, which remain in the Department of State. They prove that, at a recent period, whilst the United States, notwithstanding the wrongs sustained by them, ceased not to observe the laws of peace and neutrality towards Great Britain; and in the midst of amicable professions and negotiations on the part of the British Government, through its public minister here, a secret agent of that Government was employed in certain States, more especially at the seat of Government in Massachusetts, in fomenting disaffection to the constituted authorities of the nation; and in intrigues with the disaffected, for the purpose of bringing about resistance to the laws, and, eventually, in concert with a British force, of destroying the Union and forming the eastern part thereof into a political connexion with Great Britain.

In addition to the effect which the discovery of such a procedure ought to have on the public councils, it will not fail to render more dear to the hearts of all good citizens, that happy union of these States which, under divine Providence, is the guarantee of their liberties, their safety, their tranquillity, and their prosperity.

JAMES MADISON.

To the Senate of the United States:

MARCH 12, 1812.

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 10th instant.*

JAMES MADISON.

Mr. Henry to Mr. Monroe.

PHILADELPHIA, February 20, 1812.

SIR:

Much observation and experience have convinced me, that the injuries and insults with which the United States have been so long and so frequently visited, and which cause their present embarrassment, have been owing to an opinion entertained by foreign States, "that in any measure tending to wound their pride, or provoke their hostility, the Government of this country could never induce a great majority of its citizens to concur." And as many of the evils which flow from the influence of this opinion on the policy of foreign nations may be removed by any act that can produce *unanimity among all parties in America*, I voluntarily tender to you, sir, such means as I possess towards promoting so desirable and so important an object; which, if accomplished, cannot fail to extinguish, perhaps forever, those expectations abroad, which may protract indefinitely an accommodation of existing differences, and check the progress of industry and prosperity in this rising empire.

I have the honor to transmit, herewith, the documents and correspondence relating to an important mission, in which I was employed by Sir James Craig, the late Governor General of the British provinces in North America, in the winter of the year 1809.

The publication of these papers will demonstrate a fact, not less valuable than the good already proposed; it will prove that no reliance ought to be placed on the professions of good faith of an administration which, by a series of disastrous events, has fallen into such hands as a Castlereagh, a Wellesley, or a Liverpool. I should rather say into the hands of the stupid subalterns, to whom the pleasures and the indolence of those ministers have consigned it.

* This resolution was adopted on the motion of Mr. Lloyd, as follows:

Resolved, That the Secretary of State be directed to lay before the Senate the names of any and all persons in the United States, and especially in the State of Massachusetts, who have in any way or manner whatever entered into, or most remotely countenanced, the project or the views, for the execution or attainment of which John Henry was, in the year 1809, employed by Sir James Craig, then Governor General of the British provinces in North America, and which have, this day, been communicated to the Senate of the United States.

In contributing to the good of the United States, by an exposition which cannot, I think, fail to solve and melt all division and disunion among its citizens, I flatter myself with the fond expectation that, when it is made public in England, it will add one great motive to the many that already exist, to induce that nation to withdraw its confidence from men, *whose political career is a fruitful source of injury and embarrassment in America; of injustice and misery in Ireland; of distress and apprehension in England; and contempt every where.*

In making this communication to you, sir, I deem it incumbent upon me distinctly and unequivocally to state that I adopt no party views; that I have not changed any of my political opinions; that I neither seek nor desire the patronage nor countenance of any Government, nor of any party; and that, in addition to the motives already expressed, *I am influenced by a just resentment of the perfidy and dishonor of those who first violated the conditions upon which I received their confidence; who have injured me and disappointed the expectations of my friends; and left me no choice but between a degrading acquiescence in injustice and a retaliation which is necessary to secure to me my own respect.*

This wound will be felt where it is merited, and if *Sir James Craig* still live, his share of the pain will excite no sympathy among those who are at all in the secret of our connexion.

I have the honor to be, sir, your most obedient servant, &c.

J. HENRY.

To JAMES MONROE, *Secretary of State.*

Mr. Ryland, Secretary to Sir James Craig, Governor General of Canada, to Mr. Henry.

[Most secret and confidential.]

MY DEAR SIR:

QUEBEC, *January 26, 1809.*

The extraordinary situation of things at this time in the neighboring States has suggested to the Governor-in-chief the idea of employing you on a secret and confidential mission to Boston, provided an arrangement can be made to meet the important end in view, without throwing an absolute obstacle in the way of your professional pursuits. *The information and political observations heretofore received from you were transmitted by his excellency to the Secretary of State, who has expressed his particular approbation of them, and there is no doubt that your able execution of such a mission as I have above suggested would give you a claim not only on the Governor General, but on His Majesty's ministers, which might eventually contribute to your advantage.* You will have the goodness, therefore, to acquaint me, for his excellency's information, whether you could make it convenient to engage in a mission of this nature, and what pecuniary assistance would be requisite to enable you to undertake it without injury to yourself.

At present it is only necessary for me to add, that the Governor would furnish you with a cipher for carrying on your correspondence, and that in case the leading party in any of the States wished to open a communication with this Government, their views might be communicated through you.

I am, with great regard, my dear sir, your most faithful humble servant,

HERMAN W. RYLAND.

JOHN HENRY, Esq.

Sir James Craig, Governor General of Canada, to Mr. Henry.

[Most secret and confidential.]

SIR:

QUEBEC, *February 6, 1809.*

As you have so readily undertaken the service which I have suggested to you as being likely to be attended with much benefit to the public interest, I am to request that, with your earliest convenience, you will proceed to Boston.

The principal object that I recommend to your attention, is the endeavor to obtain the most accurate information of the true state of affairs in that part of the Union, which, from its wealth, the number of its inhabitants, and the known intelligence and ability of several of its leading men, must naturally possess a very considerable influence over, and will, indeed, probably lead, the other Eastern States of America, in the part that they may take at this important crisis. I shall not pretend to point out to you the mode by which you will be most likely to obtain this important information; your own judgment, and the connexions which you may have in the town, must be your guide. I think it, however, necessary to put you on your guard against the sanguineness of an aspiring party. The federalists, as I understand, have, at all times, discovered a leaning to this disposition, and their being under its particular influence at this moment is the more to be expected, from their having no ill-founded ground for their hopes of being nearer the attainment of their object than they have been for some years past.

In the general terms which I have made use of in describing the object which I recommend to your attention, it is scarcely necessary that I should observe, I include the state of public opinion, both with regard to their internal politics and to the probability of a war with England, the comparative strength of the two great parties into which the country is divided, and the views and designs of that which may ultimately prevail.

It has been supposed that if the federalists of the Eastern States should be successful in obtaining that decided influence which may enable them to direct the public opinion, it is not improbable that, rather than submit to a continuance of the difficulties and distress to which they are now subject, they will exert that influence to bring about a separation from the general Union. The earliest information on this subject, may be of great consequence to our Government, as it may also be that it should be informed *how far, in such an event, they would look up to England for assistance, or be disposed to enter into a connexion with us.*

Although it would be highly inexpedient that you should, in any manner, appear as an avowed agent, yet if you could contrive to obtain an intimacy with any of the leading party, it may not be improper that you should insinuate, though with great caution, that if they should wish to enter into any communication with our Government through me, you are authorized to receive any such, and will safely transmit it to me, and as it may not be impossible that they should require some document by which they may be assured that you are really in the situation in which you represent yourself, I enclose a credential to be produced in that view, but I most particularly enjoin and direct that you do not make any use of this paper unless a desire to that purpose should be expressed, and *unless you see good ground for expecting that the doing so may lead to a more confidential communication than you can otherwise look for.*

In passing through the State of Vermont, you will, of course, exert your endeavors to procure all the information that the short stay you will probably make there will admit of. You will use your own discretion as to delay-

ng your journey with this view, more or less in proportion to your prospects of obtaining any information of consequence.

I request to hear from you as frequently as possible, and as letters directed to me might excite suspicion, it may be as well that you put them under cover to Mr. ———, and as even the addressing letters always to the same person might attract notice, I recommend your sometimes addressing your packet to the Chief Justice here, or occasionally, though seldom, to Mr. Ryland, but never with the addition of his official description.

I am, sir, your most obedient humble servant,

J. H. CRAIG.

JOHN HENRY, Esq.

Copy of the "credential" given by Sir James Craig to Mr. Henry.

The bearer, Mr. John Henry, is employed by me, and full confidence may be placed in him for any communication which any person may wish to make to me *in the business committed to him*. In faith of which I have given him this under my hand and seal at Quebec, the 6th day of February, 1809.

J. H. CRAIG.

[Copies of the letters from Mr. Henry to Sir James Craig, relative to his mission to the United States, in the year 1809.]

No. 1.

Answer to the letter of Mr. Secretary Ryland, proposing the mission, &c.

SIR:

MONTREAL, *January 31, 1809.*

I have to acknowledge the favor of your letter of the 26th inst., written by the desire of his excellency the Governor-in-chief, and hasten to express, through you, to his excellency, my readiness to comply with his wishes.

I need not add how very flattering it is to receive from his excellency the assurance of the approbation of His Majesty's Secretary of State, for the very humble services that I may have rendered.

If the nature of the service in which I am to be engaged will require no other disbursements than for my individual expenses, I do not apprehend that these can exceed my private resources.

I shall be ready to take my departure before my instructions can be made out.

I have the honor to be your most obedient servant,

J. H.

H. W. RYLAND, Esq. *Secretary, &c.*

No. 2.

To His Excellency the Governor General, &c., in answer to his letter of instructions, &c.

SIR:

MONTREAL, *February 10, 1809.*

I have the honor to acknowledge the receipt of your excellency's letter of instructions, the letter of credence, and the cipher for carrying on my correspondence. I have bestowed much pains upon the cipher, and am, notwithstanding this, deficient in some points which might enable me to understand it clearly. I have compared the example with my own exemplification of the cipher, and find a difference in the results; and as the present moment seems favorable to the interference of His Majesty's Government in the measures pursued by the federal party in the Northern States, and more especially as the Assembly of Massachusetts is now in session, I think it better to set forward immediately, than wait for any further explanation of the means of carrying on a secret correspondence, which the frequency of safe private conveyances to Canada will render almost wholly unnecessary. Should it, however, be necessary at any time, I take leave to suggest that the index alone furnishes a very safe and simple mode. In it there is a number for every letter in the alphabet, and particular numbers for particular phrases; so that when I do not find in the index the particular word I want, I can spell it with the figures which stand opposite to the letters. For example, if I want to say that "troops are at Albany," I find under the letter T, that No. 16 stands for "troops," and number 125 for "Albany;" the intervening words "are at" I supply by figures corresponding with the letters in these words.

It will be necessary to provide against accident by addressing the letters to Mr. ———, of Montreal, with a small mark on the corner of the envelope, which he will understand. When he receives it he will then address the enclosure to your excellency, and send it from Montreal by mail. I will be careful not to address your excellency in the body of the letter, nor sign my name to any of them. They will be merely designated by the initials A. B.

If this mode should, in any respect, appear exceptionable, your excellency will have the goodness to order a more particular explanation of the card. It would reach me in safety enclosed to—— Boston.

I have the honor to be, with profound respect, your excellency's most obedient servant, &c.

J. H.

No. 3.

BURLINGTON, VERMONT, *February 14, 1809.*

SIR:

I have remained here two days in order fully to ascertain the progress of the arrangements heretofore made for organizing an efficient opposition to the General Government, as well as to become acquainted with the opinions of the leading people relative to the measures of that party which has the ascendant in the national councils.

On the subject of the embargo laws there seems to be but one opinion: namely, that they are unnecessary, oppressive, and unconstitutional. It must also be observed, that the execution of them is so invidious as to attract towards the officers of Government the enmity of the people, which is of course transferable to the Government itself; so that in case the State of Massachusetts should take any bold step towards resisting the execution of these laws, it is highly probable that it may calculate upon the hearty co-operation of the people of Vermont.

I learn that the Governor of this State is now visiting the towns in the northern section of it, and makes no secret of his determination, as commander-in-chief of the militia, to refuse obedience to any command from the General Government which can tend to interrupt the good understanding that prevails between the citizens of Vermont and His Majesty's subjects in Canada. It is further intimated that, in case of a war, he will use his

nfluence to preserve this State *neutral*, and resist, with all the force he can command, any attempt to make it a party. I need not add that, if these resolutions are carried into effect, the State of Vermont may be considered as an ally of Great Britain.

To what extent the sentiments which prevail in this quarter exist in the neighboring States, or even in the eastern section of this State, I am not able to conjecture. I only can say with certainty, that the leading men of the federal party act in concert; and therefore infer that a common sentiment pervades the whole body throughout New England.

I have seen a letter from a gentleman now in Washington to his correspondent in this place; and, as its contents may serve to throw some light on passing events there, I shall send either the original, or a copy, with this despatch. The writer of the letter is a man of character and veracity; and whether competent or not to form correct opinions himself is probably within the reach of all the knowledge that can be obtained by the party to which he belongs.

It appears by his statement that there is a very formidable majority in Congress on the side of the administration; notwithstanding which, there is every reason to hope, that the Northern States, in their distinct capacity, will unite, and resist, by force, a war with Great Britain. In what mode this resistance will first show itself is probably not yet determined upon; and may, in some measure, depend upon the reliance, that the leading men may place upon assurances of support from His Majesty's representative in Canada; and as I shall be on the spot to tender this whenever the moment arrives that it can be done with effect, there is no doubt that all their measures may be made subordinate to the intentions of His Majesty's Government. Great pains are taken by the men of talents and intelligence to confirm the fears of the common people, as to the concurrence of the southern democrats in the projects of France; and every thing tends to encourage the belief, that the dissolution of the confederacy will be accelerated by the spirit which now actuates both political parties.

I am, &c.

A. B.

No. 4.

WINDSOR, VERMONT, *February 19, 1809.*

SIR:

My last (No. 3.) was written at Burlington, the principal town in the northern part of the State of Vermont. I am now at the principal town in the eastern section.

The fallacy of men's opinions, when they act under the influence of sensibility, and are strongly excited by those hopes which always animate a rising party, led me to doubt the correctness of the opinions which I received in the northern section of this State; which from its contiguity to Canada and necessary intercourse with Montreal, has a stronger interest in promoting a good understanding with His Majesty's Government. Therefore, since my departure from Burlington, I have sought every favorable occasion of conversing with the democrats on the probable result of the policy adopted by the General Government. The difference of opinion is thus expressed. The federal party declare that, in the event of a war, the State of Vermont will treat separately for itself with Great Britain; and support to the utmost the stipulations into which it may enter, without any regard to the policy of the General Government. The democrats, on the other hand, assert, that in such a case as that contemplated, the people would be nearly divided into equal numbers; one of which would support the Government, if it could be done without involving the people in a civil war, but, at all events, would risk every thing in preference to a coalition with Great Britain. This difference of opinion is not to be wholly ascribed to the prejudices of party. The people in the eastern section of Vermont are not operated upon by the same hopes and fears as those on the borders of the British colony. They are not dependent on Montreal for the sale of their produce nor the supply of foreign commodities. They are not apprehensive of any serious dangers or inconvenience from a state of war; and although they admit that the Governor, council, and three-fourths of the representation in Congress are of the federal party, yet they do not believe that the State would stand alone and resist the National Government. They do not, however, deny that, should the State of Vermont continue to be represented as it is at present, it would in all probability unite with the neighboring States in any serious plan of resistance to a war which it might seem expedient to adopt. This, I think, is the safer opinion for you to rely on; if, indeed, reliance ought to be placed on any measure depending upon the will of the rabble, which is ever changing, and must ever be marked with ignorance, caprice, and inconsistency. As the crisis approaches, the difficulty of deciding upon a hazardous alternative will increase; and unfortunately, there is not in Vermont any man of commanding talents capable of attracting *general confidence*, of infusing into the people his own spirit; and, amidst the confusion of conflicting opinions, dangers, and commotion, competent to lead in the path of duty or safety. The Governor is an industrious, prudent man, and has more personal influence than any other; but his abilities are not suited to the situation in which a civil war would place him.

I am, &c.

A. B.

No. 5.

AMHERST, NEW HAMPSHIRE, *February 23, 1809.*

SIR:

A gentleman going direct to Canada affords a safe and favorable opportunity of giving you some further account of my progress.

I will not make use of the post-offices when I can avoid it, because private occasions supersede the necessity of writing in cipher; and the contempt of decency and principle, which forms part of the morals of the subaltern officers of a democracy, would incline them to break a seal with the same indifference that they break their words, when either curiosity or interest is to be indulged.

I have not had sufficient time nor evidence to enable me *to form any opinion for myself*, of the lengths to which the federal party will carry their opposition to the National Government in the event of a war; much may be inferred from the result of the election of Governors which, within two months, will be made in the States of Massachusetts, New Hampshire, and Rhode Island. From all I know, and all I can learn of the General Government, I am not apprehensive of an immediate war. The embargo is the favorite measure; and it is probable that other means will be employed to excite England to commit some act of hostility, for the sole purpose of placing the responsibility of war on that country. This I most particularly recommend to the consideration of ministers. The dread of opposition, and of the loss of popularity, will certainly keep the ruling party at Washington inactive. They will risk any thing but the loss of power; and they are well aware, that their power would pass away with the first calamity which their measures might bring upon the common people, from whom that power emanates, unless, indeed, they could find a sufficient excuse in the conduct of Great Britain. This impression cannot be too deeply felt by His Majesty's ministers; nor too widely spread throughout the British nation. It will furnish a sure guide in every policy that may be adopted towards the United States.

I have the honor to be, &c.

A. B.

No. 6.

Sir:

BOSTON, *March 5, 1809.*

I am favored with another opportunity of writing to you by a private conveyance; and think it probable, at this season, that the frequency of these will render it unnecessary to write to you in cipher.

It does not yet appear necessary that I should discover to any person the purpose of my visit to Boston; nor is it probable that I shall be compelled, for the sake of gaining more knowledge of the arrangements of the federal party in these States, to avow myself as a regular authorized agent of the British Government, even to those individuals who would feel equally bound with myself to preserve, with the utmost inscrutability, so important a secret from the public eye. *I have sufficient means of information to enable me to judge of the proper period for offering the co-operation of Great Britain, and opening a correspondence between the Governor General of British America, and those individuals who, from the part they take in the opposition to the National Government, or the influence they may possess in any new order of things that may grow out of the present differences, should be qualified to act on behalf of the Northern States.* An apprehension of any such state of things as is pre-supposed by these remarks, begins to subside, since it has appeared, by the conduct of the General Government, that it is seriously alarmed at the menacing attitude of the Northern States. But, although it is believed, that there is no probability of an immediate war, yet no doubts are entertained that Mr. Madison will fall upon some new expedients to bring about hostilities. What these may be, can only be deduced from what appears to be practicable. A *non-intercourse* with England and France will probably supersede the embargo; which, by opening with the rest of Europe a partial, legitimate commerce, and offering strong temptations to that which is illegal, will expose the vessels to capture, detention, and embarrassment; will justify the present policy, and produce such a degree of irritation and resentment as will enable the Government of this country to throw the whole blame and responsibility of war from its own shoulders upon those of the British ministry. If, in this, the party attached to France should calculate with correctness, and the commerce of New England should greatly suffer, the merchants, being injured and discouraged, would not only acquiesce in the restrictive system, but even submit to war. On the other hand, should the small traffic, permitted by a non-intercourse law, be lucrative and uninterrupted, the people would be clamorous for more, and soon compel the Government to restore the friendly relations between the two countries.

While I offer my opinion upon this subject, I cannot but express a strong hope, that, if any terms should be proposed by either Government, to which the other might think proper to accede, that a principal motive to the adjustment of differences should be understood to arise from the amicable disposition of the Eastern States, particularly of the State of Massachusetts. This, as it would increase the popularity of the friends of Great Britain, could not fail to promote her interests. If it could not be done formally and officially, nor in a correspondence between ministers, still, perhaps, the administration in the Parliament of Great Britain might take that ground, and the suggestion would find its way into the papers both in England and America.

It cannot be too frequently repeated, that this country can only be governed and directed by the influence of opinion, as there is nothing permanent in its political institutions; nor are the populace, under any circumstances, to be relied on, when measures become inconvenient and burthensome. I will soon write again, and am

Yours, &c.

A. B.

(In cipher.)

No. 7.

Sir:

BOSTON, *March 7, 1809.*

I have now ascertained, with as much accuracy as possible, the course intended to be pursued by the party in Massachusetts that is opposed to the measures and politics of the administration of the General Government.

I have already given a decided opinion that a declaration of war is not to be expected; but, contrary to all reasonable calculation, should the Congress possess spirit and independence enough to place their popularity in jeopardy by so strong a measure, the Legislature of Massachusetts will give the tone to the neighboring States, will declare itself permanent until a new election of members, invite a Congress, to be composed of delegates from the federal States, and erect a separate Government for their common defence and common interest. This Congress would probably begin by abrogating the offensive laws, and adopting a plan for the maintenance of the power and authority thus assumed. They would, by such an act, be in a condition to make or receive proposals from Great Britain; and I should seize the first moment to open a correspondence with your excellency. Scarce any other aid would be necessary, and perhaps none required, than a few vessels of war from the Halifax station, to protect the maritime towns from the little navy which is at the disposal of the National Government. What permanent connexion between Great Britain and this section of the republic would grow out of a civil commotion, such as might be expected, no person is prepared to describe; but it seems that a strict alliance must result of necessity. At present the opposition party confine their calculations merely to resistance; and I can assure you that, at this moment, they do not freely entertain the project of withdrawing the Eastern States from the Union, finding it a very unpopular topic; although a course of events, such as I have already mentioned, would inevitably produce an incurable alienation of the New England from the Southern States.

The truth is, the common people have so long regarded the constitution of the United States with complacency, that they are now only disposed in this quarter to treat it like a truant mistress, whom they would for a time put away on a separate maintenance, but, without further and greater provocation, would not absolutely repudiate.

It will soon be known in what situation public affairs are to remain until the meeting of the new Congress in May, at which time, also, this Legislature will again assemble. The two months that intervene will be a period of much anxiety.

In all I have written I have been careful not to make any impression analogous to the enthusiastic confidence entertained by the opposition, nor to the hopes and expectations that animate the friends of an alliance between the Northern States and Great Britain.

I have abstracted myself from all the sympathies these are calculated to inspire; because, notwithstanding that I feel the utmost confidence in the integrity of intention of the leading characters in this political drama, I cannot forget that they derive their power from a giddy, inconstant multitude; who, unless in the instance under consideration they form an exception to all general rules and experience, will act inconsistently and absurdly.

I am yours, &c.

A. B.

No. 8.

BOSTON, *March 9, 1809.*

SIR:

In my letter No. 6, I took the liberty to express my opinion of the probable effect of the non-intercourse law, intended to be enacted; and of the mode by which Great Britain may defeat the real intention of the American Government in passing it. But as the sort of impunity recommended might, in its application to every species of commerce that would be carried on, be deemed by Great Britain a greater evil than war itself, a middle course might easily be adopted, which would deprive France of the benefits resulting from an intercourse with America, without, in any great degree, irritating the maritime States.

The high price of all American produce in France furnishes a temptation which mercantile avarice will be unable to resist. The consequence is obvious. But if, instead of condemning the vessels and cargoes which may be arrested in pursuing this prohibited commerce, they should be compelled to go into a British port, and there permitted to sell them, I think the friends of England in these States would not utter a complaint. Indeed, I have no doubt that if, in the prosecution of a lawful voyage, the British cruisers should treat the American ships in this manner, their owners would, in the present state of the European markets, think themselves very fortunate, as it would save them the trouble and expense of landing them in a neutral port, and from thence re-shipping them to England, now the best market in Europe for the produce of this country. The Government of the United States would probably complain, and Bonaparte become peremptory; but even that would only tend to render the opposition in the Northern States more resolute, and accelerate the dissolution of the confederacy. The generosity and justice of Great Britain would be extolled; and the commercial States exult in the success of individuals over a Government inimical to commerce, and to whose measures they can no longer submit with patient acquiescence. The elections are begun; and I presume no vigilance or industry will be remitted to insure the success of the federal party.

I am, &c.

A. B.

P. S. Intelligence has reached Boston that a non-intercourse law has actually passed, and that Martinique has surrendered to the British forces.

No. 9.

BOSTON, *March 13, 1809.*

SIR:

You will perceive, from the accounts that will reach you in the public papers, both from Washington and Massachusetts, that the federalists of the Northern States have succeeded in making the Congress believe that, with such an opposition as they would make to the General Government, a war must be confined to their own territory, and might be even too much for that Government to sustain. The consequence is, that, after all the parade and menaces with which the session commenced, it has been suffered to end without carrying into effect any of the plans of the administration, except the interdiction of commercial intercourse with England and France, an event that was anticipated in my former letters.

Under what new circumstances the Congress will meet in May, will depend on the State elections and the changes that may in the mean time take place in Europe. With regard to Great Britain, she can scarce mistake her true policy in relation to America. If peace be the first object, every act which can irritate the maritime States ought to be avoided, because the prevailing disposition of these will generally be sufficient to keep the Government from hazarding any hostile measures. If a war between America and France be the grand desideratum, something more must be done: an indulgent and conciliatory policy must be adopted, which will leave the democrats without a pretext for hostilities; and Bonaparte, whose passions are too hot for delay, will probably compel this Government to decide which of the two great belligerents is to be its enemy. To bring about a separation of the States, under distinct and independent Governments, is an affair of more uncertainty, and, however desirable, cannot be effected but by a series of acts and a long continued policy tending to irritate the Southern and conciliate the Northern people. The former are agricultural, the latter a commercial people. The mode of cherishing and depressing either is too obvious to require illustration. This, I am aware, is an object of much interest in Great Britain, as it would forever secure the integrity of His Majesty's possessions on this continent, and make the two Governments, or whatever number the present confederacy might form into, as useful and as much subject to the influence of Great Britain as her colonies can be rendered. But it is an object only to be attained by slow and circumspect progression, and requires for its consummation more attention to the affairs which agitate and excite parties in this country than Great Britain has yet bestowed upon it.

An unpopular war, that is, a war produced by the hatred and prejudices of one party, but against the consent of the other party, can alone produce a sudden separation of any section of this country from the common head.

At all events, it cannot be necessary to the preservation of peace that Great Britain should make any great concession at the present moment, more especially, as the more important changes that occur in Europe might render it inconvenient for her to adhere to any stipulations in favor of neutral maritime nations.

Although the non-intercourse law affords but a very partial relief to the people of this country from the evils of that entire suspension of commerce to which they have reluctantly submitted for some time past, I lament the repeal of the embargo, because it was calculated to accelerate the progress of these States towards a revolution that would have put an end to the only republic that remains to prove that a Government founded on political equality can exist in a season of trial and difficulty, or is calculated to insure either security or happiness to a people.

I am, &c.

A. B.

No. 10.

BOSTON, *March 29, 1809.*

SIR:

Since my letter of the 13th nothing has occurred which I thought worthy of a communication.

The last weeks of this month and the first of April will be occupied in the election of Governors and other executive officers in the New England States.

The federal candidate in New Hampshire is already elected by a majority of about one thousand votes. His competitor was a man of large fortune, extensive connexions, and inoffensive manners. These account for the smallness of the majority.

In Connecticut no change is necessary, and none is to be apprehended.

In Rhode Island it is of no consequence of what party the Governor is a member, as he has neither civil nor military power, being merely President of the Council.

In Massachusetts it is certain that the federal candidate will succeed.

A few weeks will be sufficient in order to determine the relative strength of parties, and convince Mr. Madison that a war with Great Britain is not a measure upon which he dare venture. Since the plan of an organized opposition to the projects of Mr. Jefferson was put into operation, the whole of the New England States have transferred their political power to his political enemies; and the reason that he has still so many adherents is, that those who consider the only true policy of America to consist in the cultivation of peace, have still great confidence that nothing can force him (or his successor, who acts up to his system, or rather is governed by it,) to consent to war. They consider all the menaces and "dreadful note of preparation" to be a mere finesse, intended only to obtain concessions from England on cheap terms. From every sort of evidence, I confess I am myself of the same opinion, and am fully persuaded that this farce, which has been acting at Washington, will terminate in a full proof of the imbecility and spiritless temper of the actors. A war attempted without the concurrence of both parties, and the general consent of the Northern States, which constitute the bone and muscle of the country, must commence without hope, and end in disgrace. It should, therefore, be the peculiar care of Great Britain to foster divisions between the North and South, and, by succeeding in this, she may carry into effect her own projects in Europe, with a total disregard of the resentments of the democrats of this country.

I am, &c.

A. B.

No. 11.

SIR:

BOSTON, April 13, 1809.

I send to Mr. R—— a pamphlet entitled "Suppressed Documents." The notes and comments were written by the gentleman who has written the analysis which I sent by a former conveyance. These works have greatly contributed to excite the fears of the men of talents and property, who now *prefer the chance of maintaining their party by open resistance and a final separation*, to an alliance with France and a war with England; so that, should the Government unexpectedly, and contrary to all reasonable calculation, attempt to involve the country in a measure of that nature, I am convinced (now that the elections have all terminated favorably) that none of the New England States would be a party in it. But, as I have repeatedly written, the General Government does not seriously entertain any such desire or intention. Had the majority in the New England States continued to approve of the public measures, it is extremely probable that Great Britain would now have to choose between war and concession. But the aspect of things in this respect is changed, and a war would produce an incurable alienation of the Eastern States, and bring the whole country in subordination to the interests of England, whose navy would prescribe and enforce the terms upon which the commercial States should carry, and the agricultural States export, their surplus produce. All this is as well known to the democrats as to the other party; therefore, they will avoid a war, at least until the whole nation is unanimous for it. Still, when we consider of what materials the Government is formed, it is impossible to speak with any certainty of their measures. The past administration, in every transaction, presents to the mind only a muddy commixture of folly, weakness, and duplicity. The spell by which the nations of Europe have been rendered inert and inefficient, when they attempted to shake it off, has stretched its shadows across the Atlantic, and made a majority of the people of these States alike blind to duty and to their true interests.

I am, &c.

A. B.

No. 12.

SIR:

BOSTON, April 26, 1809.

Since my letter No. 11, I have had but little to communicate.

I have not yet been able to ascertain, with sufficient accuracy, the relative strength of the two parties in the legislative bodies in New England.

In all of these States, however, Governors have been elected out of the federal party, and even the Southern papers indicate an unexpected augmentation of federal members in the next Congress.

The correspondence between Mr. Erskine and the Secretary of State at Washington you will have seen before this can reach you. It has given much satisfaction to the federal party here, because it promises an exemption from the evil the most feared, (a war with England,) and justifies their partiality towards Great Britain, which they maintain was founded upon a full conviction of her justice, and sincere disposition to preserve peace. Even the democrats affect to be satisfied with it; because, as they insist, it proves the efficacy of the restrictive system of Mr. Jefferson.

But the great benefit that will probably result from it will be, that Bonaparte may be induced to force this country from her neutral position. Baffled in his attempts to exclude from the continent the manufactures of Great Britain, he will most likely confiscate all American property in his dominions and dependencies, and declare war. Nothing could more than this contribute to give influence and stability to the British party. The invidious occurrences of the rebellion would be forgotten in the resentment of the people against France, and they would soon be weaned from that attachment to her which is founded on the aid that was rendered to separate from the mother country. While Great Britain waits for this natural, I might say necessary, result of the negotiation, would it not be extremely inexpedient to conclude a treaty with the American Government? Every sort of evidence and experience prove that the democrats consider their political ascendancy in a great measure dependent on the hostile spirit that they can keep alive towards Great Britain, and recent events demonstrate that their conduct will be predicated upon that conviction; it is, therefore, not to be expected that they will meet, with corresponding feelings, a sincere disposition on the part of England to adjust all matters in dispute. They are at heart mortified and disappointed to find that Great Britain has been in advance of the French Government in taking advantage of the provisional clauses of the non-intercourse law; and if they show any spirit at the next session of Congress towards France, it will be only because they will find Bonaparte deaf to entreaty and insensible of past favors; or that they may think it safer to float with the tide of public feeling, which will set strongly against him unless he keep *pari passu* with England in a conciliatory policy.

I am, &c.

A. B.

No. 13.

SIR:

BOSTON, May 5, 1809.

Although the recent changes that have occurred quiet all apprehension of war, and, consequently, *lessen all hope of a separation of the States*, I think it necessary to transmit by the mail of each week a sketch of passing events.

On local politics I have nothing to add; and as the parade that is made in the National Intelligencer of the sincere disposition of Mr. Madison to preserve amicable relations with Great Britain is, in my opinion, calculated

to awaken vigilance and distrust, rather than inspire confidence, I shall (having nothing more important to write about,) take leave to examine his motives. I am not surprised at his conditional removal of the non-intercourse law, with respect to Great Britain, because it was made incumbent on him by the act of Congress; but the observations made on his friendly disposition towards Great Britain is a matter of no little astonishment. The whole tenor of his political life directly and unequivocally contradicts them. His speech on the British treaty in 1799; his attempt to pass a law for the confiscation of "British debts" and British property; his commercial resolutions, grounded apparently on an idea of making America useful as a colony to France; his conduct while Secretary of State; all form an assemblage of probabilities tending to convince me, at least, that he does not seriously desire a treaty in which the rights and pretensions of Great Britain would be fairly recognised. It seems impossible that he should at once divest himself of his habitual animosity, and that pride of opinion which his present situation enables him to indulge; but, above all, that he should deprive his friends and supporters of the benefit of those prejudices which have been carefully fostered in the minds of the common people towards England, and which have so materially contributed to invigorate and augment the democratic party. Whatever his real motives may be, it is, in this stage of the affair, harmless enough to inquire into the cause of the apparent change. He probably acts under a conviction that, in the present temper of the Eastern States, a war could not fail to produce a dissolution of the Union; or he may have profited by the mistakes of his predecessor, and is inclined to seize the present opportunity to prove to the world that he is determined to be the President of a nation, rather than the head of a faction; or he has probably gone thus far to remove the impression on the minds of many that he was under the influence of France, in order that he may, with a better grace, and on more tenable grounds, quarrel with Great Britain in the progress of negotiating a treaty. Whatever his motives may be, I am very certain his party will not support him in any manly and generous policy. Weak men are sure to temporize when great events call upon them for decision, and are sluggish and inert at the moment when the worst of evils is inaction. This is the character of the democrats in the Northern States. Of those of the South I know but little.

I am, &c.

A. B.

No. 14.

SIR:

BOSTON, May 25, 1809.

My last was under date of the 5th instant. The unexpected change that has taken place in the feelings of political men in this country, in consequence of Mr. Madison's prompt acceptance of the friendly proposals of Great Britain, has caused a temporary suspension of the conflict of parties; and they both regard him with equal wonder and distrust. They all ascribe his conduct to various motives, but none believe him to be in earnest.

The State of New York has returned to the Assembly a majority of federal members. All this proves that an anti-commercial faction cannot rule the Northern States. Two months ago the State of New York was not ranked among the States that would adopt the policy of that of Massachusetts; and any favorable change was exceedingly problematical.

I beg leave to suggest that, in the present state of things in this country, my presence can contribute very little to the interests of Great Britain. If Mr. Erskine be sanctioned in all he has conceded, by His Majesty's ministers, it is unnecessary for me, as indeed it would be unavailing, to make any attempt to carry into effect the original purposes of my mission. While I think it to be my duty to give this intimation to you, I beg it may be understood that I consider myself entirely at the disposal of His Majesty's Government.

I am, &c.

A. B.

No. 15.

SIR:

MONTREAL, June 12, 1809.

I have the honor to inform your excellency that I received, through Mr. Secretary Ryland, your excellency's commands to return to Canada; and after the delays incident to this season of the year, in a journey from Boston, arrived here yesterday.

Your excellency will have seen, by the papers of the latest dates from the United States, that a formidable opposition is already organized in Congress to the late measures of Mr. Madison; and it is very evident that, if he be sincere in his professions of attachment to Great Britain, his party will abandon him. Sixty-one members have already voted against a resolution to approve of what he has done; and I have no doubt the rest of the democratic party will follow the example as soon as they recover from the astonishment into which his apparent defection has thrown them.

The present hopes of the federalists are founded on the probability of a war with France; but, at all events, this party is strong and well organized enough to prevent a war with England.

It would be now superfluous to trouble your excellency with an account of the nature and extent of the arrangements made by the federal party to resist any attempt of the Government unfavorable to Great Britain. They were such as do great credit to their ability and principles; and, while a judicious policy is observed by Great Britain, secure her interests in America from decay. My fear of inducing a false security on the part of His Majesty's Government in their efficiency and eventual success, may have inclined me to refrain from doing them that justice in my former letters which I willingly take the present occasion to express.

I trust your excellency will ascribe the style and manner of my communications, and the frequent ambiguities introduced in them, as arising from the secrecy necessary to be observed, and my consciousness that you understand my meaning, on the most delicate points, without risking a particular explanation.

I lament that no occasion commensurate to my wishes has permitted me to prove how much I value the confidence of your excellency, and the approbation already expressed by His Majesty's minister.

I have the honor to be, &c.

J. H.

I certify that the foregoing letters are the same referred to in the letter of H. W. Ryland, Esq., dated May 1, 1809, relating to the mission in which I was employed by Sir James Craig, by his letter of instructions, bearing date February 6, 1809.

JOHN HENRY.

Mr. Ryland to Mr. Henry.

MY DEAR SIR:

QUEBEC, May 1, 1809.

The news we have received this day from the States will, I imagine, soon bring you back to us; and if you arrive at Montreal by the middle of June, I shall probably have the pleasure of meeting you there, as I am going

up with Sir James and a large suite. The last letters received from you are to the 13th April. The whole are now transcribing, for the purpose of being sent home, where they cannot fail of doing you great credit, and I most certainly hope they may eventually contribute to your permanent advantage. It is not necessary to repeat the assurance that no effort within the compass of my power shall be wanting to this end.

I am cruelly out of spirits at the idea of old England truckling to such a debased and accursed Government as that of the United States.

I am greatly obliged to you for the trouble you have taken in procuring the books, though, if Spain fails, I shall scarcely have heart to look into them. I can add no more now, but that

I am, most heartily and affectionately, yours,

H. W. R.

J. HENRY, Esq., *Boston.*

Mr. Ryland to Mr. Henry.

MY DEAR SIR:

MAY 4, 1809.

You must consider the short letter I wrote to you by the last post as altogether unofficial; but I am now to intimate to you, in a more formal manner, our hope of your speedy return; as the object of your journey seems, for the present at least, to be at an end.

We have London news, by the way of the river, up to the 6th of March, which tallies to a day with what we have received by the way of the States.

Heartily wishing you a safe and speedy journey back to us,

I am, my dear sir, most sincerely, yours,

H. W. R.

Have the goodness to bring my books with you, though I shall have little spirit to look into them, unless you bring good news from Spain.

JOHN HENRY, Esq.

Mr. Henry to Mr. Peel.

SIR:

JUNE 13, 1811.

I take the liberty to enclose to you a memorial addressed to the Earl of Liverpool, and beg you will have the goodness either to examine the documents in your office, or those in my own possession, touching the extent and legitimacy of my claim.

Mr. Ryland, the Secretary of Sir J. Craig, is now in London, and, from his official knowledge of the transactions and facts alluded to in the memorial, can give any information required on that subject.

I have the honor to be, &c.

J. H.

Memorial of Mr. Henry to Lord Liverpool.

The undersigned most respectfully submits the following statement and memorial to the Earl of Liverpool:

Long before and during the administration of your lordship's predecessor, the undersigned bestowed much personal attention to the state of parties, and to the political measures in the United States of America.

* * * * *

Soon after the affair of the Chesapeake frigate, when His Majesty's Governor General of British America had reason to believe that the two countries would be involved in a war, and had submitted to His Majesty's ministers the arrangements of the English party in the United States for an efficient resistance to the General Government, which would probably terminate in a separation of the Northern States from the general confederacy, he applied to the undersigned to undertake a mission to Boston, where the whole concerns of the opposition were managed. The object of the mission was to promote and encourage the federal party to resist the measures of the General Government, to offer assurances of aid and support from His Majesty's Government of Canada, and to open a communication between the leading men engaged in that opposition and the Governor General, upon such a footing as circumstances might suggest; and, finally, to render the plans then in contemplation subservient to the views of His Majesty's Government.*

The undersigned undertook the mission, which lasted from the month of January to the month of June, inclusive, during which period those public acts and legislative resolutions of the Assemblies of Massachusetts and Connecticut were passed which kept the General Government of the United States in check, and deterred it from carrying into execution the measures of hostility with which Great Britain was menaced.

For his services on the occasions herein recited, and the loss of time and expenses incurred, the undersigned neither sought nor received any compensation, but trusted to the known justice and liberality of His Majesty's Government for the reward of services which could not, he humbly conceives, be estimated in pounds, shillings, and pence. On the patronage and support which was promised in the letter of Sir J. Craig, under date of the 26th January, 1809, (wherein he gives an assurance "that the former correspondence and political information transmitted by the undersigned had met with the particular approbation of His Majesty's Secretary of State; and that his execution of the mission, proposed to be undertaken in that letter, would give him a claim not only on the Governor General, but on His Majesty's ministers,") the undersigned has relied, and now most respectfully claims, in whatever mode the Earl of Liverpool may be pleased to adopt.

The undersigned most respectfully takes this occasion to state that Sir J. Craig promised him an employment in Canada, worth upwards of one thousand pounds a year, by his letter, herewith transmitted, under date of September 13, 1809, which he has just learned has, in consequence of his absence, been given to another person. The undersigned abstains from commenting on this transaction, and most respectfully suggests that the appointment of Judge Advocate General of the province of Lower Canada, with a salary of five hundred pounds a year, or a consulate in the United States, *sine curia*, would be considered by him as a liberal discharge of any obligation that His Majesty's Government may entertain in relation to his services.

* Vide the despatches of Sir J. Craig, in June, 1808.

Mr Peel, Secretary to Lord Liverpool, to Mr. Henry.

SIR:

DOWNING STREET, June 28, 1811.

I have not failed to lay before the Earl of Liverpool the memorial, together with several enclosures, which was delivered to me a few days since by General Loft, at your desire.

His lordship has directed me to acquaint you that he has referred to the correspondence in this office of the year 1808, and finds two letters from Sir James Craig, dated 10th April, and 5th May, transmitting the correspondence that has passed during your residence in the Northern States of America, and expressing his confidence in your ability and judgment, but Lord Liverpool has not discovered any wish on the part of Sir James Craig that your claims for compensation should be referred to this country, nor indeed is allusion made to any kind of arrangement or agreement that had been made by that officer with you.

Under these circumstances, and had not Sir James Craig determined on his immediate return to England, it would have been Lord Liverpool's wish to have referred your memorial to him, as being better enabled to appreciate the ability and success with which you executed a mission undertaken at his desire. Lord Liverpool will, however, transmit it to Sir James Craig's successor in the Government, with an assurance that, from the recommendations he has received in your favor, and the opinion he has formed on your correspondence, he is convinced the public service will be benefited by your active employment in a public situation.

Lord Liverpool will also feel himself bound to give the same assurance to the Marquis Wellesley, if there is any probability that it will advance the success of the application which you have made to his lordship.

I am, sir, your most obedient, humble servant,

ROBERT PEEL.

J. HENRY, Esq. No. 27, Leicester Square.

Mr. Ryland to Mr. Henry.

MY DEAR HENRY:

TUESDAY EVENING, July 2, 1811.

It gives me real pleasure to find that the apprehension I had formed with respect to the fulfilment of your expectations is likely to prove erroneous. As every thing which passed, relative to your mission was in writing, I think you will do well in submitting to Mr. Peel all the original papers. I myself could give no other information relative to the subject, than what they contain, as you and I had no opportunity of any verbal communication respecting it till after your mission terminated, and I never wrote you a letter in the Governor's name, which had not previously been submitted to his correction.

The impression I had received of your character and abilities made me anxious to serve you, even before I had the pleasure of a personal acquaintance with you, and the same desire has operated on me ever since; I am, therefore, entitled to hope that any opinion which I may have given you, as to your best mode of obtaining an employment under Government will be received with the same candor that gave rise to it. I think you will do well to persevere as you propose. I have no doubt that every letter from you, which Sir James sent home, will be found in Mr. Peel's office, as the established practice there is to bind the despatches and enclosures yearly up together.

Sincerely wishing you every success, I am, most faithfully, yours,

H. W. RYLAND.

JOHN HENRY, Esq., &c.

Mr. Henry to Mr. Peel.

SIR:

27, LEICESTER SQUARE, LONDON, September 4, 1811.

I have just now learned the ultimate decision of my Lord Wellesley, relative to the appointment which I was desirous to obtain; and find that the subsisting relations between the two countries forbid the creating a new office in the United States, such as I was solicitous to obtain. In this state of things I have not a moment to lose in returning to Canada; and have taken my passage in the last and only ship that sails for Quebec this season. As I have not time to enter (*de novo*) into explanations with the gentleman who is in your office, and as I have received assurances from you, in addition to the letter of my Lord Liverpool, of the 27th June, that "his lordship would recommend me to the Governor of Canada for the first vacant situation that I would accept," I beg the favor of you to advise me how I am to get that recommendation without loss of time.

I have the honor to be, &c.

ROBERT PEEL, Esq., &c.

J. HENRY.

Despatch of Lord Liverpool to Sir George Prevost.

SIR:

DOWNING STREET, September 16, 1811.

Mr. Henry, who will have the honor of delivering this letter, is the gentleman who addressed to me the memorial, a copy of which I herewith transmit,* and to whom the accompanying letter† from Mr. Peel was written by my direction.

In compliance with his request, I now fulfil the assurance which I have given of stating to you my opinion of the ability and judgment which Mr. Henry has manifested on the occasions mentioned in his memorial, and of the benefit the public service might derive from his active employment in any public situation in which you should think proper to place him.

I am, sir, your most obedient, humble servant,

LIVERPOOL.

TO SIR GEORGE PREVOST, *Baronet, &c.*

Mr. Foster to the Secretary of State.

WASHINGTON, March 11, 1812.

The undersigned, His Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States, has read in the public papers of this city, with the deepest concern, the message sent by the President of the United States to Congress on the 9th inst., and the documents which accompanied it.

* The same as that transmitted by Mr. Henry to Mr. Peel, in his letter of June 13, 1811.

† See above, letter of June 28, 1811.

In the utter ignorance of the undersigned as to all the circumstances alluded to in those documents, he can only disclaim most solemnly on his own part, the having had any knowledge whatever of the existence of such a mission, or of such transactions as the communication of Mr. Henry refers to, and express his conviction, that, from what he knows of those branches of His Majesty's Government with which he is in the habit of having intercourse, no countenance whatever was given by them to any schemes hostile to the internal tranquillity of the United States.

The undersigned, however, cannot but trust that the American Government, and the Congress of the United States, will take into consideration the character of the individual who has made the communication in question, and will suspend any further judgment on its merits until the circumstances shall have been made known to His Majesty's Government.

The undersigned requests the Secretary of State to accept the assurance of his highest consideration.

AUGUSTUS J. FOSTER.

[The following is the report of the Secretary of State, communicated to the Senate by the message of the 12th March, 1812, page 545.]

DEPARTMENT OF STATE, *March 12, 1812.*

The Secretary of State, to whom was referred the resolution of the Senate of the 10th inst., has the honor to report: That this Department is not in possession of any names of persons in the United States, who have, in any way or manner whatever, entered into, or countenanced the project or the views for the execution or attainment of which John Henry was, in the year 1809, employed by Sir James Craig; the said John Henry having named no person or persons as being concerned in the said project or views referred to in the documents laid before Congress on the 9th instant.

Which is respectfully submitted,

JAMES MONROE.

[The following report of a committee of the House of Representatives, on the subject of the foregoing papers, was made on the 19th March, 1812.]

The Committee of Foreign Relations, to whom was referred the President's message of the 9th instant, covering copies of certain documents communicated to him by a Mr. John Henry, beg leave to report, in part:

That, although they did not deem it necessary or proper to go into an investigation of the authenticity of documents communicated to Congress on the responsibility of a co-ordinate branch of the Government, it may, nevertheless, be satisfactory to the House to be informed that the original papers, with the evidences relating to them in possession of the Executive, were submitted to their examination, and were such as fully to satisfy the committee of their genuineness.

The circumstances under which the disclosures of Henry were made to the Government, involving considerations of political expediency, have prevented the committee from making those disclosures the basis of any proceeding against him. And from the careful concealment, on his part, of every circumstance which could lead to the discovery and punishment of any individuals within the United States (should there be any such) who were criminally connected with him, no distinct object was presented to the committee, by his communication, for the exercise of the power with which they were invested, of sending for persons and papers. On being informed, however, that there was a foreigner in the city of Washington, who lately came to this country, from Europe, with Henry, and was supposed to be in his confidence, the committee thought proper to send for him. His examination, taken under oath, and reduced to writing, they herewith submit to the House.

The transaction disclosed by the President's message presents to the minds of the committee conclusive evidence that the British Government, at a period of peace, and during the most friendly professions, have been deliberately and perfidiously pursuing measures to divide these States, and to involve our citizens in all the guilt of treason, and the horrors of a civil war. It is not, however, the intention of the committee to dwell upon a proceeding which, at all times, and among all nations, has been considered as one of the most aggravated character; and which, from the nature of our Government, depending on a virtuous union of sentiment, ought to be regarded by us with the deepest abhorrence.

COMMITTEE OF FOREIGN RELATIONS, *FRIDAY, March 13, 1812.*

COUNT EDWARD DE CRILLON, sworn.

This deponent knows Mr. Henry; dined with him at Mr. Wellesley Pole's in September last, and afterwards at Lord Yarmouth's; met with him also at different fashionable clubs. Deponent fell in with Mr. Henry subsequently by accident. Deponent had ordered his servants to procure him a passage to America; they met with Captain Tracey of the ship *New Galen*, of Boston, at the *New London Coffee-house*. After agreeing with him upon the terms of the passage, Captain Tracey applied to deponent to know if he was ready to embark the next day, as the ship would sail on the following morning. Deponent said no; that he should send his servants on board, but should take a post chaise for Portsmouth, and pass over to the *Isle of Wight*, where he would wait for the vessel. On the day following he went accordingly to Portsmouth, but, before his departure, he received a letter from Captain Tracey couched in these terms:

Sir: You must go to Ryde where you will find a gentleman called Captain Henry waiting for the *New Galen*. I shall send a boat ashore for both of you.

Deponent went to Ryde, but did not find Captain Henry there; thence he proceeded to Cowes, and inquired of the American consul "if the *New Galen* had passed?" fearing that she had sailed without him. The consul inform him that the ship was detained in the Downs by head winds. Deponent returns to Ryde, where he remained three weeks alone before Captain Henry arrived. Henry came to deponent and told him that the ship was badly found, and advised him to go to Liverpool and take the packet. Deponent refused; having paid his passage and his trunks being on board. Captain Henry, three days after his arrival, fell sick. He kept his bed twenty-two days; during which time he was often delirious, frequently uttering the name of Lord Liverpool. The deponent having two servants, one of them attended on Mr. Henry. During his illness, Henry was visited by Mr. Powell, of Philadelphia, a Mr. Wilkinson, or Dickinson, of the British army, and a Mr. Perkins of Boston. He received about two hundred letters from a Bostonian house, (Higginson's) in Finsbury square, that had lately stopped payment. He refused to take the letters, giving them to the captain. Mr. Henry was also visited by a Mr. Baggholt, who brought him letters from Sir James Craig. Henry refused to receive those letters. He recovered from his sickness. Deponent occupying the most agreeable house in the place, Henry's physician asked the favor of an apartment for him until ready to embark. After eight weeks' detention the wind became fair, and the vessel

sailed. The day before her departure, Mr. Bagholt arrived at Ryde with letters from Lord Liverpool to Sir George Prevost and to Mr. Henry. Henry, when he saw the seal of the letter addressed to him, said, throwing it on the table, "that is a letter from Liverpool, what more does he want from me?" He appeared to be much agitated, and retired to his room. Mr. Bagholt returned that night to London without taking leave. But the wind becoming fair the next morning, the ship sailed. Mr. Edward Wire and Mr. West, both of Boston, and a Mrs. Thomson, of London, were passengers in the ship. Henry, at first, appeared very low spirited; took a cabin to himself, and mostly dined alone. In good weather he employed himself in shooting pistols, at which he was very expert. One dark night, about ten o'clock, the witness was walking on deck, much dejected, when Henry accosted him. "Count Crillon (said he) you have not confidence in me; you are unhappy. Confide your sorrows to me." He spoke so kindly that deponent made him in part acquainted with his situation. Henry replied, "One confidence deserves another. I will now tell you my situation. I have been very ill treated by the British Government. I was born in Ireland, of one of the first families in that country, poor, because a younger brother. I went to America with expectations from an uncle, (Daniel McCormick, Esq., of New York,) who possesses a large fortune, is old and unmarried. French persecution having exiled from that country many of the respectable families of France, I married a lady of that description, who died and left two daughters without fortune. I applied to the American Government, and, through the influence of the British minister, I was appointed a captain of artillery during Mr. Adams's administration. I had command at Portland, and of the fort near Boston; and while in commission I was employed in quelling a meeting or insurrection among the soldiers; and during my continuance in office I gave general satisfaction. But perceiving that there was no field for my ambition, I purchased an estate in Vermont, near the Canada line, and there studied law for five years, without stirring from home. I detest republican Government, and I filled the newspapers with essays against it."

Committee adjourned, and met the day following.

SATURDAY, *March 14, 1812.*

COUNT CRILLON, in continuation.

Deponent says that Henry told him, in the course of the interview which he mentioned yesterday, that the severity of his strictures, in the public prints, against republican Government, attracted the attention of the British Government. "Sir James Craig," continued he, "became desirous of my acquaintance. He invited me to Quebec, where I staid some time. Thence I went to Montreal, where every thing that I had to fear, and all that I had to hope, was disclosed to me. I went afterwards to Boston, where I established my usual residence. I was surrounded by all the people pointed out to me by the agents who were under my orders. I lived at the Exchange Coffee-house; gave large parties; made excursions into the country, and received an order extraordinary from Sir James Craig to dispose of the fleet at Halifax, and of the troops, to further the object of my mission, if required. My devotion to the cause was extreme. I exhausted all my funds. I spent many precious years in the service, and was advised to proceed to London. The Government treated me with great kindness. I was received in the highest circles; was complimented with a ticket, as member of the *Pitt Club*, without being balloted for, and when I had spent all my money, and presented my claims for retribution, the Government attempted to cheapen my services, [*marchandiser*] to beat me down. My claims were to the amount of thirty-two thousand pounds sterling. I was told, however, that I should be provided for by a recommendation to Sir George Prevost, in case I would return to Canada and continue my mission and services as before, and to exercise the same vigilance over the interests of the British Government. At the same time, the Government appointed a friend of mine, an Irish gentleman, attorney general for Canada, through my influence." [Deponent saw this gentleman at Mr. Gilbert Robertson's in New York.] Henry continued: "Disappointed in my expectations, I was impatient to proceed to Canada, to sell my estates, and my library, and take my revenge against the British Government. I knew that if I went to Canada I must deliver up my despatches, and that I should afterwards be put off by the Government. I therefore determined to retain the documents in my own possession, as the instruments of my revenge. Determined to extricate myself from my embarrassing connexion with the British Government, I refused the offer of a passage to Halifax in one of their ships of war, and determined to live privately and retired at Ryde, and take passage in the first vessel that should sail for the United States. This is the cause of your meeting me at Ryde."

Deponent represents to Henry "that England was his legitimate Government; that he would render himself the most odious of all characters by betraying it; that his (the deponent's) Government had treated him harshly, and that he then labored under its displeasure, but no consideration should induce him to act against it. That we must not resent a parent's injuries; tells him to have patience and wait for his reward." Henry then pleaded in his justification the wrongs of his native country, Ireland, inflicted by the British Government.

Henry came down to Washington and stopped at Tomlinson's, where deponent saw him. He afterwards removed to Georgetown, to the house of one Davis, an auctioneer, where deponent visited him every day, and found him always occupied in writing. Deponent waited for his disclosures, not having any disposition to pry into his secrets, but Henry was entirely silent, and incessantly sighing very deeply. On the day of General Blount's funeral, deponent took Henry down to Alexandria, in expectation that he might communicate his projects; but he was still reserved. After dinner they returned, and, whilst in the carriage, Henry tells deponent that he has great confidence in him; that he (deponent) has been here some time, and asks his opinion of Mr. Monroe. Deponent answered that he was very little acquainted with any body, but thought Mr. Monroe a most virtuous and respectable man.

Deponent remained several days without hearing any thing more, until one morning, at seven o'clock, Henry came into his apartment and said, "Crillon, you must sell me St. Martial," (an estate of the deponent in Lebeur, near the Spanish frontier.) "You have the title papers with you. My name will be rescued from oblivion by living near *Crillon*, the habitation of your ancestors, and of a man who has been my friend." Deponent answered that he had no objection, and if Henry, on seeing the property, was not satisfied, he would give orders to his agent in France to cancel the bargain. The conveyance was accordingly made. Henry left deponent, when Mr. Brent, to whom Henry was not introduced, came into deponent's apartment. About this time deponent received four anonymous threatening letters, and was advised by his friends that he was surrounded by spies, but he told them that he had nothing to fear, that he was "*sans peur et sans reproche*." By one of those letters I was advised to leave the city before twelve o'clock, as a person had just arrived from London with orders to arrest me.

Meanwhile rumors circulated very generally to the deponent's prejudice, and he was under the necessity of vindicating his character and of correcting the author of those reports.

The message of the President gave the deponent the first intelligence of the true state of the transaction.

Henry told deponent that a Mr. Gilvary, or Gillivray, from Quebec, had come to him at New York, to persuade him to go to Canada; but Henry said, "he would not; that the Rubicon was passed."

Henry kept the first company at Boston.

Being questioned, if Henry had mentioned the names of any persons with whom he had conferred? deponent answered, "none."

Deponent landed at Boston, December 24, 1811; staid there about ten or twelve days; visited Governor Gerry twice.

Question. Do you know where Henry is now?

Answer. No. By report, I hear, in New York.

Deponent left Boston in the public stage. Henry was also a passenger; but at New Haven deponent took a private carriage to himself.

THE COUNT EDWARD DE CRILLON.

12th CONGRESS.]

No. 245.

[1st SESSION.]

GREAT BRITAIN.

(Confidential.)

COMMUNICATED TO CONGRESS, APRIL 12, 1812.

To the Senate and House of Representatives of the United States:

APRIL 1, 1812.

Considering it as expedient, under existing circumstances and prospects, that a general embargo be laid on all vessels now in port, or hereafter arriving, for the period of sixty days, I recommend the immediate passage of a law to that effect.

JAMES MADISON.

12th CONGRESS.]

No. 246.

[1st SESSION.]

CAPTURES OF AMERICAN VESSELS BY THE BELLIGERENTS.

COMMUNICATED TO CONGRESS, APRIL 23, 1812.

To the Senate of the United States:

APRIL 23, 1812.

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 4th of March last.

JAMES MADISON.

DEPARTMENT OF STATE, *April 23, 1812.*

The Secretary of State, to whom was referred the resolution of the Senate of the 4th March last, has the honor to report that the enclosed papers, marked A, B, and C, contain all the information in this Department "relative to captures made by the belligerents since the 1st day of May, 1811, of vessels of the United States bound to or from the Baltic, or within that sea."

All which is respectfully submitted.

JAMES MONROE.

B.

Extract:—Mr. Erving to the Secretary of State.

COPENHAGEN, *July 28, 1811.*

I have the honor herewith to enclose copies of my note to Mr. De Rosenkrantz, dated 17th instant, upon the convoy question, and his reply of the 27th.

The reference of my above-mentioned note to the royal chancery, as stated in the minister's reply, did not take place until the 24th or 25th; in the mean time two of the cases therein mentioned, viz: the Annawan and the Hesper, were condemned by the high court; I think it probable that the remaining two cases, in which, as you will perceive by that note, the evidence of force used to compel the vessels to join convoy is more clear than in the other cases, will be acquitted.

Since the date of my last upwards of twenty of our vessels have passed up the Baltic; some few of these have been detained, examined, and released. Eight vessels have come down bound for the United States; of these five have been detained, one the "Experiment," Vibbert, having despatches on board from Mr. Adams, was released instantly on my application; three others were released after a few days' detention, and one only (having an English license, laden for English account, and being bound to Ireland) is pending in the Prize Court.

It is said that a great number of our vessels have gone up under convoy. I find it is impossible to obtain in advance any security for such of these cases as may return without convoy; the clause in the King's instructions, against which I have thought it my duty to protest, is understood to extend to all vessels which *have used* enemy's convoy during the voyage (out and home) in which they are actually engaged.

[Enclosed in Mr. Erving's letter of July 28.]

Mr. Erving to Mr. Rosenkrantz.

COPENHAGEN, July 17, 1811.

Sir:

The undersigned, special minister of the United States of America, in acknowledging the receipt of the note dated 9th instant of his excellency Mr. De Rosenkrantz, First Minister of State, and chief of the Department for Foreign Affairs, cannot but express the very great concern with which he has seen the determination of His Majesty therein declared of adhering to a rule of proceeding with regard to American vessels found under British convoy, against which the undersigned has so formally protested and remonstrated as a violation of principles derived from the law of nations, to which only the United States can submit the arbitration of their neutral rights; that, contrary to the practice of other Governments, with which that of America has from time to time found itself in collision upon similar questions, His Danish Majesty confines himself to a declaration of his will, unsupported by authorities or examples, and unqualified by any modifications of, or exceptions to, the offensive principle in question, adapted to the peculiar circumstances of the cases which may be affected by it; and finally, that by the operation of this rule, cases now depending in the high court of ships and cargoes purely and wholly American, wherein neither the owners nor masters have done, attempted to do, or contemplated any injury or offence to His Majesty's belligerent rights, are to be condemned because they have had the previous misfortune of falling into the hands of his enemy: neither the regular form in which these vessels have entered the Baltic, paying their Sound dues, neither the judicial investigations which have established their neutrality, neither orders found on board directing them not to take British convoy, neither the notoriety nor the most clear proofs of their having been forced into convoy—these it seems are not to avail. But that His Majesty may see in the most distinct manner the full effect of his own rule, and that the representations of the undersigned against it may go accompanied by clear exemplifications of the injustice which it operates, so that it shall at all times appear that he has not remonstrated but on sufficient grounds, and that he has not magnified the cause of complaint, he will here briefly state the circumstances of the only four vessels which remain uncondemned of eighteen which were taken under the same convoy. These are, the *Annawan*, *Donaldson*; *Hesper*, *Cushing*; *Hope*, *Rhea*; *Elizabeth*, *Campbell*. The first two names of these vessels (*Annawan* and *Hesper*) were captured by His Majesty's cruisers on entering the Baltic; they underwent a trial in the Prize Court, when their neutrality was fully established, and they were released. These previous proceedings leave scarcely a possibility of supposing that they sought convoy on their return; but the assurance in this respect is completed and confirmed by the unanimous declarations of the masters and crews, proving most incontestably that they were forced to join the British convoy. The *Elizabeth*, Captain *Campbell*, was also captured on her outward voyage by His Majesty's cruisers; her neutrality was established, and she was acquitted by the Prize Court. The fact of her having been forced into convoy conformably to the unanimous declaration of the master and crew is found also recorded in her log-book, under date June 18, 1810.

The instructions of the supercargo, *Fisher*, found on board, direct the captain in these words, viz:

"On your passage down the Baltic you will call at *Elsineur* and pay the Sound dues, if in your power; and if prevented by any force or other occurrence, you will make the necessary protests, and forward such documents to Mr. *Yard* as will prove your having proceeded in every respect in a clear and regular manner. In case, however, notwithstanding all the documents you possess, you should meet with any interruption whatever, I beg you will, if on any part of the continent, send me an *estafette*, and I will endeavor, as much as lies in my power, to assist you, either by coming to you or sending you such proofs as lie in my power. I have provided you with a letter of credit on the house of Messrs. *Parish & Co.* of *Hamburg*, in case of need; and I shall also write to Messrs. *Belfour*, *Ellah*, and *Rainals*, to send you assistance if you are in need of it, which I must confess I do not apprehend from the *Elizabeth* having regularly paid her Sound dues, and having been already acquitted through the courts in *Norway*."

The supercargo, *Fisher*, also wrote to the above-mentioned *Belfour*, *Ellah*, and *Rainals*, of *Elsineur*, directing them to pay the Sound dues on the *Elizabeth*, and despatch her as quick as possible; which letter said *Belfour & Co.* received, as appears by their affidavits. In the case of the *Hope*, *Rhea*, superadded to all other proofs of her having been forced into convoy, is an endorsement made on her ship's papers, on the 15th June, by the British commander, *Charles Dashwood*, of which the following is an extract:

"Boarded by His Majesty's ship *Pyramus*, off the north end of *Gothland*, and ordered to proceed to join convoy in *Hano bay*, near *Cadsham*. He has no license whatever, yet, as it appears to be neutral property, the return of his outward bound cargo, I have my doubts about detaining her. My object in ordering her to join convoy, though a neutral, is to prevent her from going to an enemy's port with naval stores, or to be captured."

The undersigned is sensible that he has now said all that the subject requires, yet he cannot leave any observation of his excellency Mr. De Rosenkrantz without reply; upon that, therefore, which seems to call for the acquiescence of the American Government to the rule in question, because it has not been disputed by any European Power, he must remark that no European Power whatever is, relatively to that rule, in the same situation as the United States; but, on the contrary, that each of them is impossibilitated by the nature of circumstances from reclaiming against it.

GEORGE WASHINGTON ERVING.

To His Excellency Mr. DE ROSENKRANTZ,

First Minister of State, and chief of the Department for Foreign Affairs, &c.

[Enclosed in Mr. Erving's letter of July 28.]

[TRANSLATION.]

Mr. Rosenkrantz to Mr. Erving.

COPENHAGEN, July 27, 1811.

The undersigned, Minister of State, chief of the Department of Foreign Affairs, has the honor to inform Mr. Erving, minister of the United States of America, that, in consequence of the particular representations which Mr. Erving addressed to him on the 17th instant in favor of the American vessels "*Annawan*," "*Hesper*," "*Hope*," and "*Elizabeth*," captured under the English convoy by Danish cruisers, he hastened to cause the royal chancery to make known to the supreme tribunal of the Admiralty the arguments furnished by the note of Mr. Erving to prove that the said vessels had been forced to join convoy.

The undersigned has also drawn the attention of the supreme tribunal to the particular situation in which these vessels were placed. He wishes that this circumstance may determine the Judges of the Admiralty to make an exception to the rules established for the government of cruisers and for the tribunals of prizes.

The Minister of State has the honor to pray of Mr. Erving to be pleased to observe that if, as he remarks, the American vessels find themselves, so far as regards the use they make of the protection of the enemies of Denmark by the means of convoy, in a situation or relation different from that of vessels under the European flags generally, this does not in any degree change the rule which has been prescribed by the King of Denmark, because, as has been heretofore alleged by the undersigned, the protection of the enemy destroys in him who uses it his original quality of neutral and friend. This rule might, by an event of the moment, be more applicable to the conduct of the masters of American vessels than to that of the masters of vessels under any of the European flags, but it is calculated to be applied to every neutral flag without distinction.

The undersigned is consequently obliged again to state to Mr. Erving that the use of the English convoy in the North Sea, or in the Baltic, exposes neutral vessels to be treated conformably to the provisions of sec. xi. lit. D. of the ordinance regulating privateers.

He seizes this occasion to renew to the minister of the United States the assurance of his high consideration.

ROSENKRANTZ.

Extract:—Mr. W. Erving to the Secretary of State.

COPENHAGEN, August 18, 1811.

Two American vessels, viz: the "Hero" and "Radius," have been captured by the French privateer *La Minute*, No. 2. The captain of this corsair imagines that he can justify the capture by his Emperor's decree against colonial produce, within which description he supposes the cotton of these vessels (though the produce of Carolina and Georgia) to be comprised; the oil on board the *Radius* is from Galiopolis. The same corsair is now cruising off *Elsineur*, just without the Danish jurisdiction, and declares his intention of stopping every vessel which has any colonial produce on board; though, as the season is so far advanced, it is not probable that there will be many more arrivals from the United States; yet I have taken measures to have a Swedish boat cruising from the island of *Anholt* to the coast of Sweden, to warn all our vessels so that they may pass through the Belt and pay their Sound dues at *Nyborg*.

[Enclosed in Mr. Erving's letter of August 18.]

Extract of a letter from George W. Erving, Esq., special minister of the United States at Copenhagen, to Jonathan Russell, Esq., Chargé d'Affaires of the United States at Paris.

COPENHAGEN, August 9, 1811.

Brig *Hero*, H. Blackler, master, of Marblehead, owned by William Blacker & Sons, one hundred and seven tons burthen, from Marblehead, bound to St. Petersburg, with a cargo of cotton and coffee.

Brig *Radius*, B. Lander, master, of Boston, owned by William Gray, from Newport, bound to St. Petersburg, with a cargo of oil, cotton, &c.

DEAR SIR:

The two vessels above mentioned arrived at *Elsineur* on the 6th instant, paid their Sound dues, and proceeded on their voyage; on the 7th, the wind being ahead, they anchored near this port; yesterday morning about four o'clock they got under way again, and in the course of the day were captured by a French privateer at about six English miles from the Danish shore, off the point of *Falsterbrough*, that is within the Swedish jurisdiction; they were brought into this port by said privateer at two o'clock yesterday afternoon. I made every effort with Mr. *Desaugiers*, the French consul and *chargé d'affaires*, and with this Government, to prevent the papers (which were immediately delivered to said Mr. *Desaugiers*) being sent to Paris, and to obtain that the matter should be decided in the tribunals of this country, but unhappily without effect.

The papers of these vessels will probably go to Paris by this same post; the cases will necessarily fall under your care; in the present state of our relations with the Emperor, we may hope not only for despatch and a favorable decision on them, but for some check to the depredations which are likely to be committed in this quarter.

Extract of a letter from Mr. Erving to Mr. Monroe.

SEPTEMBER 8, 1811.

Since the date of my last, (August 18th,) the same French privateer has captured three of our vessels bound up the Baltic, viz: the "*Egeria*," *Law*, "*Hannah*," *Dennis*, and "*Two Generals*," *Courtois*; she has been lately joined by another, called "*Le Loup*;" they lay at *Elsineur*, cruising in favorable weather from thence to the *Kohl* point, and in that position must intercept all vessels entering the Sound. The just apprehensions which their proceedings have excited, to say nothing of their open declarations, which are not so well established, prevent our vessels which have arrived from Petersburg at *Elsineur* from leaving that place. The number of these at present may be about ten, and will be augmenting daily. They are impatient to depart, not only on account of the lateness of the season, but because the roads of *Elsineur* are not safe in bad weather; some of them are disposed to sail and to defend themselves, and have offered their protection to others which are not prepared for defence. I have hitherto been able to dissuade them from this purpose, under the reasonable prospect of obtaining from the Danish Government some security for them, in consequence of the application which I have made with that view.

Mr. Erving to the Secretary of State.

SIR:

COPENHAGEN, September 23, 1811.

I have the pleasure to add, to what is contained in my despatch of September 8, respecting our vessels then lying at *Elsineur* and bound to the United States, that, on the 21st instant, the whole fleet (consisting of twenty-three ves-

sels,) put to sea, and, owing to the good conduct of the Danish gun-boats, keeping the Danish privateers in order, it is understood that none of them have been captured. I am well persuaded that the same conduct will be observed on future occasions. Still further to ensure a good police in the Sound, a Danish gun-brig, ordered to co-operate with the gunboats, has to-day been despatched from hence. The enclosures, No. 31 and 32, will inform you more particularly as to the departure of our vessels; the two mentioned by Messrs. Belfour & Co., the captains of which had come hither to see me, followed the rest, and in equal security, the same day.

With the most perfect respect, I have the honor to be, sir, your very obedient servant,

GEORGE W. ERVING.

P. S. October 2d. The wind having continued favorable for the fleet, no further intelligence respecting it which could be entirely relied on was received until yesterday, when the "Augustus," Flint, master, and "Horace," Leech, master, both belonging to Salem, and bound from St. Petersburg to Boston, were brought back under capture (by the Danes.) I understand the ground of capture to have been, with respect to the "Augustus," (and probably of the other,) that one or more cannon, not mentioned on her papers, besides some Danish muskets, (the exportation of which is prohibited,) were found on board.

It appears that the French privateers gave chase to the fleet, continually firing to bring them to, but they did not succeed in detaining a single vessel.

Two other of our vessels went from hence on the 24th, and got safe out also.

Since then two more French privateers have arrived, and now they seem disposed to cruise above this island; one of our vessels bound from Petersburg to Elsinour has been sent in to-day.

G. W. E.

To JAMES MONROE, *Secretary of State.*

[Enclosed in Mr. Erving's letter of September 23.]

GENTLEMEN:

COPENHAGEN, *September 21, 1811.*

I have to acknowledge the receipt of your several favors of the 17th and 19th instant.

Two American captains from Elsinour to-day inform me that whenever the wind is fair for their sailing, the gun-boats are in the habit of going out and lying in the channel, upon which movement they founded some apprehension; though I did not put the same construction upon this practice as they seemed to do, and expressed my opinion accordingly, yet I have thought it proper to inquire further into the matter, and have the pleasure to say, that I now feel assured that the intention of the movement referred to is far from hostile; that it is the object of the gun-boats, pursuant to His Majesty's instructions, to preserve peace and to afford the security due to neutrals *within His Majesty's jurisdiction on the water*; within that jurisdiction I presume that they will not allow of any capture, and therefore a vessel in danger of capture, and flying from danger, will find protection under their guns in lieu of being endangered by them.

G. W. E.

To Messrs. BELFOUR, ELLAH, RAINALS, & Co., *Elsinour.*

[Enclosed in Mr. Erving's letter of September 23.]

From Belfour and Co. to Mr. Erving.

ELSINEUR, *September 21, 1811. 8 o'clock, P. M.*

SIR:

We crave reference to our respects of this morning's date, and have now to inform you that at twelve o'clock this forenoon, every ship (except two, the captains of which were at Copenhagen,) got under sail and proceeded down Cattetag; when nearly off Hornbeck, they were mostly brought to, and boarded by Danish privateers; but as yet we have not learned any were detained; many seemed afterwards to proceed on. The French privateers were much lower, say below the Kohl; and many seemed inclined to think it possible that they will not be able to board; there being so strong a current down, drifts them further to sea than they are aware of. Unluckily there is but little wind.

The gun-boats went down at the same time, to take care that the French did not interfere within our jurisdiction. A Danish privateer that was considered to be acting improperly was fired at by one of the gun-boats, and unfortunately one man killed and two wounded.

We are, &c.

BELFOUR, ELLAH, RAINALS, & Co.

Extract:—Mr. Erving to Mr. Monroe.

COPENHAGEN, *November 10, 1811.*

Two other of our vessels, viz: the Roboreas, Williams, master, and Andromache, Laing, master, have been captured by the French privateers without the Danish jurisdiction; they were bound from Russia to the United States.

The Hero and Radius, mentioned in letter of August 18 have been condemned by the Council of Prizes at Paris on the allegation that they were laden with colonial produce for English account, &c.; an appeal to the Council of State has been entered.

The cases of the Two Generals and Hannah, also stated in the above letter, are yet pending here; the papers have been demanded of the French chargé d'affaires by this Government; he has written to Paris for instructions, which will probably be favorable; or, if not, as the French can only claim under the Danish captors, the fact of the vessels having been taken within His Majesty's jurisdiction being established, the cases must be tried here; in which event I entertain no doubt but that they will be acquitted.

In the case of the Egeria, it has been determined by this Government that the French captors cannot claim, and the vessel will be forthwith released.

By my despatch of September 23d, I had the pleasure to inform you of the departure from Elsinour of twenty-three homeward bound vessels, that none of them had been intercepted by the French, and that two only (having armed themselves whilst laying at Elsinour) had been brought back by a Danish privateer; these I shall be able to procure the release of in a short time.

Very lately three other homeward bound vessels, viz: The Lyon, Agent, and Dolphin, have gone out unmo-
lest; by this last we are informed that no American vessels remain at Petersburg, so that I trust no further cap-
tures will be made this year by either the French or Danish privateers.

Of the cases which were pending on my arrival at this place, as by statement transmitted with my despatch
No. 4, one only (the Resolution, Eldridge, master,) has been condemned; convoy cases excepted. The Resolu-
tion belonged to Messrs. Minturn and Champlin, of New York; had been bought for their account in England,
during our embargo; went from thence to Madeira and India; at Canton was laden partly for account of said Min-
turn and Champlin, and partly for account of Chinese merchants; went to New York after the embargo was raised,
and there received the usual papers, with which she continued her voyage to the Baltic.

Of the above-mentioned pending list only one case remains to be decided, (the Minerva Smyth, Mann, master;
it is in rather an unfortunate situation, and I have therefore delayed it myself, for the purpose of procuring, and in
the hopes of introducing into the cause further evidence. It may be settled in the course of six weeks.

Of the list containing fifty-eight vessels, dated July 15th, and transmitted with the same despatch, No. 4, only
nine were captured vessels; eight of these have been released; one, viz: the Charlotte, Pierce, master, has been
condemned; her owner went in her to England, from whence he dated his instructions to the captain; the other
reasons assigned for condemnation will be found in a translated copy of the sentence, which is No 37 of the file
herewith transmitted.*

I also enclose herewith a list of vessels which have passed this way from the date of the last (July 15) to Octo-
ber 9. It amounts to eighty-two. Of these—

There have been captured and released,	-	-	-	-	-	-	-	14
Captured and condemned for having English license, false clearance, having been under English convoy, &c.	-	-	-	-	-	-	-	2
French captures, Hero, Radius, Roboreas, and Andromache,	-	-	-	-	-	-	-	4
Pending cases in Norway,	-	-	-	-	-	-	-	7
Pending cases in Copenhagen,	-	-	-	-	-	-	-	11
Continued their voyages without interruption,	-	-	-	-	-	-	-	44
								<u>82</u>

Thus it appears that of the two lists, making together one hundred and forty vessels, three only have been con-
demned, and one hundred and fifteen have gone clear; and besides these, a great number of vessels have arrived
and departed from the coasts of Norway, Holstein, and Jutland, of which I have not any particular accounts, and
therefore they are not entered on the lists.

Of the eighteen cases (exclusive of French captures) which were depending on the 9th of October, five of the
Norway, and three of the Copenhagen cases have been favorably decided; there has not been one final condemna-
tion, nor do I see reason to apprehend that more than one of those actually depending will be condemned; these
may probably all be settled in the course of about five weeks.

* This paper is not on Mr. Erving's file.

[Enclosed in Mr. Erving's letter of November 10.]

LIST OF AMERICAN VESSELS ARRIVED SINCE JULY 14, 1811.

[N. B. Those of a prior date were not known to have arrived on the 15th July, when the last list was made out.]

Vessels.	Masters.	Of	From	Bound to	Cargo.	Owners.	Date.	Proceedings.
Olive Branch,	Bradley,	Philadelphia,	Philadelphia,	Copenhagen,	Hides, fustic,	Pratt & Kintzing,	July 1,	Passed without interruption.
Washington,	Brown,	Boston,	St. Peters'bg,	Boston,	Iron, hemp,	R. Gray,	July 2,	Passed without interruption.
Brutus,	Fenno,	Boston,	New Orleans,	Petersburg,	Cotton,	N. Robinson & others,	June 7,	Captured and carried to Farhsund; pending.
Fame,	Perry,	Baltimore,	-	Petersburg,	Coffee,	Brown & Hollings,	June 7,	Captured and carried to Farhsund; acquitted.
Andromeda,	Laing,	Bristol,	Norway,	Copenhagen,	Rice, rum, &c.	James D'Wolfe & Co.	July 7,	Passed without interruption.
Narraganset,	Paine,	Bristol,	Petersburg,	Petersburg,	Sugar, cotton,	J. & G. D'Wolfe,	July 9,	Passed without interruption.
Dorothea,	Dougherty,	Philadelphia,	Philadelphia,	Petersburg,	Sugar, indigo,	Lewis Clapier,	July 9,	Passed without interruption.
Louisa,	Rice,	Salem,	Salem,	Petersburg,	Sugar, fustic,	R. Wheatland,	July 11,	Passed without interruption.
Delaware,	Gill,	New York,	Petersburg,	New York,	Hemp, bristles,	J. Moses & Sons,	July 11,	Detained and released; captors taxed costs.
Experiment,	Vibbert,	New York,	Petersburg,	New York,	-	Minturn & Champlin,	July 14,	Captured and released.
Rachel,	Mattenly,	Boston,	-	Petersburg,	Fruit,	William Gray,	July 14,	Captured and released.
Laura,	Lambert,	New York,	New York,	Petersburg,	Cotton,	R. Black,	July 14,	Captured and carried into Farhsund; pending.
Lucia,	Haskell,	Boston,	Boston,	Petersburg,	Cotton, coffee, sugar, spices.	William Gray,	July 14,	Passed without interruption.
Columbine,	Jones,	New York,	Petersburg,	New York,	Iron, hemp, &c.	Hicks, Jenkins, & Co.	July 14,	Passed without interruption.
Herald,	Graves,	Salem,	Petersburg,	Salem,	Iron, hemp, &c.	Silsby & Stone,	July 20,	Passed without interruption.
William & Eliza,	Howland,	New Bedford,	Petersburg,	New Bedford,	Iron, hemp,	W. Rotch & Son,	July 20,	Passed without interruption.
Concordia,	Johnson,	New York,	Petersburg,	New York,	-	H. A. & J. G. Coster,	July 22,	Captured and released.
Amiable Matilda,	Hague,	New York,	New York & Norway.	Riga,	Sugar, coffee,	Jonathan Ogden,	July 22,	Captured and released.
Swift,	Daggett,	Providence,	Petersburg,	Providence,	-	Bullock & Richmond,	July 24,	Captured and released.
Aurora,	Curtis,	Marblehead,	Russia,	Ireland,	-	-	July 24,	Captured, condemned, English license, &c.
Zodiac,	Millar,	New York,	New York,	Petersburg,	Sugar, &c.	Jonathan Ogden,	July 26,	Captured and released.
Roboreas,	Williams,	Boston,	Newport,	Liebau,	Cotton, logwood,	Henry Gray,	July 27,	Passed without interruption.
Weymouth,	Gardner,	Boston,	Newport,	Petersburg,	Cotton, logwood,	Crowel Hatch,	July 27,	Passed without interruption.
Phoenix,	Freeman,	New Bedford,	London,	Petersburg,	Ballast,	J. A. Parker,	July 27,	Captured and released.
Susannah,	Cassan,	Philadelphia,	Petersburg,	Philadelphia,	Hemp, iron, &c.	Savage & Dugen,	Aug. 2,	Passed without interruption.
Agent,	Row,	Philadelphia,	Philadelphia,	-	Tea, nankeens,	Robert Ralston,	Aug. 2,	Passed without interruption.
Halyon,	Heelen,	Boston,	Boston,	Petersburg,	Sugar, cotton, &c.	Watson & Heelen,	Aug. 5,	Passed without interruption.
Ellen,	Keating,	Portland,	Portland,	Petersburg,	Mahogany, logwood,	Cross, Alder, & Co.	Aug. 5,	Passed without interruption.
Hector,	Hetherington,	Providence,	Providence,	Petersburg,	Coffee, cotton,	Brown & Ives,	Aug. 5,	Passed without interruption.
Moses,	Massey,	Salem,	Salem,	Copenhagen,	Rice, flour, beef,	Richard Gardner,	Aug. 5,	Passed without interruption.
Hero,	Blackler,	Marblehead,	Marblehead,	Petersburg,	Coffee, cotton,	William Blacker & Sons,	Aug. 5,	Detained by French privateer; condemned.
Radius,	Lander,	Boston,	Newport,	Petersburg,	Oil, cotton,	William Gray,	Aug. 6,	Detained by French privateer; condemned.
Richmond,	Jervis,	Philadelphia,	Philadelphia,	Petersburg,	Coffee, sugar, logwood,	Savage & Dugen,	Aug. 6,	Passed without interruption.
Minerva,	Baker,	Portland,	Portland,	Petersburg,	Sugar, coffee, mahogany,	Cobb & Clapp,	Aug. 6,	Passed without interruption.
Indian Queen,	Hammond,	New York,	Lisbon,	Petersburg,	Ballast,	Abraham Barker,	Aug. 6,	Passed without interruption.
Washington,	Brown,	Newburyport,	Newburyport,	Petersburg,	Coffee, sugar, pepper,	Fulong & Co.	Aug. 11,	Captured, brought into Copenhagen; pending.
Dolphin,	Latham,	New York,	-	-	Rice, cotton,	Jacob Barker,	Aug. 12,	Captured; released.
Maryland,	Peters,	New York,	London,	Petersburg,	Ballast,	Jacob Barker,	Aug. 14,	Captured; pending.
Neptune,	Warner,	Newburyport,	Gottenburg,	Petersburg,	Ballast,	-	Aug. 14,	Captured; condemned, English license, &c.
Brig Comet,	Dennis,	Boston,	New York,	Stettin,	Hides, pep'r, indigo, bark	-	Aug. 14,	Captured; pending.
Washington,	Storey,	Salem,	Petersburg,	Salem,	Iron, hemp, diaper,	William Orne,	Aug. 20,	Passed without interruption.

NOVEMBER 1, 1811.

From the foregoing list, it results that the number of vessels which have arrived since the 15th July, (or arrivals not entered in the list of 15th July,) is eighty-two.

Of these there have been captured and released,	-	-	-	-	-	-	-	-	14
Condemned on justifiable grounds,	-	-	-	-	-	-	-	-	2
Gone clear without interruption,	-	-	-	-	-	-	-	-	44
French captures, ("Hero," "Radius," "Roboreas," "Andromache,")	-	-	-	-	-	-	-	-	4
Pending Norway cases,	-	-	-	-	-	-	-	-	7
Pending Denmark cases,	-	-	-	-	-	-	-	-	11
									<u>82</u>

Pending cases, October 9, 1811.

<i>In Norway—</i>			<i>In Copenhagen—</i>			
Brutus,	Fenno, master,	} Acquitted by inferior court; captors appeal.	Washington,	Brown, master,	} Condemned in the inferior court; pending in the high court.	
Laura,	Lambert, do.		Maryland,	Peters, do.		
Comet,	Denis, do.	Released.	Augustus,	Flint, do.		
Industry,	Cook, do.	Released.	Nancy,	Eveleth, do.		
Pilot,	Gower, do.	Released.	Jeremiah,	Russell, do.		
Hebe,	Pawson, do.	Released.	Horace,	Leech, do.		
President,	Portis, do.	Condemned; English property.	Packet,	Somes, do.		Released.
			Rover,	Groves, do.		Released.
			Jane Maria,	Moffatt, do.		Released.
			Hannah,	Dennis, do.		} Double captures.
			Two Gen'als,	Courtois, do.		

Of these, four Norway cases and three Copenhagen cases have been released, viz:

Norway cases—"Comet," "Industry," "Pilot," "Hebe."

Copenhagen cases—"Packet," "Rover," "Jane Maria."

One Norway case condemned on justifiable ground. Ten cases actually pending.

GEORGE W. ERVING.

Extract:—Mr. Erving to Mr. Monroe, Secretary of State, dated

DECEMBER 23, 1811.

My last despatch relating to general business was of November 10.

No further captures have been made by the French privateers in this quarter; at Nybörg, close by the fort, a privateer called the General Durosnel, commanded by one Captain Massé, has lately boarded and taken possession of the "Olive Branch," Bradley, master, of Philadelphia, laden with German goods, and having the King's license. M. De Rosenkrantz has promised that she shall be delivered up forthwith; but as the papers of the ship have been put into possession of the French consul by the privateersman, some considerable delay may yet take place; there can be no doubt, however, but that the consul will be ordered by his Government to restore the papers, since the Prince of Echmuhl, (commanding at Hamburg,) instantly, on learning what had passed, saw fit to suspend Captain Massé.

Another privateer, called Nordsteirnein, or Northern Star, commanded by Captain Weide, lately cut out from the roads of Swinemunde in Prussia, the "Jane Maria," Moffat, master, (a vessel some time ago released here.) Captain Moffat and six of his crew being on shore, and two Prussian soldiers as guards on board, the privateer's intention was to have carried her into Rodstock; in that he failed, and the wind not allowing of his entering any other port, he was obliged to bring her to this place, where she arrived a few days since. The same privateer having formerly cut some Danish vessels out of a port in Holstein, and having consequently been prohibited from cruising, was ordered away instantly on his arrival. I claimed the restitution of the vessel; the Frenchmen were accordingly turned on shore; she is now occupied by Danish soldiers, and waits only for the arrival of the captain and crew (for whom I have sent) to be entirely at liberty. The Prince of Echmuhl has also suspended this captain Weide.

Finally, on the 16th instant, the Augustus, Flint, and Horace, Leech, whose cases were mentioned in my despatch of Nov. 10, as then pending, having been released, and proceeding on their voyage, were attacked between this and Elsinour by two French privateers; the American vessels escaped, but on their arrival at Elsinour were claimed by the privateers, and the commandant there, though he would not acquiesce in that pretension, thought it his duty to put them under embargo till he could receive the King's orders. I immediately made a suitable representation of this transaction, and the vessels are now put at the disposal of their several captains; by one of them I shall transmit this despatch.

He (Monsieur le Baron d'Alqui, lately minister of France at Stockholm, now at Copenhagen,) has expressed himself to me in the fullest and fairest manner against the proceedings of the French privateers in general, and particularly in the cases above mentioned, assuring me that he shall make it his business to have the captains in question severely punished.

The lists of arrivals here, which I have transmitted with former despatches, included, as you will have observed, all the vessels which had been reported to me, whether entering or going out of the Baltic; yet they cannot be considered as complete. My correspondents at Elsinour, Messrs. Belfour, Ellah, Rainals, & Co., to whom I am very much indebted for a great deal of useful information, furnished me with lists of one hundred and two American vessels which entered the Sound, bound to St. Petersburg; we calculate sixty to have passed through the Belt; and, upon the whole, that about three hundred and fifty cargoes in and out have passed this year.

Extract:—Mr. Erving to the Secretary of State.

FEBRUARY 12, 1812.

I have also looked at the results of the last year's accounts, and I can safely say, as I do with great satisfaction, that when the business is closed, not more than one in forty-six of the vessels which have passed (one-fourteenth of the captured) will have been condemned, which, in the actual situation of Europe, and under all the circumstances of our commerce, considered in its own nature, is even a smaller proportion than was to have been anticipated; however the results of former years may appear, I hope to make it evident that our Government has afforded as effectual and complete protection to the commerce during the last year, as it is possible for neutral commerce in these times to receive.

Vessels.	Masters.	Owners.	Of	From	Bound to	Captors.	Remarks.
72 Brutus, -	Fenno, -	N. Robinson, & others, -	Boston, -	New Orleans, -	Petersburg, -	Danes, -	Acquitted by inferior court. Captors appeal.
Fame, -	Perry, -	Brown and Hollins, -	Baltimore, -	New Orleans, -	Petersburg, -	Danes, -	Acquitted.
Delaware, -	Gill, -	J. Moses and Sons, -	New York, -	Petersburg, -	New York, -	Danes, -	Acquitted. Captors taxed costs.
Experiment, -	Vibbert, -	Minturn and Champlin, -	New York, -	Petersburg, -	New York, -	Danes, -	Released.
Rachel, -	Mattenly, -	William Gray, -	Boston, -	- - - - -	- - - - -	Danes, -	Released.
Laura, -	Lambert, -	Richard Black, -	New York, -	New York, -	Petersburg, -	Danes, -	Pending.
Concordia, -	Johnson, -	H. A. and J. G. Coster, -	New York, -	Petersburg, -	New York, -	Danes, -	Released.
Amiable Matilda, -	Hague, -	John Ogden, -	New York, -	N. York & Norway	Riga, -	Danes, -	Released.
Swift, -	Daggett, -	Bullock and Richmond, -	Providence, -	Petersburg, -	Providence, -	Danes, -	Released.
Aurora, -	Curtis, -	- - - - -	Marblehead, -	Russia, -	Ireland, -	Danes, -	Condemned. English license, &c.
Zodiac, -	Millar, -	John Ogden, -	New York, -	New York, -	Petersburg, -	Danes, -	Released.
Phoenix, -	Freeman, -	J. A. Parker, -	New Bedford, -	London, -	Petersburg, -	Danes, -	Released.
Hero, -	Blackler, -	Wm. Blackler & Sons, -	Marblehead, -	Marblehead, -	Petersburg, -	French, -	Condemned. Suspicion of being on English account, and of sailing with convoy.
Radius, -	Lander, -	William Gray, -	Boston, -	Newport, -	Petersburg, -	French, -	Condemned. Suspicion of being on English account.
Washington, -	Brown, -	Furlong and Co. -	Newburyport, -	Newburyport, -	Petersburg, -	Danes, -	Condemned in inferior court. Pending in high court.
Dolphin, -	Latham, -	Jacob Barker, -	New York, -	Unknown, -	Unknown, -	Danes, -	Released.
Maryland, -	Peters, -	Jacob Barker, -	New York, -	London, -	Petersburg, -	Danes, -	Condemned in inferior court. Pending in high court.
Neptune, -	Warner, -	Unknown, -	Newburyport, -	Gottenburg, -	Petersburg, -	Danes, -	Condemned. English license, &c.
Comet, -	Dennis, -	Unknown, -	Boston, -	New York, -	Stettin, -	Danes, -	Released.
Augustus, -	Flint, -	Jos. Peabody, -	Salem, -	Petersburg, -	Salem, -	Danes, -	Condemned in infer'r court. Acquitted in high court.
Sukey, -	Osgood, -	S. Phillips, -	Salem, -	Petersburg, -	Salem, -	Danes, -	Released.
Hannah, -	Dennis, -	Unknown, -	Newburyport, -	England, -	Petersburg, -	Dane, afterwards Fr ^h .	
Two Generals, -	Courtois, -	Unknown, -	St. Simon's, -	- - - - -	- - - - -	Dane, afterwards Fr ^h .	
Egeria, -	Law, -	Unknown, -	New York, -	Christiansand, -	Petersburg, -	Dane, afterwards Fr ^h .	Released.
Nancy, -	Eveleth, -	Moses Brown, -	Newburyport, -	Newburyport, -	Petersburg, -	Danes, -	Condemned in the inferior, pending in the high court.
Jeremiah, -	Russell, -	Unknown, -	Salem, -	Salem, -	- - - - -	Danes, -	Condemned in the inferior, pending in the high court.
Lyon, -	Jones, -	Unknown, -	- - - - -	- - - - -	- - - - -	Danes, -	Released.
Horace, -	Leech, -	William Gray, -	Salem, -	Petersburg, -	Boston, -	Danes, -	Acquitted.
Packet, -	Somes, -	Unknown, -	Boston, -	Boston, -	Petersburg, -	Danes, -	Released.
Industry, -	Cook, -	Unknown, -	Philadelphia, -	United States, -	Christiana, -	Danes, -	Released.
Rover, -	Groves, -	Unknown, -	Boston, -	New Orleans, -	- - - - -	Danes, -	Released.
Jane Maria, -	Moffatt, -	Unknown, -	New York, -	New York, -	- - - - -	Danes, -	Released.
John, -	Reynolds, -	Unknown, -	Providence, -	- - - - -	- - - - -	Danes, -	Acquitted. Captors appeal; and finally acquitted.
Pilot, -	Groves, or Gower	S. Smith, -	Baltimore, -	Baltimore, -	Petersburg, -	Danes, -	Released.
Hebe, -	Parsons, -	Unknown, -	Baltimore, -	Gottenburg, -	United States, -	Danes, -	Released.
President, -	Pontis, -	Unknown, -	Charleston, -	Gottenburg, -	Archangel, -	Danes, -	Condemned. English property.
Roboreas, -	Williams, -	Unknown, -	- - - - -	Petersburg, -	Boston, -	French, -	
Andromache, -	Laing, -	Unknown, -	- - - - -	Petersburg, -	New York, -	French, -	
Julian, -	Abbot, -	Unknown, -	Philadelphia, -	Philadelphia, -	Gottenburg, -	Dane, afterwards Fr ^h .	Condemned on pretence of being on English account.
Catharine, -	Ochington, -	Unknown, -	Boston, -	Boston, -	Gottenburg, -	Dane, afterwards Fr ^h .	Condemned on pretence of being on English account.
Hercules, -	Snow, -	Unknown, -	New Bedford, -	Charleston, -	To a port in Baltic, -	French, -	Pretence of sailing under convoy, &c.
Atlantic, -	Yayne, -	Unknown, -	New York, -	Carlsham, in Swe-	Gottenburg, -	French, -	
Indian Chief, -	- - - - -	Unknown, -	- - - - -	- - - - -	- - - - -	English, -	
Olive Branch, -	Bradley, -	Unknown, -	Philadelphia, -	- - - - -	- - - - -	French, -	See document marked B, No. 12.
Jane Maria, -	Moffatt, -	Unknown, -	- - - - -	- - - - -	- - - - -	French, -	See document marked B, No. 12.

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C.

David B. Warden, consul of the United States, to the Secretary of State.

CASES OF CAPTURE.

Case of the American ship Julian.

The Julian left Philadelphia the 7th of May, 1810, bound to Gottenburg and any free port of the Baltic. On the 19th of June, in passing Fair island, she was hailed, in English, by a vessel of war, but not boarded, and continued her course for Gottenburg. On the 21st of said month she was captured off the Naze of Norway, by a Norwegian privateer, and carried into Christiansand. On the 27th of July she was released by a decision of the Prize Court, with an award of damages. The captors appealed to the high court of Copenhagen, which confirmed the former decision. The papers were not received till the 7th of January; at this season it was impossible for the vessel to continue her voyage, and she was obliged to remain at Christiansand till the 10th of April, (nearly ten months detained,) when she sailed for Gottenburg, where she arrived on the 12th instant. Not finding a market there, the captain, on the 23d of April, proceeded to St. Petersburg, and paid the usual toll at Elsinour. On entering the Sound had been hailed and boarded by English ships of war, and was captured, on the 4th of May, off the island of Gothland, by the French privateer the *Marie Louise*, and conducted to Dantzic. On the 12th instant, the captain, supercargo, and crew were interrogated by the French consul of that place. On the 10th of September, 1811, the vessel and cargo were condemned by the Council of Prizes at Paris, on the following report, viz:

1st. That the captured crew acknowledged that the Julian's cargo consisted of colonial productions.

2d. That she was visited by several English war vessels.

3d. That the papers indicate that the supercargo thought it possible to procure false certificates of origin.

4th. That he corresponded with merchants of Liverpool.

5th. That it is so much the less doubtful that this vessel entered the Baltic under English convoy, as it is not proven that he paid the duties of the Sound in passing Elsinour; therefore it must be inferred that he himself was English, and that for this reason he was obliged to purchase, at a great expense, his freedom in Norway, where he ought to have been received as a neutral, if he were really an American; that, on this account, the whole is liable to condemnation without further delay.

The supercargo, William Bell, declares that the receipt of the duties of the Sound was delivered with the papers to the French consul at Dantzic, who returned it to Captain Abbot, with the quarantine pass and other papers.

Ship's papers.

1. Register,
2. Sea-letter,
3. Mediterranean pass,
4. Roll of equipage,
5. Bills of lading,
6. Manifest,

7. Clearance,
8. Declaration of owners,
9. Certificate of origin,
10. Certificates,
11. Instructions,
12. Certificate of damages, letters, London price current, &c.

Case of the American brig Catharine.

The Catharine sailed from Boston in April, 1810, with a cargo consisting of sugar, cocoa, cotton, and fustic, bound to Gottenburg and a market. On her passage to that port, in the month of June, she was captured by a Danish privateer off the coast of Norway, and conducted to a port of that country. By a decision of the Prize Court at Christiansand she was liberated. The captors appealed to the High Court of Admiralty at Copenhagen, which confirmed the former decision in the month of December. It was impossible to prosecute the voyage at this season; the Catharine remained in Norway till April, in which month she proceeded to Gottenburg, and, not finding a market there, she proceeded to Petersburg, passed the Sound, paid the duties at Elsinour, and, continuing her voyage, was captured on the 3d day of May, off the island of Bornholm, by the French privateer the *Jeune Adolphe*, who conducted her to Dantzic. On the 10th day of September the brig and cargo were confiscated by a decree of the French Council of Prizes, which states—

“That the Catharine touched at Gottenburg, which was then visited by an English armed packet-boat; which indicates that this vessel, laden almost wholly with colonial productions and dyewood, was employed for the interest of English commerce; that, besides, it cannot be doubted that he entered the Baltic under an English convoy; and that if he was not visited by the enemy's ships, of which there were there a great number, it was because he was himself an enemy under American disguise, and, therefore, the confiscation of the vessel and cargo is not attended with any difficulty.”

The supercargo, Ephraim Thayer, declares that the Catharine was not under convoy; that the voyage was in every respect legal.

Ship's papers.

1. Register,
2. Mediterranean and Turkish pass,
3. Acts of engagement,
4. Roll of equipage,
- 7 and 8. Bills of health,
9. Bills of lading,
10. Manifest,

11. Clearance,
12. Certificates of origin,
13. Instructions,
14. Accounts and clearance,
15. Decision of the Danish Prize Court,
16. Receipts for the duties at Fahrensund.

Case of the ship Hercules.

The Hercules, of New Bedford, in the United States, sailed from Charleston in South Carolina the 22d of February, 1810, with a cargo of rice, cotton, tobacco, and logwood, destined for a free port of the Baltic. On the 27th of March this vessel arrived at the roads of Gottenburg, to avoid the ice of the Baltic; and, on the 3d of April following, she sailed for the port of St. Petersburg, and was captured near Elsinour by a Danish privateer, by which she was conducted to Copenhagen, where she was detained till the 1st of May, when she was permitted, by a decision of the Council of Prizes, to continue her route to St. Petersburg. On the 2d of said month she was forcibly seized, near the island of Oland, by the French privateer *Little Devil*, commanded by Captain Klinerath, who conducted her as a prize to Dantzic, which was adjudged as good and lawful by a decision of the Council of Prizes, passed on the 10th of September.

The neutrality of the vessel and cargo is completely established by the papers found on board, which were all duly authenticated. The cargo was consigned to the captain by three shippers, proprietors of the vessel, all citizens of the United States.

There was a certificate of the importation of the Campeachy wood legalized by the French consul, and certificates of the origin and property of the cargo from the Danish and Swedish consuls residing at the ports of embarkation. Besides these documents, there was a certificate stating that there was no Russian consul at Charleston; and also a copy of the judgment of the Danish Council of Prizes, of the 13th of April, 1811, which ordered the vessel and cargo, truly American, to be put at the disposition of the captain, he paying certain expenses incurred by the capture.

The following are the grounds of capture, as stated in the decision of the Imperial Council of Prizes:

- 1st. That the Hercules was laden with colonial productions.
- 2d. That she had no fixed destination, and was consigned to the captain.
- 3d. That she touched at Gottenburg, which is considered as an English entrepôt.
- 4th. That she, without doubt, navigated under the protection of English convoy.
- 5th. That it was impossible she was not visited by the enemy's ships of war in approaching the isle of Anholt.
- 1st. The captain and crew have declared that the vessel was not visited by any English ship or vessel, and there is no proof exhibited against this statement.
- 2d. Her destination was regular, seeing it was for a permitted port of the Baltic.
- 3d. At the departure of the Hercules from the United States there was even no suspicion that Gottenburg was considered as an enemy's port.
- 4th. The captain and crew have declared, as is proven by the log-book, that this vessel was not under convoy, and there is no proof of their statement.

We have already stated that her papers were all regular and legal. An act of the custom-house shows that the Campeachy wood was imported in a vessel named the *Isabella*. The consignment of the cargo to the captain, and the want of a supercargo, are hinted at as suspicious—circumstances which often occur, and which are no index of simulation or fraud.

The captain was detained a month at Hamburg before he was permitted to come to Paris, and he was not able to arrive at this city before the 6th of September, four days before the condemnation of the property; and, in this short space of time, he found it impossible to present the defence of which he was preparing the materials.

Ship's papers.

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| <ol style="list-style-type: none"> 1. Register, 2. Mediterranean pass, 3. Sea-letter, 4. Bill of lading, 5. Certificate of destination, 6. Roll of equipage. | <ol style="list-style-type: none"> 7. Manifest, 8. Certificates for cargo, 9. Clearance, 10. Certificate of origin, 11. Decision of the Danish Prize Court, |
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DAVID BAILIE WARDEN.

GREAT BRITAIN.

REPORTED TO THE HOUSE OF REPRESENTATIVES, JUNE 3, 1812.

Mr. CALHOUN, from the Committee on Foreign Relations, to whom was referred the message of the President of the United States of the 1st of June, 1812, made the following report:

That, after the experience which the United States have had of the great injustice of the British Government towards them, exemplified by so many acts of violence and oppression, it will be more difficult to justify to the impartial world their patient forbearance than the measures to which it has become necessary to resort, to avenge the wrongs, and vindicate the rights and honor of the nation. Your committee are happy to observe, on a dispassionate review of the conduct of the United States, that they see in it no cause for censure.

If a long forbearance under injuries ought ever to be considered a virtue in any nation, it is one which peculiarly becomes the United States. No people ever had stronger motives to cherish peace; none have ever cherished it with greater sincerity and zeal.

But the period has now arrived when the United States must support their character and station among the nations of the earth, or submit to the most shameful degradation. Forbearance has ceased to be a virtue. War on the one side, and peace on the other, is a situation as ruinous as it is disgraceful. The mad ambition, the lust of power, and commercial avarice of Great Britain, arrogating to herself the complete dominion of the ocean, and exercising over it an unbounded and lawless tyranny, have left to neutral nations an alternative only between the base surrender of their rights, and a manly vindication of them. Happily for the United States, their destiny, under the aid of Heaven, is in their own hands. The crisis is formidable only by their love of peace. As soon as it becomes a duty to relinquish that situation, danger disappears. They have suffered no wrongs, they have received no insults, however great, for which they cannot obtain redress.

More than seven years have elapsed since the commencement of this system of hostile aggression by the British Government on the rights and interests of the United States. The manner of its commencement was not less hostile than the spirit with which it has been prosecuted. The United States have invariably done every thing in their power to preserve the relations of friendship with Great Britain. Of this disposition they gave a distinguished proof at the moment when they were made the victims of an opposite policy. The wrongs of the last war had not been forgotten at the commencement of the present one. They warned us of dangers against which it was sought to provide. As early as the year 1804, the minister of the United States at London was instructed to invite the British Government to enter into a negotiation on all the points on which a collision might arise between the two

countries in the course of the war, and to propose to it an arrangement of their claims on fair and reasonable conditions. The invitation was accepted. A negotiation had commenced, and was depending, and nothing had occurred to excite a doubt that it would not terminate to the satisfaction of both the parties. It was at this time, and under these circumstances, that an attack was made, by surprise, on an important branch of the American commerce, which affected every part of the United States, and involved many of their citizens in ruin.

The commerce on which this attack was so unexpectedly made was that between the United States and the colonies of France, Spain, and other enemies of Great Britain; a commerce just in itself, sanctioned by the example of Great Britain in regard to the trade with her own colonies; sanctioned by a solemn act between the two Governments in the last war; and sanctioned by the practice of the British Government in the present war; more than two years having then elapsed without any interference with it.

The injustice of this attack could only be equalled by the absurdity of the pretext alleged for it. It was pretended by the British Government that, in case of war, her enemy had no right to modify its colonial regulations, so as to mitigate the calamities of war to the inhabitants of its colonies. This pretension, peculiar to Great Britain, is utterly incompatible with the rights of sovereignty in every independent State. If we recur to the well-established and universally admitted law of nations, we shall find no sanction to it in that venerable code. The sovereignty of every State is co-extensive with its dominions, and cannot be abrogated or curtailed in its rights as to any part, except by conquest. Neutral nations have a right to trade to every port of either belligerent which is not legally blockaded, and in all articles which are not contraband of war. Such is the absurdity of this pretension, that your committee are aware, especially after the able manner in which it has been heretofore refuted and exposed, that they would offer an insult to the understanding of the House if they enlarged on it; and if any thing could add to the high sense of the injustice of the British Government in this transaction, it would be the contrast which her conduct exhibits in regard to this trade, and in regard to a similar trade by neutrals, with her own colonies. It is known to the world that Great Britain regulates her own trade, in war and in peace, at home and in her colonies, as she finds for her interest; that, in war, she relaxes the restraints of her colonial system in favor of the colonies; and that it never was suggested that she had not a right to do it, or that a neutral, in taking advantage of the relaxation, violated a belligerent right of her enemy. But with Great Britain every thing is lawful. It is only in a trade with her enemies that the United States can do wrong; with them all trade is unlawful.

In the year 1793 an attack was made by the British Government on the same branch of our neutral trade, which had nearly involved the two countries in war. That difference, however, was amicably accommodated. The pretension was withdrawn, and reparation made to the United States for the losses which they had suffered by it. It was fair to infer from that arrangement, that the commerce was deemed by the British Government lawful, and that it would not be again disturbed.

Had the British Government been resolved to contest this trade with neutrals, it was due to the character of the British nation that the decision should be made known to the Government of the United States. The existence of a negotiation, which had been invited by our Government, for the purpose of preventing differences by an amicable arrangement of their respective pretensions, gave a strong claim to the notification, while it afforded the fairest opportunity for it. But a very different policy animated the then cabinet of England. Generous sentiments were unknown to it. The liberal confidence and friendly overtures of the United States were taken advantage of to ensnare them. Steady to its purpose, and inflexibly hostile to this country, the British Government calmly looked forward to the moment when it might give the most deadly wound to our interests. A trade, just in itself, which was secured by so many strong and sacred pledges, was considered safe. Our citizens, with their usual industry and enterprise, had embarked in it a vast proportion of their shipping and of their capital, which were at sea under no other protection than the law of nations, and the confidence which they reposed in the justice and friendship of the British nation. At this period the unexpected blow was given. Many of our vessels were seized, carried into port, and condemned, by a tribunal, which, while it professes to respect the laws of nations, obeys the mandate of its own Government, in opposition to all law. Hundreds of other vessels were driven from the ocean, and the trade itself in a great measure suppressed.

The effect produced by this attack on the lawful commerce of the United States was such as might have been expected from a virtuous, independent, and highly injured people. But one sentiment pervaded the whole American nation. No local interests were regarded, no sordid motives felt. Without looking to the parts which suffered most, the invasion of our rights was considered a common cause; and from one extremity of our Union to the other, was heard the voice of a united people calling on their Government to avenge their wrongs, and vindicate the rights and honor of the country.

From this period the British Government has gone on in a continued encroachment on the rights and interests of the United States, disregarding, in its course, in many instances, obligations which have heretofore been held sacred by civilized nations.

In May, 1806, the whole coast of the continent, from the Elbe to Brest, inclusive, was declared to be in a state of blockade. By this act, the well established principles of the law of nations—principles which have served for ages as guides, and fixed the boundary between the rights of belligerents and neutrals—were violated. By the law of nations, as recognised by Great Britain herself, no blockade is lawful, unless it be sustained by the application of an adequate force; and that an adequate force was applied to this blockade, in its full extent, ought not to be pretended. Whether Great Britain was able to maintain, legally, so extensive a blockade, considering the war in which she is engaged requiring such extensive naval operations, is a question which it is not necessary, at this time, to examine. It is sufficient to be known that such force was not applied, and this is evident from the terms of the blockade itself, by which, comparatively, an inconsiderable portion of the coast only was declared to be in a state of strict and rigorous blockade. The objection to the measure is not diminished by that circumstance. If the force was not applied, the blockade was unlawful, from whatever cause the failure might proceed. The belligerent who institutes the blockade cannot absolve itself from the obligation to apply the force under any pretext whatever. For a belligerent to relax a blockade which it could not maintain, with a view to absolve itself from the obligation to maintain it, would be a refinement in injustice, not less insulting to the understanding than repugnant to the law of nations. To claim merit for the mitigation of an evil, which the party either had not the power or found it inconvenient to inflict, would be a new mode of encroaching on neutral rights. Your committee think it just to remark, that this act of the British Government does not appear to have been adopted in the sense in which it has been since construed. On consideration of all the circumstances attending the measure, and particularly the character of the distinguished statesman who announced it, we are persuaded that it was conceived in a spirit of conciliation, and intended to lead to an accommodation of all differences between the United States and Great Britain. His death disappointed that hope, and the act has since become subservient to other purposes. It has been made by his successors a pretext for that vast system of usurpation which has so long oppressed and harassed our commerce.

The next act of the British Government which claims our attention is the order of council of January 7, 1807, by which neutral Powers are prohibited trading from one port to another of France or her allies, or any other

country with which Great Britain might not freely trade. By this order the pretension of England, heretofore disclaimed by every other Power, to prohibit neutrals disposing of parts of their cargoes at different ports of the same enemy is revived, and with vast accumulation of injury. Every enemy, however great the number, or distant from each other, is considered one; and the like trade, even with Powers at peace with England, who from motives of policy had excluded or restrained her commerce, was also prohibited. In this act the British Government evidently disclaimed all regard for neutral rights. Aware that the measures authorized by it could find no pretext in any belligerent right, none was urged. To prohibit the sale of our produce, consisting of innocent articles, at any port of a belligerent not blockaded, to consider every belligerent as one, and subject neutrals to the same restraints with all, as if there was but one, were bold encroachments. But to restrain, or in any manner interfere with our commerce with neutral nations, with whom Great Britain was at peace, and against whom she had no justifiable cause of war, for the sole reason that they restrained or excluded from their ports her commerce, was utterly incompatible with the pacific relations subsisting between the two countries.

We proceed to bring into view the British order in council of November 11, 1807, which superseded every other order, and consummated that system of hostility on the commerce of the United States which has been since so steadily pursued. By this order all France and her allies, and every other country at war with Great Britain, or with which she was not at war, from which the British flag was excluded, and all the colonies of her enemies, were subjected to the same restrictions as if they were actually blockaded in the most strict and rigorous manner; and all trade in articles, the produce and manufacture of the said countries and colonies, and the vessels engaged in it, were subjected to capture and condemnation as lawful prize. To this order certain exceptions were made, which we forbear to notice, because they were not adopted from a regard to neutral rights, but were dictated by policy, to promote the commerce of England, and, so far as they related to neutral Powers, were said to emanate from the clemency of the British Government.

It would be superfluous in your committee to state that, by this order, the British Government declared direct and positive war against the United States. The dominion of the ocean was completely usurped by it, all commerce forbidden, and every flag driven from it, or subjected to capture and condemnation, which did not subserve the policy of the British Government, by paying it a tribute, and sailing under its sanction. From this period the United States have incurred the heaviest losses and most mortifying humiliations. They have borne the calamities of war, without retorting them on its authors.

So far your committee has presented to the view of the House the aggressions which have been committed, under the authority of the British Government, on the commerce of the United States. We will now proceed to other wrongs, which have been still more severely felt. Among these is the impressment of our seamen, a practice which has been unceasingly maintained by Great Britain, in the wars to which she has been a party, since our revolution. Your committee cannot convey, in adequate terms, the deep sense which they entertain of the injustice and oppression of this proceeding. Under the pretext of impressing British seamen, our fellow-citizens are seized in British ports, on the high seas, and in every other quarter to which the British power extends; are taken on board British men-of-war, and compelled to serve there as British subjects. In this mode our citizens are wantonly snatched from their country and their families; deprived of their liberty, and doomed to an ignominious and slavish bondage; compelled to fight the battles of a foreign country, and often to perish in them; our flag has given them no protection; it has been unceasingly violated, and our vessels exposed to danger by the loss of the men taken from them. Your committee need not remark that, while this practice is continued, it is impossible for the United States to consider themselves an independent nation. Every new case is a new proof of their degradation. Its continuance is the more unjustifiable, because the United States have repeatedly proposed to the British Government an arrangement which would secure to it the control of its own people. An exemption of the citizens of the United States from this degrading oppression, and their flag from violation, is all that they have sought.

This lawless waste of our trade, and equally unlawful impressment of our seamen, have been much aggravated by the insults and indignities attending them. Under the pretext of blockading the harbors of France and her allies, British squadrons have been stationed on our own coast, to watch and annoy our own trade. To give effect to the blockade of European ports, the ports and harbors of the United States have been blockaded. In executing these orders of the British Government, or in obeying the spirit which was known to animate it, the commanders of these squadrons have encroached on our jurisdiction, seized our vessels, and carried into effect impressments within our limits, and done other acts of great injustice, violence, and oppression. The United States have seen, with mingled indignation and surprise, that these acts, instead of procuring to the perpetrators the punishment due to unauthorized crimes, have not failed to recommend them to the favor of their Government.

Whether the British Government has contributed by active measures to excite against us the hostility of the savage tribes on our frontiers, your committee are not disposed to occupy much time in investigating. Certain indications of general notoriety may supply the place of authentic documents, though these have not been wanting to establish the fact in some instances. It is known that symptoms of British hostility towards the United States have never failed to produce corresponding symptoms among those tribes. It is also well known that, on all such occasions, abundant supplies of the ordinary munitions of war have been afforded by the agents of British commercial companies, and even from British garrisons, wherewith they were enabled to commence that system of savage warfare on our frontiers, which has been at all times indiscriminate in its effect on all ages, sexes, and conditions, and so revolting to humanity.

Your committee would be much gratified if they could close here the detail of British wrongs, but it is their duty to recite another act of still greater malignity than any of those which have been already brought to your view. The attempt to dismember our Union, and overthrow our excellent constitution, by a secret mission, the object of which was to foment discontents and excite insurrection against the constituted authorities and laws of the nation, as lately disclosed by the agent employed in it, affords full proof that there is no bound to the hostility of the British Government towards the United States; no act, however unjustifiable, which it would not commit to accomplish their ruin. This attempt excites the greater horror, from the consideration that it was made while the United States and Great Britain were at peace, and an amicable negotiation was depending between them for the accommodation of their differences, through public ministers regularly authorized for the purpose.

The United States have beheld, with unexampled forbearance, this continued series of hostile encroachments on their rights and interests, in the hope that, yielding to the force of friendly remonstrances, often repeated, the British Government might adopt a more just policy towards them; but that hope no longer exists. They have also weighed impartially the reasons which have been urged by the British Government in vindication of these encroachments, and found in them neither justification nor apology.

The British Government has alleged, in vindication of the orders in council, that they were resorted to as a retaliation on France, for similar aggressions committed by her on our neutral trade with the British dominions. But how has this plea been supported? The dates of British and French aggressions are well known to the world. Their origin and progress have been marked with too wide and destructive a waste of the property of our fellow-

citizens to have been forgotten. The decree of Berlin of November 21, 1806, was the first aggression of France in the present war. Eighteen months had then elapsed after the attack made by Great Britain on our neutral trade with the colonies of France and her allies, and six months from the date of the proclamation of May, 1806. Even on the 7th of January, 1807, the date of the first British order in council, so short a term had elapsed after the Berlin decree, that it was hardly possible that the intelligence of it should have reached the United States. A retaliation, which is to produce its effect by operating on a neutral Power, ought not to be resorted to till the neutral had justified it by a culpable acquiescence in the unlawful act of the other belligerent. It ought to be delayed until after sufficient time had been allowed to the neutral to remonstrate against the measure complained of, to receive an answer, and to act on it, which had not been done in the present instance. And when the order of November 11th was issued, it is well known that a minister of France had declared to the minister plenipotentiary of the United States at Paris that it was not intended that the decree of Berlin should apply to the United States. It is equally well known that no American vessel had then been condemned under it, or seizure been made, with which the British Government was acquainted. The facts prove incontestably that the measures of France, however unjustifiable in themselves, were nothing more than a pretext for those of England. And of the insufficiency of that pretext ample proof has already been afforded by the British Government itself, and in the most impressive form. Although it was declared that the orders in council were retaliatory on France for her decrees, it was also declared, and in the orders themselves, that, owing to the superiority of the British navy, by which the fleets of France and her allies were confined within their own ports, the French decrees were considered only as empty threats.

It is no justification of the wrongs of one Power, that the like were committed by another; nor ought the fact, if true, to have been urged by either, as it could afford no proof of its love of justice, of its magnanimity, or even of its courage. It is more worthy the Government of a great nation to relieve than to assail the injured. Nor can the repetition of the wrongs by another Power repair the violated rights or wounded honor of the injured party. An utter inability alone to resist could justify a quiet surrender of our rights, and degrading submission to the will of others. To that condition the United States are not reduced, nor do they fear it. That they ever consented to discuss with either Power the misconduct of the other, is a proof of their love of peace, of their moderation, and of the hope which they still indulged that friendly appeals to just and generous sentiments would not be made to them in vain. But the motive was mistaken. If their forbearance was imputed either to the want of a just sensibility to their wrongs, or a determination, if suitable redress was not obtained, to resent them, the time has now arrived when this system of reasoning must cease. It would be insulting to repeat it; it would be degrading to hear it. The United States must act as an independent nation, and assert their rights, and avenge their wrongs, according to their own estimate of them, with the party who commits them, holding it responsible for its own misdeeds, unmitigated by those of another.

For the difference made between Great Britain and France, by the application of the non-importation act against England only, the motive has been already too often explained, and is too well known to require further illustration. In the commercial restrictions to which the United States resorted, as an evidence of their sensibility, and mild retaliation of their wrongs, they invariably placed both Powers on the same footing, holding out to each, in respect to itself, the same accommodation, in case it accepted the condition offered; and, in respect to the other, the same restraint if it refused. Had the British Government confirmed the arrangement which was entered into with the British minister in 1809, and France maintained her decrees, with France would the United States have had to resist, with the firmness belonging to their character, the continued violation of their rights. The committee do not hesitate to declare, that France has greatly injured the United States, and that satisfactory reparation has not yet been made for many of those injuries. But that is a concern which the United States will look to and settle for themselves. The high character of the American people is a sufficient pledge to the world that they will not fail to settle it, on conditions which they have a right to claim.

More recently, the true policy of the British Government towards the United States has been completely unfolded. It has been publicly declared by those in power that the orders in council should not be repealed until the French Government had revoked all its internal restraints on the British commerce, and that the trade of the United States with France and her allies should be prohibited, until Great Britain was also allowed to trade with them. By this declaration it appears, that to satisfy the pretensions of the British Government, the United States must join Great Britain in the war with France, and prosecute the war until France should be subdued; for, without her subjugation, it were in vain to presume on such a concession. The hostility of the British Government to these States has been still further disclosed. It has been made manifest that the United States are considered by it as the commercial rival of Great Britain, and that their prosperity and growth are incompatible with her welfare. When all these circumstances are taken into consideration, it is impossible for your committee to doubt the motives which have governed the British ministry in all its measures towards the United States since the year 1805. Equally is it impossible to doubt longer the course which the United States ought to pursue towards Great Britain.

From this review of the multiplied wrongs of the British Government since the commencement of the present war, it must be evident to the impartial world that the contest which is now forced on the United States is radically a contest for their sovereignty and independence. Your committee will not enlarge on any of the injuries, however great, which have had a transitory effect. They wish to call the attention of the House to those of a permanent nature only, which trench so deeply on our most important rights, and wound so extensively and vitally our best interests, as could not fail to deprive the United States of the principal advantages of their resolution, if submitted to. The control of our commerce by Great Britain, in regulating at pleasure, and expelling it almost from the ocean; the oppressive manner in which these regulations have been carried into effect, by seizing and confiscating such of our vessels, with their cargoes, as were said to have violated her edicts, often without previous warning of their danger; the impressment of our citizens from on board our own vessels, on the high seas, and elsewhere, and holding them in bondage till it suited the convenience of their oppressors to deliver them up, are encroachments of that high and dangerous tendency, which could not fail to produce that pernicious effect; nor would those be the only consequences that would result from it. The British Government might, for a while, be satisfied with the ascendancy thus gained over us, but its pretensions would soon increase. The proof which so complete and disgraceful a submission to its authority would afford of our degeneracy, could not fail to inspire confidence that there was no limit to which its usurpations and our degradations might not be carried. Your committee believing that the freeborn sons of America are worthy to enjoy the liberty which their fathers purchased at the price of so much blood and treasure, and seeing in the measures adopted by Great Britain a course commenced and persisted in which must lead to a loss of national character and independence, feel no hesitation in advising resistance by force, in which the Americans of the present day will prove to the enemy and to the world, that we have not only inherited that liberty which our fathers gave us, but also the will and power to maintain it. Relying on the patriotism of the nation, and confidently trusting that the Lord of Hosts will go with us to battle in a righteous cause, and crown our efforts with success, your committee recommend an immediate appeal to arms.

[12th CONGRESS.]

No. 248.

[1st SESSION.]

S P A I N.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JULY 1, 1812.

JULY 1, 1812.

To the House of Representatives of the United States:

In compliance with the resolution* of the House of Representatives of the 26th of June, I transmit the information contained in the documents herein enclosed.

JAMES MADISON.

The Secretary of State to General George Matthews and Colonel John McKee.

GENTLEMEN:

DEPARTMENT OF STATE, January 26, 1811.

The President of the United States having appointed you, jointly and severally, commissioners for carrying into effect certain provisions of an act of Congress (a copy of which is enclosed,) relative to the portion of the Floridas situated to the east of the river Perdido, you will repair to that quarter with all possible expedition, concealing from general observation the trust committed to you, with that discretion which the delicacy and importance of the undertaking require.

Should you find Governor Folk, or the local authority existing there, inclined to surrender, in an amicable manner, the possession of the remaining portion or portions of West Florida now held by him in the name of the Spanish monarchy, you are to accept, in behalf of the United States, the abdication of his, or of the other existing authority, and the jurisdiction of the country over which it extends. And should a stipulation be insisted on for the re-delivery of the country at a future period, you may engage for such re-delivery to the lawful sovereign.

The debts clearly due from the Spanish Government to the people of the territory surrendered may, if insisted on, be assumed within reasonable limits, and under specified descriptions, to be settled hereafter as a claim against Spain in an adjustment of our affairs with her. You may also guaranty, in the name of the United States, the confirmation of all such titles to land as are clearly sanctioned by Spanish laws; and Spanish civil functionaries, where no special reasons may require changes, are to be permitted to remain in office, with the assurance of a continuation of the prevailing laws, with such alterations only as may be necessarily required in the new situation of the country.

If it should be required, and be found necessary, you may agree to advance, as above, a reasonable sum for the transportation of the Spanish troops.

These directions are adapted to one of the contingencies specified in the act of Congress, namely, the amicable surrender of the possession of the territory by the local ruling authority. But should the arrangement contemplated by the statute not be made, and should there be room to entertain a suspicion of an existing design in any foreign Power to occupy the country in question, you are to keep yourselves on the alert, and, on the first undoubted manifestation of the approach of a force for that purpose, you will exercise, with promptness and vigor, the powers with which you are invested by the President to pre-occupy by force the territory, to the entire exclusion of any armament that may be advancing to take the possession of it. In this event, you will exercise a sound discretion in applying the powers given with respect to debts, titles to land, civil officers, and the continuation of the Spanish laws, taking care to commit the Government on no point further than may be necessary. And should any Spanish military force remain within the country, after the occupancy by the troops of the United States, you may, in such case, aid in their removal from the same.

The universal toleration which the laws of the United States assure to every religious persuasion, will not escape you as an argument for quieting the minds of uninformed individuals, who may entertain fears on that head.

The conduct you are to pursue in regard to East Florida, must be regulated by the dictates of your own judgments, on a close view and accurate knowledge of the precise state of things there, and of the real disposition of the Spanish Government, always recurring to the present instruction as the paramount rule of your proceedings. Should you discover an inclination in the Governor of East Florida, or in the existing local authority, amicably to surrender that province into the possession of the United States, you are to accept it on the same terms that are prescribed by these instructions in relation to West Florida. And in case of the actual appearance of any attempt to take possession by a foreign Power, you will pursue the same effective measures for the occupation of the territory, and for the exclusion of the foreign force, as you are directed to pursue with respect to the country east of the Perdido, forming, at this time, the extent of Governor Folk's jurisdiction.

If you should, under these instructions, obtain possession of Mobile, you will lose no time in informing Governor Claiborne thereof, with a request that he will, without delay, take the necessary steps for the occupation of the same.

All ordnance and military stores that may be found in the territory must be held as the property of the Spanish Government, to be accounted for hereafter to the proper authority; and you will not fail to transmit an inventory thereof to this Department.

If, in the execution of any part of these instructions, you should need the aid of a military force, the same will be afforded you upon your application to the commanding officer of the troops of the United States on that station, or to the commanding officer of the nearest post, in virtue of orders which have been issued from the War Department. And in case you should moreover need naval assistance, you will receive the same upon your application to the naval commander, in pursuance of orders from the Navy Department.

From the Treasury Department will be issued the necessary instructions in relation to imposts and duties, and to the slave ships whose arrival is apprehended.

* This resolution is in the following words: *Resolved*, That the President of the United States be requested, if, in his opinion, it be compatible with the public interest, to lay before this House, confidentially or otherwise, full information of all the proceedings that have been had under and by virtue of the act of Congress, entitled "An act to enable the President of the United States, under certain contingencies, to take possession of the country lying east of the river Perdido, and south of the State of Georgia and the Mississippi Territory, and for other purposes;" and also copies of all instructions that may have been issued by the Executive branch of this Government under the said act.

The President, relying upon your discretion, authorizes you to draw upon the collectors of Orleans and Savannah for such sums as may be necessary to defray unavoidable expenses that may be incurred in the execution of these instructions, not exceeding in your draughts on New Orleans eight thousand dollars, and in your draughts on Savannah two thousand dollars, without further authority; of which expenses you will hereafter exhibit a detailed account, duly supported by satisfactory vouchers.

P. S. If Governor Folk should unexpectedly require and pertinaciously insist that the stipulation for the redelivery of the territory should also include that portion of the country which is situated west of the river Perdido, you are, in yielding to such demand, only to use general words that may, by implication, comprehend that portion of country; but, at the same time, you are expressly to provide that such stipulation shall not, in any way, impair or affect the right or title of the United States to the same.

JAMES MONROE.

The Secretary of State to General Matthews.

SIR:

DEPARTMENT OF STATE, April 4, 1812.

I have had the honor to receive your letter of the 14th of March, and have now to communicate to you the sentiments of the President on the very interesting subject to which it relates.

I am sorry to have to state that the measures which you appear to have adopted for obtaining possession of Amelia island, and other parts of East Florida, are not authorized by the law of the United States, or the instructions founded on it, under which you have acted.

You were authorized by the law, a copy of which was communicated to you, and by your instructions, which are strictly conformable to it, to take possession of East Florida, only in case one of the following contingencies should happen: either that the Governor, or other existing local authority, should be disposed to place it amicably in the hands of the United States; or that an attempt should be made to take possession of it by a foreign Power. Should the first contingency happen, it would follow, that the arrangement, being amicable, would require no force on the part of the United States to carry it into effect. It was only in case of an attempt to take it by a foreign Power that force could be necessary, in which event only were you authorized to avail yourself of it.

In neither of these contingencies was it the policy of the law, or purpose of the Executive, to wrest the province forcibly from Spain; but only to occupy it with a view to prevent its falling into the hands of any foreign Power, and to hold that pledge under the existing peculiarity of the circumstances of the Spanish monarchy, for a just result in an amicable negotiation with Spain.

Had the United States been disposed to proceed otherwise, that intention would have been manifested by a change of the law, and suitable measures to carry it into effect. And as it was in their power to take possession whenever they might think that circumstances authorized and required it, it would be the more to be regretted if possession should be effected by any means irregular in themselves, and subjecting the Government of the United States to unmerited censure.

The views of the Executive respecting East Florida are further illustrated by your instructions as to West Florida. Although the United States have thought that they had a good title to the latter province, they did not take possession until after the Spanish authority had been subverted by a revolutionary proceeding, and the contingency of the country being thrown into foreign hands had forced itself into view. Nor did they then, nor have they since, dispossessed the Spanish troops of the post which they occupied. If they did not think proper to take possession by force of a province to which they thought they were justly entitled, it could not be presumed that they should intend to act differently in respect to one to which they had not such a claim.

I may add, that, although due sensibility has been always felt for the injuries which were received from the Spanish Government in the last war, the present situation of Spain has been a motive for a moderate and pacific policy towards her.

In communicating to you these sentiments of the Executive on the measures you have lately adopted for taking possession of East Florida, I add, with pleasure, that the utmost confidence is reposed in your integrity and zeal to promote the welfare of your country. To that zeal the error into which you have fallen is imputed. But in consideration of the part which you have taken, which differs so essentially from that contemplated and authorized by the Government, and contradicts so entirely the principles on which it has uniformly and sincerely acted, you will be sensible of the necessity of discontinuing the service in which you have been employed.

You will, therefore, consider your powers as revoked on the receipt of this letter. The new duties to be performed will be transferred to the Governor of Georgia, to whom instructions will be given on all the circumstances to which it may be proper, at the present juncture, to call his attention.

I have the honor to be, very respectfully, sir, your obedient servant,

General MATTHEWS, &c.

JAMES MONROE.

The Secretary of State to his excellency D. B. Mitchell, the Governor of Georgia.

SIR:

DEPARTMENT OF STATE, April 10, 1812.

The President is desirous of availing the public of your services, in a concern of much delicacy and of high importance to the United States. Circumstances with which you are in some degree acquainted, but which will be fully explained by the enclosed papers, have made it necessary to revoke the powers heretofore committed to General Matthews, and to commit them to you. The President is persuaded that you will not hesitate to undertake a trust so important to the nation, and peculiarly to the State of Georgia. He is the more confident in this belief, from the consideration that these new duties may be discharged without interfering, as he presumes, with those of the station which you now hold.

By the act of the 15th of January, 1811, you will observe that it was not contemplated to take possession of East Florida, or any part thereof, unless it should be surrendered to the United States amicably by the Governor or other local authority of the province, or against an attempt to take possession of it by a foreign Power; and you will also see that General Matthews's instructions, of which a copy is likewise enclosed, correspond fully with the law.

By the documents in possession of the Government, it appears that neither of these contingencies have happened; that, instead of an amicable surrender by the Governor, or other local authority, the troops of the United States have been used to dispossess the Spanish authority by force. I forbear to dwell on the details of this transaction,

because it is painful to recite them. By the letter to General Matthews, which is enclosed, open for your perusal you will fully comprehend the views of the Government respecting the late transaction; and, by the law, the former instructions to the general, and the late letter now forwarded, you will be made acquainted with the course of conduct which it is expected of you to pursue in future, in discharging the duties heretofore enjoined on him.

It is the desire of the President that you should turn your attention and direct your efforts, in the first instance, to the restoration of that state of things in the province which existed before the late transactions. The Executive considers it proper to restore back to the Spanish authorities Amelia island and such other parts, if any, of East Florida, as may have thus been taken from them. With this view, it will be necessary for you to communicate *directly* with the Governor, or principal officer of Spain in that province, and to act in harmony with him in the attainment of it. It is presumed that the arrangement will be easily and amicably made between you. I enclose you an order from the Secretary of War to the commander of the troops of the United States to evacuate the country, when requested so to do by you, and to pay the same respect in future to your order in fulfilling the duties enjoined by the law, that he had been instructed to do to that of General Matthews.

In restoring to the Spanish authorities Amelia island, and such other parts of East Florida as may have been taken possession of in the name of the United States, there is another object to which your particular attention will be due. In the measures lately adopted by General Matthews to take possession of that territory, it is probable that much reliance has been placed, by the people who acted in it, on the countenance and support of the United States. It will be improper to expose these people to the resentment of the Spanish authorities. It is not to be presumed that those authorities, in regaining possession of the territory, in this amicable mode, from the United States, will be disposed to indulge any such feeling towards them. You will, however, come to a full understanding with the Spanish Governor on this subject, and not fail to obtain from him the most explicit and satisfactory assurance respecting it. Of this assurance you will duly apprise the parties interested, and of the confidence which you repose in it. It is hoped, that, on this delicate and very interesting point, the Spanish Governor will avail himself of the opportunity it presents to evince the friendly disposition of his Government towards the United States.

There is one other remaining circumstance only to which I wish to call your attention, and that relates to Gen. Matthews himself. His gallant and meritorious services in our revolution, and patriotic conduct since, have always been held in high estimation by the Government. His errors in this instance are imputed altogether to his zeal to promote the welfare of his country; but they are of a nature to impose on the Government the necessity of the measures now taken; in giving effect to which you will doubtless feel a disposition to consult, as far as may be, his personal sensibility. I have the honor to be, &c.

JAMES MONROE.

P. S. Should you find it impracticable to execute the duties designated above, in person, the President requests that you will be so good as to employ some very respectable character to represent you in it, to whom you are authorized to allow a similar compensation. It is hoped, however, that you may be able to attend to it in person, for reasons which I need not enter into. The expenses to which you may be exposed will be promptly paid to your draught on this Department.

The Secretary of State to D. B. Mitchell, Esq., Governor of Georgia.

SIR:

DEPARTMENT OF STATE, May 27, 1812.

I have had the honor to receive your letter of the 2d instant from St. Mary's, where you had arrived in discharge of the trust reposed in you by the President, in relation to East Florida.

My letter by Mr. Isaacs has, I presume, substantially answered the most important of the queries submitted in your letter, but I will give to each a more distinct answer.

By the law, of which a copy was forwarded to you, it is made the duty of the President to prevent the occupation of East Florida by any foreign Power. It follows that you are authorized to consider the entrance, or attempt to enter, especially under existing circumstances, of British troops, of any description, as the case contemplated by the law, and to use the proper means to defeat it.

An instruction will be immediately forwarded to the commander of the naval force of the United States in the neighborhood of East Florida to give you any assistance, in case of emergency, which you may think necessary and require.

It is not expected, if you find it proper to withdraw the troops, that you should interfere to compel the patriots to surrender the country, or any part of it, to the Spanish authorities. The United States are responsible for their own conduct only, not for that of the inhabitants of East Florida. Indeed, in consequence of the commitment of the United States to the inhabitants, you have been already instructed not to withdraw the troops, unless you find that it may be done consistently with their safety, and to report to the Government the result of your conferences with the Spanish authorities, with your opinion of their views, holding in the mean time the ground occupied.

In the present state of our affairs with Great Britain, the course above pointed out is the more justifiable and proper. I have the honor, &c.

JAMES MONROE.

12th CONGRESS.]

No. 249.

[1st Session.]

GREAT BRITAIN—IMPRESSMENTS.

COMMUNICATED TO THE SENATE, JULY 6, 1812.

To the Senate of the United States:

JULY 6, 1812.

I transmit to the Senate copies and extracts of documents in the archives of the Department of State, falling within the purview of their resolution of the 4th instant, on the subject of British impressments from American vessels. The information, though voluminous, might have been enlarged, with more time for research and preparation. In some instances it might at the same time have been abridged, but for the difficulty of separating the matter extraneous to the immediate object of the resolution.

JAMES MADISON.

Extract of a letter from Thomas Jefferson, Esq., Secretary of State, to Thomas Pinckney, minister plenipotentiary of the United States at London, dated

DEPARTMENT OF STATE, June 11, 1792.

The peculiar custom in England of impressing seamen on every appearance of war will occasionally expose our seamen to peculiar oppressions and vexations. It will be expedient that you take proper opportunities, in the mean time, of conferring with the minister on this subject, in order to form some arrangement for the protection of our seamen on those occasions. We entirely reject the mode which was the subject of a conversation between Mr. Morris and him, which was, that our seamen should always carry about them certificates of their citizenship. This is a condition never yet submitted to by any nation; one with which seamen would never have the precaution to comply; the casualties of their calling would expose them to the constant destruction or loss of this paper evidence, and thus the British Government would be armed with *legal authority* to impress the whole of our seamen. The simplest rule will be, that the vessel being American shall be evidence that the seamen on board her are such. If they apprehend that our vessels might thus become asylums for the fugitives of their own nation from impress gangs, the number of men to be protected by a vessel may be limited by her tonnage, and one or two officers only be permitted to enter the vessel in order to examine the numbers on board; but no press-gang should be allowed ever to go on board an American vessel till after it shall be found that there are more than their stipulated number on board, nor till after the master shall have refused to deliver the supernumeraries (to be named by himself) to the press officer who has come on board for that purpose; and even then the American consul shall be called in. In order to urge a settlement of this point before a new occasion may arise, it may not be amiss to draw their attention to the peculiar irritation excited on the last occasion, and the difficulty of avoiding our making immediate reprisals on their seamen here. You will be so good as to communicate to me what shall pass on this subject, and it may be made an article of convention to be entered into either there or here.

Extract of a letter from Thomas Jefferson, Esq., when Secretary of State, to Thomas Pinckney, minister plenipotentiary of the United States at London, dated

OCTOBER 12, 1792.

I enclose you a copy of a letter from Messrs. Blow and Melhaddo, merchants of Virginia, complaining of the taking away of their sailors on the coast of Africa by the commander of a British armed vessel. So many instances of this kind have happened, that it is quite necessary that their Government should explain themselves on the subject, and be led to disavow and punish such conduct. I leave to your discretion to endeavor to obtain this satisfaction, by such friendly discussions as may be most likely to produce the desired effect, and secure to our commerce that protection against British violence which it has never experienced from any other nation. No law forbids the seamen of any country to engage in time of peace on board a foreign vessel; no law authorizes such seamen to break his contract, nor the armed vessels of his nation to interpose force for his rescue.

Extract of a letter from Thomas Jefferson, Esq., Secretary of State under the Presidency of General Washington, to Thomas Pinckney, Esq., American minister in London, dated

PHILADELPHIA, November 6, 1792.

I wrote you last on the 12th of October, since which I have received yours of August 29, with the papers and pamphlets accompanying it. I enclose you now the copy of a letter from Mr. Pintard, our consul at Madeira, exhibiting another attempt at the practice on which I wrote you in my last, made by Captain Hargood, of the British frigate *Hyæna*, to take seamen from on board an American vessel bound to the East Indies. It is unnecessary to develop to you the inconveniences of this conduct, and the impossibility of letting it go on. I hope you will be able to make the British ministry sensible of the necessity of punishing the past, and preventing the future.

Extract from the instructions given by Timothy Pickering, Esq., Secretary of State, to Rufus King, Esq., dated

DEPARTMENT OF STATE, June 8, 1796.

Among the articles left unadjusted, one of the most interesting nature regards the impressing of American seamen. Mr. Pinckney was instructed on this head in June, 1792. You will there see that the mode prescribed by the late act of Congress, of *certificating* our seamen, was pointedly reprobated. The long but fruitless attempts which have been made to protect them from British impresses prove that the subject is in its nature difficult.

The simplest rule, as remarked to Mr. Pinckney, would be, that the vessel being American should be evidence that the seamen on board her are such. But it will be an important point gained, if on the *high seas* our flag can protect those of whatever nation who shall sail under it. And for this humanity as well as interest powerfully plead. Merchant vessels carry no more hands than their safety renders necessary. To withdraw any of them on the ocean is to expose both lives and property to destruction. We have a right, then, to expect that the British Government will make no difficulty in acceding to this very interesting provision. And the same motives should operate with nearly equal force to procure for us the like exemption in all the British colonies, but especially in the West Indies. In the latter the consequence of an impress is the detention of the vessel. By the detention the vessel is injured or destroyed by the worms, and the remnant of the crew exposed to the fatal diseases of the climate. Hence a longer detention ensues; the voyage becomes unprofitable, if not ruinous, to the merchant; and humanity deplors the loss of many valuable lives. But there is another cogent reason for the absolute exemption from impresses in the British colonies: that the practice will be, as it always has been, attended with monstrous abuses; and the supreme power is so remote, that the evils become irremediable before redress can even be sought for. To guard against abuses on the part of American citizens, every master of a vessel on his arrival in any port of the British colonies may be required to report his crew at the proper office. If afterwards any addition be made to them by *British subjects*, these may be taken away. In the ports of Great Britain and Ireland the impress of *British subjects* found on board our vessels must doubtless be admitted. But this should be controlled by regulations to prevent insults and injuries, and to administer prompt relief where American citizens (which will assuredly happen) shall be mistaken for British subjects.

There are three classes of men, concerning whom there can be no difficulty: 1st, Native American citizens; 2d, American citizens, wherever born, who were such at the definitive treaty of peace; 3d, Foreigners other than British subjects sailing in American vessels, and whose persons ought to be sacred, as it respects the British, as those of native citizens. The fourth class consists of British born subjects, but who, or many of whom, may have become citizens subsequent to the treaty of peace, or who hereafter may be admitted to the rights of citizens. It is this class alone about which any pretence of right to impress can be made. With regard to these, it may be attempted to protect them as well in time of war as of peace, in the following cases: First, when they shall have served in American vessels, public or private, for the same term in which foreigners serving in British vessels would require the rights of British subjects, which is understood to be three years; or, secondly, if so much cannot be obtained, when those persons, originally British subjects, shall have resided five years in the United States, and been formally admitted to the rights of citizens according to our laws.

It must often happen that sailors will lose their certificates; provision should therefore be made for the admission of other reasonable proof of their citizenship, such as their own oaths, with those of the masters, mates, or other creditable witnesses. The rolls of the crew or shipping-papers may also be authenticated by the collectors of the customs; and then they ought to be admitted as of equal validity with the individual certificates.

Mr. Pickering to Mr. King, dated

DEPARTMENT OF STATE, *September 10, 1796.*

I enclose a letter from Francis S. Taylor, deputy collector of Norfolk, relative to four impressed seamen. It appears to be written with candor, and merits attention. If, as the captain of the *Prevoyante* (Wemyss) says, the *dignity* of the British Government will not permit an inquiry on board their ships for American seamen, their doom is fixed for the war; and thus the rights of an independent neutral nation are to be sacrificed to *British dignity!* Justice requires that such inquiries and examinations should be made, because the liberation of our seamen will otherwise be impossible. For the British Government, then, to make professions of respect to the rights of our citizens, and willingness to release them, and yet deny the only means of ascertaining those rights, is an insulting tantalism. If such orders have been given to the British commanders, (and Mr. Liston's communication in the conversation of which I sent you a copy in my letter of the 31st ult. countenances the idea,) the agency of Col. Talbot and Mr. Trumbull will be fruitless, and the sooner we know it the better. But I would fain hope other things; and if the British Government have any regard to our rights, any respect for our nation, and place any value on our friendship, they will even facilitate to us the means of relieving our oppressed citizens. The subject of our impressed seamen makes a part of your instructions; but the President now renews his desire that their relief may engage your special attention.

I am, sir, &c.

RUFUS KING, Esq. &c.

TIMOTHY PICKERING.

Extract of a letter from Mr. Pickering to Mr. King, dated

DEPARTMENT OF STATE, *October 26, 1796.*

I think it is mentioned in your instructions that the British naval officers often impress Swedes, Danes, and other foreigners, from the vessels of the United States; they have even sometimes impressed Frenchmen. If there should be time to make out a copy of a protest lately received, it shall be enclosed, describing the impress of a Dane and a Portuguese. This surely is an abuse easy to correct. They cannot pretend an inability to distinguish these foreigners from their own subjects, and they may, with as much reason, rob American vessels of the property or merchandise, of Swedes, Danes, and Portuguese, as seize and detain in their service the subjects of those nations found on board American vessels. The President is extremely anxious to have this business of impresses placed on a reasonable footing.

Extract of a letter from Mr. Pickering, Secretary of State, to Silas Talbot, Esq.

DEPARTMENT OF STATE, *August 15, 1797.*

I was pleased with your success in obtaining relief for so many American seamen, as mentioned in your several letters; but your last containing the orders of Admiral Parker to his captains, no longer to obey the writs of *habeas corpus*, gave me much uneasiness. Yesterday I gave those letters to the British minister, Mr. Liston, and wish he may do something to afford you a prospect of further success; but I fear, notwithstanding he is perfectly well disposed to administer relief, that his remonstrances or requests will have too little effect. I shall transmit copies of these letters to Mr. King, our minister in London, to lay before the British ministry. If any naval officer shall have committed such an outrage on any American seamen as to *bring them to the gangway* as you mention, or to inflict any kind of punishment on them, especially for seeking opportunities to inform you of their situation, for the purpose of obtaining the just relief to which they are entitled, pray endeavor to get proper proofs of the fact, that I may make it the subject of a special representation to the British Government.

Extract of a letter to Rufus King, Esq. from the Secretary of State, dated

TRENTON, *October 3, 1797.*

Lord Grenville's observations on the act of Congress for the relief and protection of American seamen, present difficulties which demand consideration at the ensuing session. But your reasoning in your letter to his lordship of the 30th of last November, is conclusive against the British pretences to retain real American seamen, who are married in their dominions, or who have voluntarily entered on board British vessels. It behoves the honor and faith of the British Government to adhere to their principle on natural allegiance wholly, or to renounce it wholly; and an answer on this point would have become his lordship's candor.

I consider Colonel Talbot's agency in the West Indies to be no longer very important. The rigid conduct of Admiral Sir Hyde Parker (who from the beginning has thrown obstacles in the way) leaves but little room to get

our seamen released. The opposition of the officers in general induced Colonel Talbot to take out writs of *habeas corpus* at Jamaica, by which directly, or in their consequences, he obtained the discharge of near fifty seamen; but Admiral Parker has, some time past, forbidden his officers to pay any obedience to such writs; and Colonel Talbot informs me that some of our seamen have been punished for attempting to send letters to him to inform him of their situation. Mr. Liston has assured me that the British officers have orders not to impress any American seamen, and of course not to retain against their will any already impressed; but if they persist in obstructing every channel of information and proof of their citizenship, such orders are, and will continue, deceptive.

The Secretary of State to the President of the United States.

DEPARTMENT OF STATE, *February 20, 1800.*

The Secretary has the honor to lay before the President:

1. Mr. Liston's note of February 2, 1800, with papers referred to relative to the rescue of three American vessels from the hands of the British captors, and for the restoration of which he is instructed by his Government to apply.
2. Mr. Liston's note of the 4th February, together with his project of a treaty for the reciprocal delivery of deserters; which appears to the Secretary utterly inadmissible, unless it would put an end to impressments, which Mr. Liston seemed to imagine, while the seventh paragraph of his project expressly recognises the right of impressing British subjects, and consequently American citizens, as at present.

TIMOTHY PICKERING.

PHILADELPHIA, *February 2, 1800.*

R. Liston presents his respects to Colonel Pickering, Secretary of State.

I have, from time to time, taken the liberty of making verbal complaints to you, sir, respecting the practice lately become frequent among the masters and supercargoes of American merchantmen, of rescuing, by force or by fraud, such vessels as have been detained by the commanders of His Majesty's ships of war, with a view to future trial in a Court of Admiralty.

I in particular mentioned the cases stated at large in the enclosed papers.

The first is that of the brigantine *Experience*, detained on the 25th May, by Captain Poyntz, of His Majesty's ship *Soleby*. She came from Campeachy; was said to be bound for Charleston, South Carolina, and was loaded with logwood. The cargo was suspected to be enemies' property, and she was afterwards found to have a complete set of Spanish papers.

The American master, Hewit, and Howe, the supercargo, with the consent of the British seamen who were put on board to navigate her, overpowered the prize-master, (Mr. Bryce,) kept him prisoner several days, and at last, by threats and violence, forced him to leave the vessel and go on board of a schooner bound for New Providence.

The second is the case of the ship *Lucy*, commanded by a Mr. James Conolly, (a native of Ireland, calling himself a citizen of the United States,) which was stopped on the 3d of June, by Captain Ferrier, of His Majesty's ship *York*. This vessel had smuggled one hundred and eighty-seven new negroes from Jamaica. The captain found means to forge a clearance from the custom-house of Kingston, and afterwards loaded goods at the Havana, partly the property of enemies, and partly belonging to a Mr. Courtauld, a British subject, who recently held a place in the customs under His Majesty's Government.

A lieutenant, a quartermaster, and ten men, were put on board the *Lucy* to conduct her to Jamaica; and with a view to accommodate the master and the other persons who were found in the vessel, Mr. Conolly, Mr. Courtauld, his nephew, two other passengers, with servants, and seamen, amounting to twelve in all, were permitted by Captain Ferrier to remain on board on their parole. They, however, secretly armed themselves, and in the night surprised the watch, confined the prize-master and the British seamen, and carried the ship to Charleston.

The third case is that of the Fair Columbian, Edward Casey, master, detained by His Majesty's ship the *Hind*, in company with the sloop of war the *Swan*; she had come from the Havana; had no sea brief or register on board; was commanded by a person who had deserted about nine months before from His Majesty's ship *Polyphemus*; and, according to the concurrent testimony of eight or nine masters of American vessels which had sailed in company with her from the Havana, was loaded with Spanish property.

These circumstances affording a sufficient cause of suspicion, she was ordered for Bermuda; but the master, by the use of bribery and intoxication, succeeded in inducing the prize-master and crew to permit her to be carried into the port of Baltimore.

It is unnecessary to employ arguments to prove that these irregularities are an infringement of the law of nations. The tenor of the instructions given by the President to the vessels of war of the United States, involves an acknowledgment of the right of the King's ships to search and detain such American vessels as are suspected of being loaded with enemies' property, or with contraband of war destined for an enemy's port. It remains that I should add, that I have now received express orders from His Majesty to claim, as an act of justice, (which is expected from the candor of the Federal Government, and the good understanding which subsists between the two countries,) that the vessels, of which the masters and supercargoes have thus illegally repossessed themselves, be delivered up to me, together with the British seamen and the deserters who have assisted in rescuing them out of the hands of the prize-masters, that they may be sent to some one of His Majesty's colonies, to be there dealt with according to law.

PHILADELPHIA, *February 4, 1800.*

R. Liston presents his respects to Colonel Pickering, Secretary of State.

I have the honor, sir, of enclosing a duplicate of my letter of the 18th December to Vice Admiral Sir Hyde Parker, soliciting the discharge of certain American seamen said to be detained on board of his squadron on the Jamaica station; and I flatter myself it will have the desired effect, although it be not accompanied by copies of the documents attesting their citizenship. I cannot, however, omit this opportunity of calling to your remembrance what I have frequently stated in conversation, that while the papers called *protections* are granted with a fraudulent intention, or without a proper examination of facts by inferior magistrates or notaries public in the United States, and while they can easily be procured by such natural born subjects of His Majesty as choose to abandon his service in the hour of danger, it is not to be expected that any regard will be paid to them by the commanders of British ships of

war. And I beg leave once more to urge you to take into consideration, as the only means of drying up every source of complaint and irritation upon this head, the proposal I had the honor of making two years ago (in the name of His Majesty's Government) for the reciprocal restitution of deserters.

1. Whereas, by the twenty-eighth article of the treaty of amity, commerce, and navigation, concluded at London on the nineteenth day of November, 1794, between His Britannic Majesty and the United States, it was agreed, in order to facilitate intercourse, and obviate difficulties, that other articles should be proposed and added to the treaty above mentioned, which articles, from want of time and other circumstances, could not then be perfected; and that the said parties should, from time to time, regularly treat of and concerning such articles, and should sincerely endeavor so to form them, as that they might conduce to mutual convenience, and tend to promote mutual satisfaction and friendship, and that the said articles, after having been duly ratified, should be added to and make a part of the above-mentioned treaty:

2. And whereas it will greatly conduce to the maintenance and improvement of that friendship and harmony now subsisting between the contracting parties, that measures should be taken by mutual consent for the giving up of deserters on each side:

3. Therefore, the parties have, with this view, appointed their respective ministers to meet, negotiate, and conclude on this subject; that is to say, His Britannic Majesty, Robert Liston, Esq. His Majesty's envoy extraordinary and minister plenipotentiary to the United States of America; and the United States, ———;

4. Who, having communicated to each other their respective full powers, have agreed on the following articles to be added to the above-mentioned treaty, and to form a part thereof.

ADDITIONAL ARTICLE.

5. It is agreed that no refuge or protection shall be offered in the territories or vessels of either of the contracting parties to the captains, officers, marines, sailors, or other persons, being part of the crews of the vessels of the respective nations, who shall have deserted from the said vessels; but that, on the contrary, all such deserters shall be delivered up on demand to the commanders of the vessels from which they have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf, provided that proof be made by an exhibition of the register of the vessel or ship's roll, or authenticated copies of the same, or by other satisfactory evidence, that the deserters so demanded were actually part of the crew of the vessels in question.

6. With a view to the more effectual execution of this article, the consuls and vice-consuls of His Britannic Majesty and of the United States may cause to be arrested all persons who have deserted from the vessels of the respective nations as aforesaid, in order to send them back to the commanders of the said vessels, or to remove them out of the country. For which purpose the said consuls and vice-consuls shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving, as aforesaid, that they were part of the said crews; and on this demand, so proved, the delivery shall not be refused; and there shall be given all aid and assistance to the said consuls and vice-consuls for the search, seizure, and arrest of the said deserters, who shall even be detained and kept in the prisons of the country at their request and expense, until they shall have found an opportunity of sending them back or removing them as aforesaid. But if they be not so sent back or removed within three months from the day of their arrest, they shall be set at liberty, and shall not again be arrested for the same cause.

7. It is, however, understood that this stipulation is not to extend to authorize either of the parties to demand the delivery of any sailors, subjects, or citizens belonging to the other party, who have been employed on board the vessels of either of the respective nations, and who have, in time of war or threatened hostility, voluntarily entered into the service of their own sovereign or nation, or have been compelled to enter therein according to the laws and practice prevailing in the two countries respectively.

8. It is further agreed that no refuge or protection shall be afforded by either of the contracting parties to any soldiers who may desert from the military service of the other; but that, on the contrary, the most effectual measures shall be taken in like manner as with respect to sailors, to apprehend any such soldiers, and to deliver them to the commanding officers of the military posts, forts, or garrisons from which they have deserted, or to the consuls or vice-consuls on either side, or to such other person as may be duly authorized to demand their restitution.

9. It is, however, understood that no stipulation in this additional article shall be construed to empower the civil or military officers of either of the contracting parties forcibly to enter into the public ships of war, or into the forts, garrisons, or posts of the other party, or to use violence to the persons of the land or sea officers of the respective nations, with a view to compel the delivery of such persons as may have deserted from the naval or military service of either party as aforesaid.

The Secretary of State to Mr. Liston.

DEPARTMENT OF STATE, PHILADELPHIA, *May 3, 1800.*

SIR:

In reference to your letter of the 2d of February last, I soon after took occasion to intimate to you what appeared to be the President's way of thinking on the subject. I have now the honor to state to you, that while, by the law of nations, the right of a belligerent Power to capture and detain the merchant vessels of neutrals, on just suspicion of having on board enemy's property, or of carrying to such enemy any of the articles which are contraband of war, is unquestionable; no precedent is recollected, nor does any reason occur which should require the neutral to exert its power in aid of the right of the belligerent nation in such captures and detentions. It is conceived that, after warning its citizens or subjects of the legal consequences of carrying enemy's property or contraband goods, nothing can be demanded of the sovereign of the neutral nation but to remain passive. If, however, in the present case, the British captors of the brigantine *Experience*, Hewit, master; the ship *Lucy*, James Conolly, master; and the brigantine *Fair Columbia*, Edward Carey, master; have any right to the possession of those American vessels, or their cargoes, in consequence of their capture and detention, but which you state to have been rescued by their masters from the captors, and carried into ports of the United States, the question is of a nature cognizable before the tribunals of justice, which are opened to hear the captors' complaints; and the proper officer will execute their decrees.

You suggest that these rescues are an infringement of the law of nations. Permit me to assure you that any arguments which you shall offer to that point will receive a just attention.

With regard to the British seamen and deserters who have assisted in the rescues, with great truth I am authorized to assure you that the Government have no desire to retain them; but besides that the many months elapsed

since those events, and the consequent dispersion of the men, would probably render their delivery impracticable, it is not known to be authorized by any law. This has brought into view your project of stipulations for the mutual delivery of deserters, whether seamen or soldiers; and I have now the honor to enclose a counter-project, by which you will see the objections which have occurred to your propositions. The President has been pleased to direct and empower me to negotiate with you on this subject, and it will afford him great pleasure if we can make a satisfactory arrangement.

I have the honor to be, &c.

TIMOTHY PICKERING.

ROBERT LISTON, Esq.

1. It is agreed that no refuge or protection shall be afforded in the territories or vessels of either of the contracting parties to the officers, mariners, or other persons, being part of the crews of the vessels of the respective nations who shall desert from the same; but that, on the contrary, all such deserters shall be delivered up, on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf; provided, that proof be made, by exhibition of the shipping paper or contract, or authenticated copies thereof, or by other satisfactory evidence, that the deserters so demanded were actually part of the crews of the vessels in question.

2. With a view to the more effectual execution of this article, the commanders of the vessels from which such desertions shall take place, and the consuls and vice-consuls of His Britannic Majesty and of the United States, respectively, may cause to be arrested all persons who shall desert from the vessels of the respective nations as aforesaid; and for this purpose, the said commanders, consuls, and vice-consuls, shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, and adduce proof of their desertion as aforesaid; and on this demand and satisfactory proof the delivery shall be made. And there shall be given all necessary aid to the said commanders, consuls, and vice-consuls, for the search, seizure, and arrest of the said deserters, who, if it be requested, shall be detained and kept in prison, at the expense of those who demand them as aforesaid, until they can be put on board their own or other vessels of their nation, or be otherwise sent back to their own country; provided that, if this be not done within three months from the day of their arrest, such deserters shall be set at liberty, and not be again arrested for the same cause.

3. It is further agreed that no refuge or protection shall be afforded by either of the contracting parties to any non-commissioned officer or soldier who may desert from the military service of the other; but that, on the contrary, the most effectual measures shall be taken, in like manner as with respect to sailors, to apprehend any such non-commissioned officers and soldiers, and to deliver them to the commanding officers of the military posts, forts, or garrisons, from which they have deserted, or to the consuls or vice-consuls on either side, or to such other person as may be duly authorized to demand their restitution.

4. It is, however, understood that nothing in these stipulations shall be construed to empower the civil, military, or naval officers of either of the contracting parties forcibly to enter into the territory, forts, posts, or vessels of the other party, or to use violence to the persons of the commanders or other officers of the forts, posts, or vessels of the other party, with a view to compel the delivery of such persons as shall desert as aforesaid.

The Secretary of the Treasury to the President.

TREASURY DEPARTMENT, April 14, 1800.

The Secretary of the Treasury respectfully submits the following observations, in obedience to the direction of the President of the United States.

The project of a treaty proposed by the minister of His Britannic Majesty, for the reciprocal delivery of deserters from the land and naval service, does not sufficiently provide against the impressment of American seamen, and is therefore deemed inadmissible. The ideas of the Secretary of the Treasury on this subject are stated in the counter-project hereto subjoined, and will be found to be essentially the same as those of the Secretary of State.

The Secretary of the Treasury fully concurs in opinion with the Secretary of State, respecting the reply proper to be given to the notes of Mr. Liston, dated 2d and 4th February last, demanding the restitution of several American vessels, captured by British cruisers, and rescued by the crews of said vessels.

All which is respectfully submitted by

OLIVER WOLCOTT, *Secretary of the Treasury.*

Additional articles proposed to be added to the treaty of amity, commerce, and navigation, concluded at London, on the 19th day of November, 1794, and to form a part of said treaty.

1. It is agreed that no refuge or protection shall be afforded to the officers, mariners, or other persons, being part of the crews of the vessels of the respective nations, who shall hereafter desert from the same; but that, on the contrary, all such deserters shall be delivered up on demand, to the commanders of the vessels from which they shall have deserted, or to the commanding officers of the ships of war of the respective nations, or such other persons as may be duly authorized to make requisition in that behalf; provided that proof be made *within two years after the time of desertion*, by an exhibition of the shipping paper, or contract, or authenticated copies thereof, or by other satisfactory evidence, that the deserters, so demanded, were actually part of the crews of the vessels in question.

2. With a view to the more effectual execution of the foregoing article, the commanders of the vessels from which such desertions shall take place, and the consuls and vice consuls of His Britannic Majesty and the United States, respectively, may cause to be arrested all persons who shall desert from the vessels of the respective nations, as aforesaid; and for this purpose the said commanders, consuls, and vice-consuls, shall apply to the courts, judges, and officers competent, and shall demand the said deserters in writing, and adduce proofs of their desertion, as aforesaid; and on such demand and satisfactory proof, as aforesaid, the delivery shall be made. And there shall be given all aid and assistance to the said consuls and vice-consuls for the search, seizure, and arrest of the said deserters, who, if it be requested, shall be kept and detained in the prisons of the country, at the expense of those who demand them, as aforesaid, until they can be put on board their own or other vessels of their nation, or

be otherwise sent back to their own country; provided that if this be not done within three months from the day of their arrest, such deserters shall be set at liberty, and not be again arrested for the same cause.

3. It is further agreed, that no refuge or protection shall be afforded by either of the contracting parties to any person who shall hereafter desert from the military land service of the other; but that, on the contrary, the most effectual measures shall be taken, in like manner, and on like conditions, as with respect to sailors, to apprehend any such deserters from the land service, and to deliver them to the commanding officers of the military posts, forts, or garrisons from which they shall have deserted, or to the consuls or vice-consuls on either side, or to such other persons as may be duly authorized to demand their restitution.

4. It is, however, understood, that nothing in the foregoing stipulations shall be construed to empower the civil or any other officers of either party forcibly to enter the forts, posts, or any other place within or under the jurisdiction of the other party; nor to empower the naval commanders, or other officers of either party, forcibly to enter any public or private vessel of the other party on the high seas, with a view to compel the delivery of any person whatever: on the contrary, it is expressly declared to be the understanding of the contracting parties, that the mutual restitutions of persons claimed as deserters shall only be made by the free and voluntary consent of the military officers employed in the land service, or the commanders of the public or private ships or vessels of the two parties, or in pursuance of the decisions of the courts, judges, or other competent civil officers of the two nations, in all cases arising within their respective jurisdictions.

APRIL 14, 1800.

OLIVER WOLCOTT.

WAR DEPARTMENT, April 18, 1800.

The Secretary of War respectfully submits the following observations, in obedience to the direction of the President of the United States.

The Secretary very much doubts the soundness of the principle upon which a refusal to deliver up merchant vessels, captured by a belligerent Power, is founded. It appears to the Secretary, considering the question upon general ground, that merchant vessels belonging to a neutral nation, seized by a belligerent Power on the high sea, for violating the laws of neutrality, cannot, agreeably to the law of nations, be rightfully retaken by a vessel of the neutral Power, nor, if retaken and brought into a port of the neutral nation, rightfully withheld by that nation from the captors. It results from this principle, that a vessel or its cargo, being prize or no prize, cannot be rightfully determined in other tribunals than those of the nation exercising the right of capture, the right to try in the appropriate courts of the country of the captors following the right to capture.

It may be asked, is the right which a belligerent Power acquires to the property of its enemy, seized in a neutral vessel, full and perfect? To this it may be answered, that the right thus acquired is full and perfect, as relative to exempting it from capture by any neutral vessel. For if the merchant vessel which contains the property may, after its being seized or possessed by the belligerent Power, use *force* to recover it, so may every other merchant vessel belonging to the neutral nation. Further, if the crews of our neutral vessels may recapture, it would seem that our vessels of war could also recapture; the contrary whereof is to be collected from the statute which authorizes recaptures of our vessels taken by the French. But the state of neutrality does not permit a neutral Power to espouse, in any manner whatever, either side, or to prefer one to the other belligerent party. It is the indispensable duty of neutrals, *Bello se non interponant*. To recapture the property of either from the other is a clear meddling in the war, and direct violation of every principle of neutrality.

If the property in a neutral vessel was *enemy's property*, or contraband of war, the belligerent vessel, having once *made prize of it*, has a clear right to it, of which the crew of the neutral vessel cannot divest her by recapture. To the Secretary it appears a sound position, that neutral nations ought to regard the parties at war as *lawful proprietors* of all that they take from each other; consequently, it cannot be right for the citizens of a neutral nation to interfere to rescue from one of the belligerent Powers property which he had taken belonging to the other. A neutral vessel loads with enemy goods at a known risk, that of their being subject to capture, and under the obligation only to use all due endeavors to avoid an enemy or capture. Here the obligation of the neutral ends, for she is not permitted, if taken, to recover the goods by recapture; the nation only to whose citizens or subjects they belonged (or the parties at war with the captors,) possessing that right.

By the law of nations, a neutral vessel met at sea is liable to be seized by a vessel of war, as the case may be, of either of the belligerent Powers. This law gives the additional right, if the belligerent vessel is not satisfied with his search, *to carry the neutral vessel into the country of the captors*, there to be examined, tried, and condemned, (if she has violated the neutrality,) in its courts established for the inquiry into the subject, and to compel, by force, the neutral to submit to search, and also to be carried into the country of the captors.

If such ships shall be attacked in order to an examination and shall refuse, they may be assaulted like a house supposed to have thieves or pirates in it, refuses to yield up their persons, may be broken open by the officer, and the persons resisting may be slain. (Malloy, *De Jure Mar. et Nav.* l. 1, c. 3, § xiii.)

It also appears to the Secretary, that if a neutral vessel found at sea refuses, and *resists by force*, to be searched, she, for such conduct, is liable to be condemned as lawful prize. If the law of nations gives a *right to search*, it cannot allow a right to resist a search by force. The two rights cannot exist. They are perfectly inconsistent. If the first is lawful, the latter must be unlawful, consequently liable to some punishment, or the right would be nugatory. If the law of nations gives also a right to carry the neutral vessel into the country of the captors' courts, this right also cannot be resisted or opposed by force, without violating the law. It would seem to the Secretary that the persons who resist the search by force, or resist or prevent by force the neutral vessels being carried into the captors' country for trial, must, by such conduct, be guilty of a breach of the law of nations, and, if so, they must be liable to some punishment; and if the nation to which they belong does not punish them on application to that effect, it thereby becomes a party to the wrong. The Secretary cannot think that either the right of search, or of carrying the neutral into the country of the captors is founded on *superiority of force*, but on the law of nations. This opinion the Secretary rests upon Vattel, l. 3. c. 7, § cxiv; Marten's Law of Nations, No. 323; Lee on Captures; the Report on the Silesia Loan, &c.

The Secretary, however, cannot venture to disapprove of the answer proposed to be given by the Secretary of State. He does not know of any precedent of a neutral nation exerting its power in any similar case of recapture in aid of the right of the belligerent Power; but, unquestionably, there is reason so to do, if the idea he has presented of the law of nations is accurate. He thinks it probable, also, without pretending to be positive, that instances of recapture like the present are few.

In some future time America may stand in relation to other Powers as Great Britain stands at this time, and may wish to make the same claim that she does now. The Secretary greatly doubts, but with great deference, whether the cases in question of recaptures are cognizable before our courts of justice; the subject seems rather

to belong to the Executive. Peculiar caution may be proper, for fear at some future period our proceeding may be urged against us to our detriment. If it appears necessary to reconsider the subject, the Secretary would beg leave to suggest the propriety of adding, that as there is no provision by treaty or opposite law of the United States on the subject, it might be advisable to make some stipulation by treaty.

The Secretary is inclined to believe, that, if any, there is not sufficient, remedy for the delivery of deserters from British vessels. He has understood that some of our courts had determined that the law of Congress concerning seamen relates to American seamen only. The claim for British seamen who have or may desert is just, and ought to be reciprocal. The Secretary thinks the project of Mr. Liston may be substantially accepted, except the seventh article, which seems to provide that the United States shall not demand the delivery of any sailors, although their citizens, if they have been employed on board British vessels, and who have in time of *war* or *threatened hostilities* voluntarily entered into the British service, or have been compelled to enter therein, according to the law and practice prevailing in Great Britain. This article is very inaccurately expressed, for it says "employed or entered into the service of their own sovereign or nation, or compelled to enter therein," &c. If this article means what it is apprehended it does, it is wholly inadmissible. It establishes a principle reprobated by this country. The counter project of the Secretary of State in substance meets the Secretary's approbation; but it is submitted whether the adoption of part of the draught by the Secretary of the Treasury will not improve it.

All which is respectfully submitted.

JAMES MCHENRY.

Mr. Stoddart, Secretary of the Navy, to the President.

NAVY DEPARTMENT, April 23, 1800.

The Secretary of the Navy, in obedience to the order of the President, respectfully submits the following observations on the matters of reference to the heads of Departments.

The proposed letter of the Secretary of State, in answer to Mr. Liston's notes of the 2d and 4th February, demanding the restitution of American vessels captured by British ships, and rescued by their own crews, appears to the Secretary of the Navy entirely proper. He believes the demand is neither sanctioned by precedent nor the law of nations. Should it be otherwise, Mr. Liston, as invited by the Secretary of State, will show it.

Mr. Liston's project of an article on the subject of deserters secures to his nation every thing it could require, but affords no security to the United States in a point of equal interest with them, that their merchant vessels will not be interrupted on the high seas, in order to impress from them their crews, under pretence of being deserters.

It is certainly just that the United States should afford to Great Britain all the reasonable security they have a right to expect from a friendly nation, against the loss of their seamen—a loss of all others the most serious to a nation, depending on maritime strength for its power, perhaps for its safety. But it is equally just that the United States should be secured against the impressment of their seamen on the high seas, and the interruption of their merchant vessels. The project of the Secretary of the Treasury meets the full approbation of the Secretary of the Navy. It seems to comprehend every thing that ought to be required on either side; but it is so desirable to have a right understanding on a subject so likely to produce ill blood, that, rather than not agree, the Secretary of the Navy thinks the word *hereafter*, if positively insisted on, may be struck out of that project; and submits whether, for the sake of accommodation, the limitation of time in which deserters may be claimed, *if strenuously urged by Mr. Liston*, may not be extended to three years. The Secretary is clearly of opinion that it is better to have no article, and to meet all consequences, than not to enumerate merchant vessels on the high seas among the things not to be forcibly entered in search of deserters.

All of which is respectfully submitted.

BEN. STODDART.

The Attorney General of the United States to the President.

SIR:

PHILADELPHIA, February 26, 1800.

In obedience to your direction to report my opinion upon the matters contained in the two letters of His Britannic Majesty's minister to the Secretary of State, dated 2d and 4th instant, the following is respectfully submitted to your consideration:

In the first mentioned letter a claim is made, by the express order of His Britannic Majesty, that three American merchant vessels, namely, the brigantine Experience, the ship Lucy, and the brigantine Fair Columbian, which had been stopped and detained upon the high seas by several British ships of war, under a suspicion of having enemies' property on board, and afterwards taken out of the hands of the prize-masters, (the two first by force, and the last without force,) and brought into the United States, should be delivered up to the minister, together with the British seamen and deserters who assisted in those rescues, that they may be sent by him to some one of the British colonies to be there dealt with according to law. This claim is to be considered as it relates to the American ships, and as it relates to the British seamen.

THE AMERICAN SHIPS.

No stipulation in the treaties between the two nations authorizes the demand for restitution of the American ships. It is therefore to be decided by the practice of friendly nations, which, upon this subject, is the only law.

It is not denied that a belligerent has a right to stop a neutral ship on the high seas, suspected to have on board either contraband merchandise destined to an enemy's port, or enemies' goods, and a right to send such neutral ship to a competent court for examination and trial; and it is equally true that this right is recognised in the President's instructions to the American ships of war. But while the right of searching neutral ships is acknowledged, it is not acknowledged that the sovereign of the neutral nation is under any obligation, by active measures, to aid and assist the sovereign of the belligerent nation in the exercise of this right. It is a right derived from war, which the belligerent nation is suffered to exercise in consequence of its superior force, upon condition that reasonable satisfaction be made in all cases of unjust detention to the neutral ship; and all that is expected of the sovereign of the neutral nation is to remain passive.

The practice of searching and detaining neutral ships, being grounded on the right which one enemy has of injuring and weakening the other, the neutral nation permits her merchant ships, under certain circumstances, to

be stopped, treated, and held as an enemy by the belligerent; but the belligerent, in so doing, must depend on his own strength and means, and may not call upon the sovereign of the neutral to aid him in enforcing the rights of war against his own neutral subjects, in those cases where no positive stipulations have been made by treaty. Hence arises the practice of putting on board a neutral ship, when detained and sent for adjudication, a prize-master and a sufficient number of men for carrying her into port against the will of the neutrals.

That a neutral nation should be required to exert its power in aid of the right of detaining and searching its own ships, which belligerents are allowed to exercise is believed to be without precedent. If ever a restitution of neutral ships detained and rescued under similar circumstances has been claimed by the sovereign of a belligerent nation from the Government of the neutral nation, the case is unknown to me. Such a claim is believed never to have been made, or, if made, never granted.

Whatever right the British captors have (if any they have) to the possession of the American ships, is of a nature cognizable before the tribunals of justice which are open to hear their complaints.

For these reasons the President is advised to abstain from any act for the restitution of the ships, and that the British minister be informed that this part of the claim cannot be complied with.

THE BRITISH SEAMEN.

In demanding the British seamen who were brought in the repossessed vessels into the United States, I see nothing improper or unreasonable. These may be apprehended by warrants to be issued by any Justice of the Peace, upon due proof in those States where the State laws have so provided; and being apprehended, may be delivered to the master or other person duly authorized to receive them. The act of Congress concerning seamen is believed to be confined to American seamen only, and, consequently, will afford no aid or remedy in the present case; and the remedy under the State laws may not be always found to answer the purpose. The claim of the British seamen in the present instance being reasonable, the minister may be answered that every assistance shall be given for the recovery of them which the laws of this country admit and direct.

It certainly is an object of particular concern to the British nation to come to an agreement with the United States relative to deserters from the sea service, and it is not less interesting to the United States to come to an agreement with Great Britain relative to the impressment of American seamen. The project of an article relative to deserters, as proposed by Mr. Liston, so far as I understand it, appears to be reasonable; but the seventh clause of that project is so expressed as not to be certainly understood by me, and will require to be otherwise expressed, that its meaning may not be misapprehended. If this article is associated with another concerning the impressment of American seamen in terms satisfactory to our Government, I think it will be highly advisable to agree upon such stipulations. The one will be very agreeable to the British, and the other to the American nation, and especially at a time when the sensibility of the two nations seems to be a little excited upon those subjects. A proposal of this kind I think should be made without delay to the British minister here.

I am, &c.

CHARLES LEE.

JOHN ADAMS, *President of the United States.*

APRIL 30, 1800.

The Attorney General, having read and considered the letter of the Secretary of State, and project of an article drawn by the Secretary of the Treasury on the subject of deserters, which are proposed to be sent to the British minister here, expresses his entire approbation of the same.

[The extract from the instructions of John Marshall to Rufus King, dated September 20, 1800, which was inserted here, is contained in the instructions published entire in Foreign Relations, vol. 2, No. 181, page 486.]

Extract of a letter from Thomas Pinckney, Esq. to the Secretary of State.

LONDON, January 3, 1793.

I have only time to say by the present opportunity that their contents shall be duly attended to. I have strongly urged the adoption of equitable regulations concerning seamen, and, from a conference with Lord Grenville this day, I have greater hope of a favorable termination of this negotiation than I hitherto entertained. My expectations on this head are, however, only founded on what Lord Grenville declares to be his own ideas of the subject at present; but as this business particularly concerns another department, nothing conclusive can be relied on from a declaration thus expressly confined.

Extract of a letter from Thomas Pinckney, Esq. to the Secretary of State.

LONDON, March 13, 1793.

Our trade continues subject to great inconveniences, both from our seamen being impressed, from the idea of their being British subjects, and from their entering voluntarily on board of the King's ships, tempted by the present high bounties. I have had frequent conversations on this subject with Lord Grenville, who always expresses himself to be sensible of the inconvenience to which we are subjected, and desirous to apply a remedy; but still nothing decisive is done. Our consuls are permitted to protect from impressment such of our seamen as are natives of America, but no others; and the difficulty of determining by agreement who besides natives are to be considered as citizens of the United States will, I fear, during the present generation at least, remain an obstacle to every other plan than that of letting the vessel protect a given number of men according to her tonnage. I insist upon the terms of our act of Congress as the rule of discrimination, and show that in point of time it accords with an act of their own relating to seamen. I send herewith a transcript of a representation I made on the subject of British officers detaining deserters from our vessels under pretence of their being Englishmen, and extorting the payment of their wages; on this last subject a question is now depending in the Court of Admiralty; the former remains without an answer from the Lords Commissioners of that department. Lord Grenville having said that he wished me to have some conversation with Mr. Bond, on account of his being particularly well acquainted with this subject, I told his lordship I had no objection to conversing with any person appointed by him on this subject. In a few days I received the enclosed note from Mr. Bond, to which I sent the answer annexed,

in order to produce an explanation whereby neither more nor less than the proper degree of importance might be attached to the conference. Mr. Bond came; he said he had no commission to treat on the subject; we, therefore, agreed that it was to be considered altogether as an informal conversation. We discoursed at length upon the subject, but I do not find that we are nearer coming to a conclusion on the business than we were before. He appeared not to be prepared for the extent of the reciprocity which I contended should form the basis and pervade the whole of the transaction; for when he urged the point of our seamen, or at least their captain in their behalf, being furnished with testimonials of their being Americans before they left our ports, I told him the inconveniences arising from this procedure would be equally felt by both nations; for that we should expect their seamen to be furnished with similar testimonials when they came to our ports to those they expected our mariners would bring to theirs. He asked in what instance it would become necessary, (alluding, I presume, to our not being in the habit of impressing.) I answered that unless we could come to some accommodation which might ensure our seamen against this oppression, measures would be taken to cause the inconvenience to be equally felt on both sides. I have not since seen M. Bond, but find he is ordered out to America with the title of Consul General for the Middle and Southern States.

[An extract from Mr. Jay's letter to Lord Wellesley of the 30th July, 1794, which was here inserted, is contained in vol. 1, of Foreign Relations, page 481.]

Extract of a note from Mr. King, Minister Plenipotentiary of the United States at London, to Lord Grenville, dated

LONDON, GREAT CUMBERLAND PLACE, November 30, 1796.

In your lordship's letter of the 21st of September, in answer to my application for the discharge of Maxwell, an American citizen, impressed and detained on board His Majesty's ship Sandwich, the reason assigned against his discharge is, "that he is married and settled at Bristol;" and I understand that the orders of the Lords Commissioners of the Admiralty for the discharge of American seamen usually contain a proviso, that the discharge is not to operate in favor of any person who has entered on board of any of His Majesty's ships, or who is married or settled within any of His Majesty's dominions. Without admitting or contesting, on this occasion, the rule of English law that a subject cannot divest himself of his natural allegiance, I take the liberty to request your lordship's attention to the diversity of practice, so much to the disadvantage of the American citizens, that prevails in the application of this rule.

If Great Britain requires the acquiescence of foreign nations in this law, so far as regards the requisition of her subjects married and settled abroad, or voluntarily engaged in foreign service, is she not bound to observe it in like manner herself in respect to the subjects of foreign Powers, under similar circumstances, in her service or within her dominions? If to the demand of a foreigner in her service by the nation to which he belongs, Great Britain answers that such foreigner cannot be delivered, because he has voluntarily engaged to serve His Majesty, or is married or settled within His Majesty's dominions, is she not bound by her own principles to admit the validity of the same answer from such foreign nation, when she requires the surrender of British subjects found in a similar predicament in the service or within the territory of such foreign nation? Justice, which is always impartial, furnishes the proper answer to these questions.

Admitting, then, that the voluntary contract of an American citizen to serve on board a British ship, or the marriage or settlement of such citizen within His Majesty's dominions, is the foundation of a right in His Majesty's Government to refuse the requisition of the United States of America that such citizen should be discharged from His Majesty service, do we not thereby establish a principle that at once condemns and puts an end to the practice of His Majesty's naval officers in entering American ships in search of, and for the purpose of impressing, British seamen; since all seamen found on board such ships are there of choice, and by voluntary contract to serve in the American employ?

But if neither of these circumstances can be considered as justly giving a right to His Majesty's Government to refuse the discharge of American citizens, does it not result that the usual proviso connected with the orders for the discharge of such citizens, (and which is assigned as a reason against the discharge of John Maxwell,) is without any just foundation, and, consequently, operates to the disadvantage and injury of the American citizens?

Extract of a letter from Rufus King, Esq., to the Secretary of State, dated

LONDON, April 13, 1797.

SEAMEN.

It was before my arrival that Lord Grenville had expressed to Mr. Pinkney a dissatisfaction with the practice of granting protections to American seamen by our consuls.

Before I received your opinion on this subject, Lord Grenville had written me a letter, in which this branch of the consular power is denied, and notice given to us that the practice must be discontinued. A copy of this letter, and of mine transmitting it to our several consuls, I had the honor to send you with my letter of the 10th of December. Previous to the communication of this resolution of the British Government, it had been notified to Mr. Pinkney that all applications for the discharge of American seamen impressed into the British service must in future come through the American minister, instead of coming from the American consuls, as had been customary. One consequence of this regulation has been that the subject, in all its details, has come under my observation, and its importance, I confess, is much greater than I had supposed it. Instead of a few, and those, in many instances, equivocal cases, I have, since the month of July past, made application for the discharge from British men-of-war of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference. Of this number, eighty-six have been ordered by the Admiralty to be discharged; thirty-seven more have been detained as British subjects, or as American volunteers, or for want of proof that they are Americans; and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer; the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made, in consequence of my applications.

It is certain that some of those who have applied to me are not American citizens; but the exceptions are, in my opinion, few; and the evidence, exclusive of certificates, has been such as, in most cases, to satisfy me that the applicants were real Americans, who have been forced into the British service, and who, with singular constancy,

have generally persevered in refusing pay and bounty, though, in some instances, they have been in service more than two years. As the applications for my aid seemed to increase after the suspension of the consular power to grant protections, (owing to the exposed situation of our seamen in consequence of the denial of this power,) I judged it advisable, though I saw little prospect of any permanent agreement, to attempt to obtain the consent of this Government that, under certain regulations, our consuls should again be authorized to grant certificates of citizenship to our seamen. My letter to Lord Grenville, and his answer, you have enclosed.

I likewise send you the copy of another letter, to which I have received no answer, that I wrote to Lord Grenville, in order to expose the inconsistency with the laws and principles of British allegiance of a rule by which acknowledged Americans are detained in the British service.

Extract of a letter from Rufus King, Esq., Minister Plenipotentiary of the United States, to the Secretary of State, dated

LONDON, *March 15, 1799.*

IMPRESSING OF SEAMEN.

I then mentioned our dissatisfaction with the continuation of the practice of taking out of our ships met on the main ocean such of their crews as did not possess certificates of American citizenship, denying, as I had often done in former conferences upon the same subject, any right on the part of Great Britain upon which the practice could be founded, and suggesting that our ships of war, by permission of our Government, might with equal right pursue the same practice towards their merchantmen:

That not only seamen who spoke the English language, and who were evidently English or American subjects, but also all Danish, Swedish, and other foreign seamen, who could not receive American protections, were indiscriminately taken from their voluntary service in our neutral employ, and forced into the war in the naval service of Great Britain:

That on this subject we had again and again offered to concur in a convention, which we thought practicable to be formed, and which should settle these questions in a manner that would be safe for England, and satisfactory to us:

That to decline such convention, and to persist in a practice which we were persuaded could not be vindicated, especially to the extent to which it was carried, seemed less equitable and moderate than we thought we had a right to expect.

Lord Grenville stated no precise principle upon which he supposed this practice could be justified; and the conversation upon this point, like many others upon the same subject, ended without a prospect of satisfaction. The French and Spaniards, and every other nation, might pursue the same conduct as rightfully as Great Britain does. With respect to foreign seamen in our employ, this Government has, if I recollect, yielded the point, though their officers continue the practice. We are assured that all Americans shall be discharged on application for that purpose, and that orders to this effect have been given to their naval commanders. But this is far short of satisfaction; indeed, to acquiesce in it is to give up the right.

Extract of a letter from Mr. King to the Secretary of State.

LONDON, *February 25, 1801.*

The progress which had been made in our negotiation with this Government was such as must have brought it to a speedy conclusion, had not a change taken place in the Department of Foreign Affairs. That the result would, in the main, have been satisfactory, is more than I am authorized to say, though I flattered myself with the hope that it would be so. Lord Hawkesbury assures me that he will give to the several subjects which have been pretty fully discussed an early and impartial consideration; and I am in hopes that Lord St. Vincent will likewise be inclined to attend to our reiterated remonstrances against the impressment of our seamen, and the vexations of our trade.

[The extract which was here inserted from Mr. King's letter of July —, 1803, will be found in his entire letter, vol. 2, page 503.]

12th CONGRESS.]

No. 250.

[1st SESSION.]

AGGRESSIONS BY THE BELLIGERENTS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JULY 6, 1812.

To the House of Representatives of the United States:

JULY 6, 1812.

I transmit to the House of Representatives a report from the Secretary of State of this date, complying with their resolution of the 30th of January last.

JAMES MADISON.

DEPARTMENT OF STATE, *July 6, 1812.*

The Secretary of State, in pursuance of a resolution of the House of Representatives of the 30th of January last, has the honor to report to the President of the United States six several lists of captures, seizures, and condemnations, of the ships and merchandise of the citizens of the United States, under the authority of the Governments of Europe, to wit:

- No. 1. British captures prior to the orders in council of November 11, 1807.
 No. 2. British captures subsequent to the date of the orders in council of November 11, 1807.
 No. 1. French captures, seizures, and condemnation, prior to the Milan and Berlin decrees.
 No. 2. French captures, seizures, and condemnations, during the existence of the decrees of Berlin and Milan.
 No. 3. French seizures, captures, and condemnations, since the revocation of the Milan and Berlin decrees.
 No. 4. Captures, seizures, and condemnations, under the authority of the Government of Naples.
 And, in addition, a statement of Danish captures, condemnations, &c.

The documents from which these lists have been compiled being of a miscellaneous nature, the detail is unavoidably imperfect. The sums stated as the amount of loss are in many cases doubtful. The chief fact from which the *cause* of capture can be inferred, is the *date* of capture, which, on referring to the regulations, orders, or decrees, existing at the time, may serve to elucidate that point of the inquiry. The successive orders, decrees, &c. of the belligerent Powers, as they have come to the knowledge of this Department, up to the year 1808, may be found in a report made to Congress by the Secretary of State on the 21st of December of that year. In that report, the belligerent edicts bearing upon neutral commerce, and corresponding with the years on the lists now sent, are as follows:

<i>British.</i>	<i>French.</i>
1803. June 24. Direct trade between neutrals and the colonies of enemies not to be interrupted, unless, upon the outward voyage, contraband supplies shall have been furnished by the neutrals.	1803.
1804. April 12. Instructions concerning blockades, communicated by Mr. Merry. Conversion of the siege of Curaçoa into a blockade. August 9. Blockade of Fécamp, &c.	1804.
1805. August 17. Direct trade with enemies' colonies subjected to restrictions.	1805.
1806. April 8. Blockade of the Ems, Weser, &c. May 16. Blockade from the Elbe to Brest. September 25. Discontinuance of the last blockade, in part.	1806. Nov. 21. Berlin decree.
1807. March 12. Interdiction of the trade from port to port of France. June 26. Blockade of the Ems, &c. October 16. Proclamation recalling seamen. November 11. Three orders in council. November 25. Six orders in council.	1807. Dec. 17. Milan decree.
1808. January 8. Blockade of Carthage, &c. March 28. Act of Parliament. April 11. Orders encouraging our citizens to violate the embargo. April 14. Act of Parliament to prohibit the exportation of cotton wool, &c. Act of Parliament making valid certain orders in council. May 4. Blockade of Copenhagen and the island of Zealand. June 23. Act of Parliament regulating trade between the United States and Great Britain. October 14. Admiral Cochrane's blockade of the French Leeward Islands.	1808. Ap. 17. Bayonne decree.

To these may be added the British order in council of the 26th of April, 1809, prohibiting altogether all trade with France and Holland, and the ports of Italy comprehended under the denomination of the kingdom of Italy; the blockade of the ports of Spain from Gijon to the French territory, of the 20th February, 1810, which was partially relaxed on the 14th of May, 1810; the blockade of Venice, instituted on the 27th of July, 1806, and which was declared to be still in force on the 26th of March, 1810; the blockade of the canal of Corfu, of the 18th of August, 1810, which, in effect, was an attempt to blockade the whole Adriatic sea; together with certain other regulations, principally touching the trade on the Baltic.

To the French edicts may be added the decree of Rambouillet of the 23d of March, 1810.

The seizures and condemnations under the authority of the Government of Naples were principally in consequence of a special decree of the sovereign of that State.

In making up the lists, reference has been had to the dates of the orders in council of November, 1807, and the French edicts of Berlin and Milan, chiefly because their promulgation formed a new epoch in the history of commercial spoliations. Under this division, these lists will exhibit the following results:

<i>British.</i>	Vessels.
Captures, &c. prior to the orders in council of November, 1807, - - - -	528
Captures, &c. subsequent to those orders, - - - -	389
Total, - - - -	917
<i>French.</i>	Vessels.
Captures, &c. prior to the Berlin and Milan decrees, - - - -	206
Captures during the existence of those decrees, - - - -	307
Captures since the revocation of those decrees, - - - -	45
Total, - - - -	558

The number of captures by the Neapolitans amounts to forty-seven. The statement relative to Danish captures will best explain itself.

With respect to the question proposed by the resolution in obedience to which this report is made, "How far the decrees, orders, or regulations, under which the captures have been made, are abandoned or persevered in by the nation making such captures," it may be remarked, that the Berlin and Milan decrees were revoked, as far as they affected the neutral commerce of the United States, according to an official declaration of the French Government, made at Paris on the 5th of August, 1810, to the American minister then resident there; and that this revocation, in the same latitude, has been since corroborated by acts and declarations of the French Government communicated to the minister of the United States who now resides at Paris. The decrees of Bayonne and of Rambouillet, as well as that of the sovereign of Naples, being *special*, ceased with the accomplishment of the particular object of their promulgation.

On the part of Great Britain, it is officially known to the Secretary of State, that up to the period of declaring war against that Power by Congress, the orders in council were rigidly enforced against American neutral trade; captures and condemnations were incessantly occurring; and with respect to any edict of a date anterior to those orders in council, it is impossible distinctly to specify whether it has been abandoned or not; for, so late as the 26th March, 1810, the British Secretary of State for Foreign Affairs officially refused to allow the American minister in London to *infer* that the blockade of May, 1806, had become extinct by the operation of the orders in council. On the contrary, he expressly stated that that blockade was comprehended under the more extensive restrictions of a subsequent order. Hence it may be inferred, that the orders in council of November, 1807, and of April, 1809, which were a more general extension of unlawful principles previously acted upon in a limited degree, although they comprehended, yet did not extinguish, particular blockades or orders antecedently proclaimed; thus leaving it uncertain whether, in the event of the revocation of the orders in council themselves, any or what obnoxious edicts would or would not be insisted on or relinquished.

In relation to Spain, the Department of State is not in possession of information sufficient to authorize a report of captures, &c. during the present war by that Power.

All which is respectfully submitted:

JAMES MONROE.

12th CONGRESS.]

No. 251.

[2d Session.]

GREAT BRITAIN.

COMMUNICATED TO CONGRESS BY THE MESSAGES OF NOVEMBER 4,* 12, AND 18, 1812.

To the Senate and House of Representatives of the United States: NOVEMBER 12, 1812.

For the further information of Congress relative to the pacific advances made on the part of this Government to that of Great Britain, and the manner in which they have been met by the latter, I transmit the sequel of the communications on that subject, received from the late chargé d'affaires at London.

JAMES MADISON.

To the Senate and House of Representatives of the United States: NOVEMBER 18, 1812.

I transmit to Congress copies of a communication from Mr. Russell to the Secretary of State. It is connected with the correspondence accompanying my message of the 12th instant, but had not at that date been received.

JAMES MADISON.

Extract:—Mr. Monroe to Mr. Russell.

JUNE 26, 1812.

This letter is committed to Mr. Foster, who has promised to deliver it to you in safety.

On the 18th of this month a declaration of war against Great Britain passed Congress. I send you a copy of the act, of the President's message, and of the report of the Committee of Foreign Relations, which brought the subject under consideration.

This measure has been produced by the continued aggressions of the British Government on the rights of the United States, and the presumption arising from that and other facts, which it is unnecessary to recite, that no favorable change of policy might be expected from it. It was impossible for the United States to surrender their rights, by relinquishing the ground which they had taken; and it was equally incompatible with their interests and character to rely longer on measures which had failed to accomplish their objects. War was the only remaining alternative; and that fact being clearly ascertained, you will find by the documents transmitted, that it was adopted with decision.

As war has been resorted to by necessity, and of course with reluctance, this Government looks forward to the restoration of peace with much interest, and a sincere desire to promote it on conditions just, equal, and honorable to both parties. It is in the power of Great Britain to terminate the war on such conditions, and it would be very satisfactory to the President to meet it in arrangements to that effect.

Although there are many just and weighty causes of complaint against Great Britain, you will perceive, by the documents transmitted, that the orders in council and other blockades, illegal, according to the principles lately acknowledged, and the impressment of our seamen, are considered to be of the highest importance. If the orders in council are repealed, and no illegal blockades are substituted for them, and orders are given to discontinue the impressment of seamen from our vessels, and to restore those already impressed, there is no reason why hostilities should not immediately cease. Securing these objects, you are authorized to stipulate an armistice, to commence from the signature of the instrument providing for it, or at the end of fifty or sixty days, or other the shortest term that the British Government will assent to. Definitive arrangements will be made on these and every other difference by a treaty, to be concluded either here or at London, though it is much desired that the subject should be entered on in this city.

As an inducement to the British Government to discontinue the practice of impressments from our vessels, you may give assurance that a law will be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States. There can be no doubt that such an arrangement would prove much more efficacious in securing to Great Britain her seamen, than the practice to which it is proposed to be a substitute, independent of all the other objections to it.

* For message of November 4, 1812, see Foreign Relations, vol. 1, page 80.

Indemnity for injuries received under the orders in council, and other edicts violating our rights, seems to be incident to their repeal; but the President is willing that the consideration of that claim should not be pressed at this time, so as to interfere with the preliminary arrangement alluded to. It will be proper to bring it into view, merely to show that it is expected that provision will be made for it in the treaty which is to follow. Every other interest may also be provided for at the same time.

It is hoped that the British Government will find it consistent with its interest and honor to terminate the war by an armistice, in the manner and on the conditions proposed. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating our rights, and, in return, it will restore peace with the Power from whom, in a friendly commercial intercourse, so many advantages will be derived, not to mention the injuries which cannot fail to result from a prosecution of the war.

Mr. Monroe to Mr. Russell.

SIR:

DEPARTMENT OF STATE, July 27, 1812.

I wrote you on the 26th of June, by Mr. Foster, a letter, which he promised to deliver to you in person, or by a safe hand.

In that letter you were informed that the orders in council, and other illegal blockades, and the impressment of our seamen by Great Britain, as you well knew before, were the principal causes of the war; and that if they were removed, you might stipulate an armistice, leaving them and all other grounds of difference for final and more precise adjustment by treaty. As an inducement to the British Government to discontinue the practice of impressment from our vessels, by which alone our seamen can be made secure, you were authorized to stipulate a prohibition by law, to be reciprocal, of the employment of British seamen in the public or commercial service of the United States. As such an arrangement, which might be made completely effectual and satisfactory by suitable regulations and penalties, would operate almost exclusively in favor of Great Britain—for, as few of our seamen ever enter voluntarily into the British service, the reciprocity would be nominal—its advantage to Great Britain would be more than an equivalent for any she derives from impressment, which alone ought to induce her to abandon the practice, if she had no other motive for it. A stipulation to prohibit by law the employment of British seamen in the service of the United States is to be understood in the sense and spirit of our constitution. The passage of such a law must depend of course on Congress, who, it might reasonably be presumed, would give effect to it.

By authorizing you to secure these objects as the grounds of an armistice, it was not intended to restrict you to any precise form in which it should be done. It is not particularly necessary that the several points should be specially provided for in the convention stipulating the armistice. A clear and distinct understanding with the British Government on the subject of impressment, comprising in it the discharge of the men already impressed, and on future blockades if the orders in council are revoked, is all that is indispensable. The orders in council being revoked, and the proposed understanding on the other points, that is, on blockades and impressment, being first obtained in a manner, though informal, to admit of no mistake or disagreement hereafter, the instrument providing for the armistice may assume a general form, especially if more agreeable to the British Government. It may, for example, be said in general terms, "that both Powers being sincerely desirous to terminate the differences which unhappily subsist between them, and equally so that full time should be given for the adjustment thereof, agree—

"1st. That an armistice shall take place for that purpose, to commence on the ——— day of ———.

"2d. That they will forthwith appoint on each side commissioners with full power to form a treaty, which shall provide, by reciprocal arrangements, for the security of their seamen from being taken or employed in the service of the other Power, for the regulation of their commerce, and all other interesting questions now depending between them.

"3d. The armistice shall not cease without a previous notice by one to the other party of ——— days, and shall not be understood as having other effect than merely to suspend military operations by land and by sea."

By this you will perceive that the President is desirous of removing every obstacle to an accommodation, which consists merely of form. Securing in a safe and satisfactory manner the rights and interests of the United States in these two great and essential circumstances, as it is presumed may be accomplished by the proposed understanding, he is willing that it be done in a manner the most satisfactory and honorable to Great Britain as well as to the United States.

I have the honor to be, &c.

JAMES MONROE.

Mr. Graham to Mr. Russell.

SIR:

DEPARTMENT OF STATE, August 9, 1812.

The Secretary left this city about ten days ago on a short visit to Virginia. Since that period Mr. Baker has, in consequence of some despatches from his Government addressed to Mr. Foster, made to me a communication respecting the intentions of his Government as regards the orders in council. It was of a character, however, so entirely informal and confidential, that Mr. Baker did not feel himself at liberty to make it in the form of a note, verbal, or *pro memoria*, or even to permit me to take a memorandum of it at the time he made it. As it authorizes an expectation that something more precise and definite in an official form may soon be received by this Government, it is the less necessary that I should go into an explanation of the views of the President in relation to it, more particularly as the Secretary of State is daily expected, and will be able to do it in a manner more satisfactory.

I refer you to the enclosed papers for information as to the maritime and military movements incident to the war, and will add, that the President is anxious to know, as soon as possible, the result of the proposals you were authorized to make to the British Government respecting an armistice. He considers them so fair and reasonable, that he cannot but hope that they will be acceded to, and thus be the means of hastening an honorable and permanent peace.

I have the honor, &c.

JOHN GRAHAM.

Mr. Graham to Mr. Russell.

Str:

DEPARTMENT OF STATE, August 10, 1812.

Thinking that it may possibly be useful to you, I do myself the honor to enclose a memorandum of the conversation between Mr. Baker and myself alluded to in my letter of yesterday's date. From a conversation with Mr. Baker since this memorandum was made, I find that I was correct in representing to the President that the intimation from Mr. Foster and the British authorities at Halifax was to be understood as connected with a suspension of hostilities on the frontiers of Canada.

I have the honor, &c.

JOHN GRAHAM.

[Memorandum referred to in the above letter.]

Mr. Baker verbally communicated to me, for the information of the President, that he had received despatches from his Government addressed to Mr. Foster, dated, I believe, about the 17th of June, from which he was authorized to say that an official declaration would be sent to this country; that the orders in council, so far as they affected the United States would be repealed on the 1st of August, to be revived on the 1st of May, 1813, unless the conduct of the French Government, and the result of the communications with the American Government, should be such as in the opinion of His Majesty to render their revival unnecessary. Mr. Baker, moreover, stated that the orders would be revived, provided the American Government did not, within fourteen days after they received the official declaration of their repeal, admit British armed vessels into their ports, and put an end to the restrictive measures which had grown out of the orders in council.

The despatches authorizing this communication to the American Government expressly directed that it should be made verbally, and Mr. Baker did not consider himself at liberty to reduce it to writing, even in the form of a note verbal, or *pro memoria*, or to suffer me to take a memorandum of his communication at the time he made it. I understood from him that the despatches had been opened by Mr. Foster at Halifax, who, in consequence of a conversation he had had with Vice-admiral Sawyer and Sir John Sherbrooke, had authorized Mr. Baker to say that these gentlemen would agree, as a measure leading to a suspension of hostilities, that all captures made after a day to be fixed, should not be proceeded against immediately, but be detained to await the future decision of the two Governments. Mr. Foster had not seen Sir George Prevost, but had written to him by express, and did not doubt but that he would agree to an arrangement for the temporary suspension of hostilities. Mr. Baker also stated that he had received an authority from Mr. Foster to act as *chargé des affaires*, provided the American Government would receive him in that character for the purpose of enabling him officially to communicate the declaration which was to be expected from the British Government. His functions to be understood, of course, as ceasing on the renewal of hostilities.

I replied, that although so general and informal a communication no answer might be necessary, and certainly no particular answer expected, yet I was authorized to say that the communication is received with sincere satisfaction, as it is hoped that the spirit in which it was authorized by his Government may lead to such further communications as will open the way, not only for an early and satisfactory termination of existing hostilities, but to that entire adjustment of all the differences which produced them, and to that permanent peace and solid friendship which ought to be mutually desired by both countries, and which is sincerely desired by this. With this desire, an authority was given to Mr. Russell on the subject of an armistice as introductory to a final pacification, as has been made known to Mr. Foster; and the same desire will be felt on the receipt of the further and more particular communications which are shortly to be expected, with respect to the joint intimation from Mr. Foster and the British authorities at Halifax on the subject of suspending judicial proceedings in the case of maritime captures, to be accompanied by a suspension of military operations. The authority given to Mr. Russell just alluded to, and of which Mr. Foster was the bearer, is full proof of the solicitude of the Government of the United States to bring about a general suspension of hostilities on admissible terms, with as little delay as possible. It was not to be doubted, therefore, that any other practicable expedient for attaining a similar result would readily be concurred in. Upon the most favorable consideration, however, which could be given to the expedient suggested through him, it did not appear to be reducible to any practical shape to which the Executive would be authorized to give it the necessary sanction; nor, indeed, is it probable, if it was less liable to insuperable difficulties, that it could have any material effect previous to the result of the pacific advance made by this Government, and which must, if favorably received, become operative as soon as any other arrangement that could now be made. It was stated to Mr. Baker that the President did not, under existing circumstances, consider Mr. Foster as vested with the power of appointing a *chargé des affaires*; but that no difficulty in point of form would be made, as any authentic communication through him, or any other channel, would be received with attention and respect.

Extract:—Secretary of State to Mr. Russell.

DEPARTMENT OF STATE, August 21, 1812.

My last letter to you was of the 27th July, and was forwarded by the British packet the *Althea*, under the special protection of Mr. Baker. The object of that letter, and of the next preceding one of the 26th June, was to invest you with power to suspend, by an armistice, on such fair conditions as it was presumed could not be rejected, the operation of the war, which had been brought on the United States by the injustice and violence of the British Government. At the moment of the declaration of war, the President, regretting the necessity which produced it, looked to its termination and provided for it; and happy will it be for both countries if the disposition felt, and the advance thus made on his part, are entertained and met by the British Government in a similar spirit.

You have been informed by Mr. Graham of what passed in my late absence from the city, in an interview between Mr. Baker and him, in consequence of a despatch from the British Government to Mr. Foster, received at Halifax, just before he sailed for England, and transmitted by him to Mr. Baker, relating to a proposed suspension or repeal of the British orders in council. You will have seen, by the note forwarded to you by Mr. Graham, of Mr. Baker's communication to him, that Mr. Foster had authorized him to state that the commanders of the British forces at Halifax would agree to a suspension, after a day to be fixed, of the condemnation of prizes, to await the decision of both Governments, without, however, preventing captures on either side. It appears, also, that Mr. Foster had promised to communicate with Sir George Prevost, and to advise him to propose to our Government an armistice.

Sir George Prevost has since proposed to General Dearborn, at the suggestion of Mr. Foster, a suspension of offensive operations by land, in a letter which was transmitted by the general to the Secretary at War. A provisional agreement was entered into between General Dearborn and Colonel Baynes, the British adjutant general, bearer of General Prevost's letter, that neither party should act offensively before the decision of our Government should be taken on the subject.

Since my return to Washington the document alluded to in Mr. Foster's despatch, as finally decided on by the British Government, has been handed to me by Mr. Baker, with a remark that its authenticity might be relied on. Mr. Baker added, that it was not improbable that the admiral at Halifax might agree likewise to a suspension of captures, though he did not profess or appear to be acquainted with his sentiments on that point.

On full consideration of all the circumstances which merit attention, the President regrets that it is not in his power to accede to the proposed arrangement. The following are among the principal reasons which have produced this decision:

1. The President has no power to suspend judicial proceedings on prizes. A capture, if lawful, vests a right over which he has no control. Nor could he prevent captures otherwise than by an indiscriminate recall of the commissions granted to our privateers, which he could not justify under existing circumstances.

2. The proposition is not made by the British Government, nor is there any certainty that it would be approved by it. The proposed arrangement, if acceded to, might not be observed by the British officers themselves, if their Government, in consequence of the war, should give them instructions of a different character, even if they were given without a knowledge of the arrangement.

3. No security is given or proposed as to the Indians, nor could any be relied on. They have engaged in the war on the side of the British Government, and are now prosecuting it with vigor, in their usual savage mode. They can only be restrained by force when once let loose, and that force has already been ordered out for the purpose.

4. The proposition is not reciprocal, because it restrains the United States from acting where their power is greatest, and leaves Great Britain at liberty and gives her time to augment her forces in our neighborhood.

5. That as a principal object of the war is to obtain redress against the British practice of impressment, an agreement to suspend hostilities, even before the British Government is heard from on that subject, might be considered a relinquishment of that claim.

6. It is the more objectionable, and of the less importance, in consideration of the instructions heretofore given you, which, if met by the British Government, may have already produced the same result in a greater extent and more satisfactory form.

I might add that the declaration itself is objectionable in many respects, particularly the following:

1. Because it asserts a right in the British Government to restore the orders in council, or any part thereof, to their full effect, on a principle of retaliation on France, under circumstances of which she alone is to judge; a right which this Government cannot admit, especially in the extent heretofore claimed and acted on by the British Government.

2. That the repeal is founded exclusively on the French decree of 28th April, 1811, by which the repeal of the decrees of Berlin and Milan, announced on the 5th August, 1810, to take effect on the 1st of November of that year, at which time their operation actually ceased, is disregarded, as are the claims of the United States arising from the repeal on that day, even according to the British pledge.

3. That even if the United States had no right to claim the repeal of the British orders in council prior to the French decree of the 28th of April, 1811, nor before the notification of that decree to the British Government on the 20th of May of the present year, the British repeal ought to have borne date from that day, and been subject to none of the limitations attached to it.

These remarks on the declaration of the Prince Regent, which are not pursued with rigor, nor in the full extent which they might be, are applicable to it, in relation to the state of things which existed before the determination of the United States to resist the aggressions of the British Government by war. By that determination the relations between the two countries have been altogether changed; and it is only by a termination of the war, or by measures leading to it by consent of both Governments, that its calamities can be closed or mitigated. It is not now a question whether the declaration of the Prince Regent is such as ought to have produced a repeal of the non-importation act, had war not been declared; because, by the declaration of war, that question is superseded, and the non-importation act having been continued in force by Congress, and become a measure of war, and among the most efficient, it is no longer subject to the control of the Executive in the sense and for the purpose for which it was adopted. The declaration, however, of the Prince Regent will not be without effect. By repealing the orders in council, without reviving the blockade of May, 1806, or any other illegal blockade, as is understood to be the case, it removes a great obstacle to an accommodation. The President considers it an indication of a disposition in the British Government to accommodate the differences which subsist between the countries, and I am instructed to assure you that, if such disposition really exists, and is persevered in, and is extended to other objects, especially the important one of impressment, a durable and happy peace and reconciliation cannot fail to result from it.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, *September 1, 1812.*

You will perceive by the enclosed copies of notes which have passed between Lord Castlereagh and me, that the moderate and equitable terms proposed for a suspension of hostilities have been rejected, and that it is my intention to return immediately to the United States.

My continuance here, after it has been so broadly intimated to me by his lordship that I am no longer acknowledged in my diplomatic capacity, and after a knowledge that instructions are given to the British admiral to negotiate an arrangement on the other side of the Atlantic, would, in my view of the subject, not only be useless, but improper.

It is probable, however, that the vessel in which I propose to embark will not take her departure before the 15th or 20th of this month.

I have the honor to be, &c.

JONA. RUSSELL.

JAMES MONROE, Esq., &c.

Mr. Russell to Lord Castlereagh.

MY LORD:

LONDON, August 24, 1812.

It is only necessary, I trust, to call the attention of your lordship to a review of the conduct of the Government of the United States, to prove incontrovertibly its unceasing anxiety to maintain the relations of peace and friendship with Great Britain. Its patience in suffering the many wrongs which it has received, and its perseverance in endeavoring, by amicable means, to obtain redress, are known to the world. Despairing, at length, of receiving this redress from the justice of the British Government, to which it had so often applied in vain, and feeling that a further forbearance would be a virtual surrender of interests and rights essential to the prosperity and independence of the nation confided to its protection, it has been compelled to discharge its high duty by an appeal to arms. While, however, it regards this course as the only one which remained for it to pursue with a hope of preserving any portion of that kind of character which constitutes the vital strength of every nation, yet it is still willing to give another proof of the spirit which has uniformly distinguished its proceedings, by seeking to arrest, on terms consistent with justice and honor, the calamities of war. It has, therefore, authorized me to stipulate with His Britannic Majesty's Government an armistice, to commence at or before the expiration of sixty days after the signature of the instrument providing for it, on condition that the orders in council be repealed, and no illegal blockades be substituted for them, and that orders be immediately given to discontinue the impressment of persons from American vessels, and to restore the citizens of the United States already impressed; it being, moreover, well understood that the British Government will assent to enter into definitive arrangements, as soon as may be, on these and every other difference, by a treaty to be concluded either at London or Washington, as, on an impartial consideration of existing circumstances, shall be deemed most expedient.

As an inducement to Great Britain to discontinue the practice of impressment from American vessels, I am authorized to give assurance that a law shall be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States.

It is sincerely believed that such an arrangement would prove more efficacious in securing to Great Britain her seamen than the practice of impressment, so derogatory to the sovereign attributes of the United States and so incompatible with the personal rights of their citizens.

Your lordship will not be surprised that I have presented the revocation of the orders in council as a preliminary to the suspension of hostilities, when it is considered that the act of the British Government of the 23d of June last, ordaining that revocation, is predicated on conditions, the performance of which is rendered impracticable by the change which is since known to have occurred in the relations between the two countries. It cannot now be expected that the Government of the United States will immediately, on due notice of that act, revoke, or cause to be revoked, its acts, excluding from the waters and harbors of the United States all British armed vessels, and interdicting commercial intercourse with Great Britain. Such a procedure would necessarily involve consequences too unreasonable and extravagant to be for a moment presumed. The order in council of the 23d of June last will, therefore, according to its own terms, be null and of no effect, and a new act of the British Government, adapted to existing circumstances is obviously required for the effectual repeal of the orders in council, of which the United States complain.

The Government of the United States considers indemnity for injuries received under the orders in council, and other edicts violating the rights of the American nation, to be incident to their repeal, and it believes that satisfactory provision will be made in the definitive treaty to be hereafter negotiated for this purpose.

The conditions now offered to the British Government for the termination of the war by an armistice, as above stated, are so moderate and just in themselves, and so entirely consistent with its interest and honor, that a confident hope is indulged that it will not hesitate to accept them. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating the rights of the United States, and in return it will restore peace with the Power, from whom, in a friendly commercial intercourse, so many advantages are to be derived.

Your lordship is undoubtedly aware of the serious difficulties with which a prosecution of the war, even for a short period, must necessarily embarrass all future attempts at accommodation. Passions exasperated by injuries, alliances, or conquests, on terms which forbid their abandonment, will inevitably hereafter imbitter and protract a contest which might now be so easily and happily terminated.

Deeply impressed with these truths, I cannot but persuade myself that His Royal Highness the Prince Regent will take into his early consideration the propositions herein made on behalf of the United States, and decide on them in a spirit of conciliation and justice.

I have the honor to be, &c.

JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

SIR:

FOREIGN OFFICE, August 29, 1812.

Although the diplomatic relations between the two Governments have been terminated by a declaration of war on the part of the United States, I have not hesitated, under the peculiar circumstances of the case, and the authority under which you act, to submit to the Prince Regent the proposition contained in your letter of the 24th for a suspension of hostilities.

From the period at which your instructions must have been issued, it is obvious that this overture was determined upon by the Government of the United States, in ignorance of the order in council of the 23d of June last; and, as you inform me that you are not at liberty to depart from the conditions set forth in your letter, it only remains for me to acquaint you that the Prince Regent feels himself under the necessity of declining to accede to the proposition therein contained, as being, on various grounds, absolutely inadmissible.

As soon as there was reason to apprehend that Mr. Foster's functions might have ceased in America, and that he might have been obliged to withdraw himself, in consequence of war having been declared, from the United States, before the above-mentioned order of the 23d of June and the instructions consequent thereupon could have reached him, measures were taken for authorizing the British admiral on the American station to propose to the Government of the United States an immediate and reciprocal revocation of all hostile orders, with the tender of giving full effect, in the event of hostilities being discontinued, to the provisions of the said order, upon the conditions therein specified.

From this statement you will perceive that the view you have taken of this part of the subject is incorrect; and that, in the present state of the relations between the two countries, the operation of the order of the 23d June can only be defeated by a refusal on the part of your Government to desist from hostilities, or to comply with the conditions expressed in the said order.

Under the circumstances of your having no powers to negotiate, I must decline entering into a detailed discussion of the propositions which you have been directed to bring forward.

I cannot, however, refrain on one single point from expressing my surprise, namely, that as a condition preliminary even to a suspension of hostilities, the Government of the United States should have thought fit to demand that the British Government should desist from its ancient and accustomed practice of impressing British seamen from the merchant ships of a foreign state, simply on the assurance that a law shall hereafter be passed, to prohibit the employment of British seamen in the public or commercial service of that state.

The British Government now, as heretofore, is ready to receive from the Government of the United States, and amicably to discuss, any proposition which professes to have in view either to check abuse in the exercise of the practice of impressment, or to accomplish, by means less liable to vexation, the object for which impressment has hitherto been found necessary; but they cannot consent to suspend the exercise of a right upon which the naval strength of the empire mainly depends, until they are fully convinced that means can be devised, and will be adopted, by which the object to be obtained by the exercise of that right can be effectually secured.

I have the honor to be, &c.

JONATHAN RUSSELL, Esq. &c. &c.

CASTLEREAGH.

Mr. Russell to Lord Castlereagh.

MY LORD:

18, BENTINCK STREET, *September 1, 1812.*

I have learned with much regret by your lordship's note dated the 29th ultimo, which I did not receive until this morning, that the Prince Regent has thought proper to decline to accede to the proposition for a suspension of hostilities, contained in my note of the 24th of August.

It has been matter of surprise to me that my view with regard to the revocation of the orders in council, on the 23d of June last, should have been considered to have been incorrect, when it appears by your lordship's note that the British Government itself has deemed it necessary to give powers to the British admiral to stipulate for its full effect, and thereby admitted that a new act was required for that purpose.

It now only remains for me to announce to your lordship that it is my intention to embark immediately at Plymouth on board the ship *Lark* for the United States, and to request that permission may be granted, as soon as may be, for the embarkation of my servant's baggage, and the effects of this legation, and that the necessary passports may be furnished for my own and their safe conduct to that destination.

I avail myself of this occasion to apprise your lordship that I am authorized by the Government of the United States to leave *Reuben Guant Beasley, Esq.* as its agent for prisoners of war in this country, and to desire that every necessary facility may be afforded him in the exercise of that trust by the British Government.

I have the honor to be, &c.

JONA. RUSSELL.

The Right Hon. LORD CASTLEREAGH, &c.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, *September 3, 1812.*

I enclose herein a copy of a note received yesterday from Lord Castlereagh, which will acquaint you that I have obtained my passports to return to the United States, and that Mr. Beasley is permitted to remain here as agent for prisoners of war.

Immediately on demanding my passports, I addressed to the consuls a circular, of which you will also find a copy enclosed.

The *Swiftsure* packet sailed on the 31st of last month from Falmouth for America, and it is very probable that she takes out instructions suggested by the overture made here, but there is no reason to believe that they can be of a nature to satisfy the United States.

I have the honor to be, &c.

JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

SIR:

FOREIGN OFFICE, *September 2, 1812.*

I have laid before His Royal Highness the Prince Regent your letter of the 1st inst., in which you announce your intention to embark immediately at Plymouth, on board the ship *Lark*, for the United States.

I have already had the honor of forwarding to you an admiralty order for the protection of that ship as a cartel, on her voyage to America; and I herewith enclose to you a passport for the free embarkation of yourself and family, in conformity to your request. The Lords Commissioners of His Majesty's treasury will issue directions to the commissioners of the customs to give every facility to the embarkation of your effects.

If previous to your departure from England you can point out to me any particular manner in which I can facilitate your arrangements, I beg that you will command my services.

His Royal Highness has commanded me to signify to you, for the information of your Government, that there will be no difficulty in allowing Mr. R. G. Beasley, as stated in your letter, to reside in this country as the United States' agent for prisoners of war.

I have the honor to be, &c.

CASTLEREAGH.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, *September 19, 1812.*

On the 12th I received your letter of the 27th of July last; and the copies of my note to Lord Castlereagh, and of his lordship's reply enclosed herein, will inform you that the propositions made in consequence of it have been rejected.

As I have but this moment heard of the immediate departure of the Friends, I have time only to add that I have received the communications of Mr. Graham of the 9th and 10th of August by the Gleaner, and that I leave London this evening to embark on board the Lark at Plymouth for New York.

I am, with great respect and consideration, sir, your faithful and obedient servant,
 JONATHAN RUSSELL.

P. S. An interesting interview took place between Lord Castlereagh and myself on the 16th instant, the account of which I must, for want of time, reserve until I have the honor to see you.

The Hon. JAMES MONROE, &c.

[Enclosed in Mr. Russell's despatch of September 19.]

(Private.)

Mr. Russell to Lord Castlereagh.

MY LORD:

18, BENTINCK STREET, *September 12, 1812.*

In consequence of additional instructions which I received from my Government this morning, I called about noon at the Foreign Office, and found with regret that your lordship was out of town. My object was to communicate to your lordship the powers under which I act, that you might perceive their validity and extent. I have, however, sought to state them substantially in the official letter which I have herewith the honor to transmit to your lordship; but should you find any thing that stands in need of explanation previous to being submitted to His Royal Highness, I shall remain at 18, Bentinck street, to receive the commands of your lordship. If your lordship could, in courtesy, find any motive in my personal convenience to hasten a decision upon the propositions which I have submitted, the season of the year, my anxiety to depart, (all my arrangements being made, all my luggage having left town,) and the detention of the Lark at much expense, will plead powerfully in my favor.

I have the honor to be, &c.

JONATHAN RUSSELL.

Mr. Russell to Lord Castlereagh.

MY LORD:

18, BENTINCK STREET, *September 12, 1812.*

I hasten, authorized by instructions recently received from the Government of the United States, and urged by an unfeigned anxiety to arrest the calamities of war, to propose to your lordship a convention for the suspension of hostilities, to take effect at such time as may be mutually agreed upon, and stipulating that each party shall forthwith appoint commissioners with full power to form a treaty, which shall provide by reciprocal arrangements for the security of their seamen from being taken or employed in the service of the other Power, for the regulation of their commerce, and all other interesting questions now depending between them; and that the armistice shall not cease without such previous notice by one to the other party as may be agreed upon, and shall not be understood as having any other effect than merely to suspend military operations by land and by sea.

In proposing to your lordship these terms for a suspension of hostilities, I am instructed to come to a clear and distinct understanding with His Britannic Majesty's Government, without requiring it to be formal, concerning impressments, comprising in it the discharge of the citizens of the United States already impressed, and concerning future blockades; the revocation of the orders in council being confirmed.

Your lordship is aware that the power of the Government of the United States to prohibit the employment of British seamen must be exercised in the sense and spirit of the constitution, but there is no reason to doubt that it will be so exercised effectually, and with good faith.

Such a measure, as it might, by suitable regulations and penalties, be made completely effectual and satisfactory, would operate almost exclusively in favor of Great Britain; for as few American seamen ever enter voluntarily into the British service, the reciprocity would be nominal, and it is sincerely believed that it would be more than an equivalent for any advantage she may derive from impressment.

By the proposition which I have now the honor to make in behalf of my Government, your lordship will perceive the earnest desire of the President to remove every obstacle to an accommodation, which consists merely of form, and to secure the rights and interests of the United States in a manner the most satisfactory and honorable to Great Britain as well as to America.

The importance of the overture now made will, I trust, obtain for it the early consideration of His Royal Highness the Prince Regent; and I shall detain the vessel in which I have taken my passage to the United States until I have the honor to learn his decision.

I have the honor to be, &c.

JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *September 16, 1812.*

Lord Castlereagh presents his compliments to Mr Russell, and requests to have the honor of seeing him at his house in St. James's square, at nine o'clock this evening.

N. B. Received a little before five o'clock.

Mr. Hamilton to Mr. Russell.

DEAR SIR:

FOREIGN OFFICE, *September 16, 1812.*

I have not seen Lord Castlereagh since his receipt of your two letters of ———, but have received his directions to say to you that he is concerned that he cannot have it in his power to reply to them for a few days, or would have had much pleasure in attending immediately to your request in that respect. You may be assured that no delay will take place which can be avoided.

I am, dear sir, faithfully yours,

WILLIAM HAMILTON.

JONATHAN RUSSELL, Esq., &c.

Mr. Russell to Mr. Hamilton.

DEAR SIR:

18, BENTINCK STREET, *September 16, 1812.*

I have learned with much regret and disappointment that Lord Castlereagh has directed you to inform me that it is not in his power to give an immediate answer to the last letters which I have had the honor to address to him. The object of those letters was of a nature to require an early decision; reluctant, however, by any precipitancy on my part to protract the present unhappy relations between the two countries, I beg you to acquaint his lordship that I shall remain in town until Sunday, (the 20th instant,) when, unless some special and satisfactory reason be assigned for a longer delay, I shall consider it to be my duty to proceed to Plymouth to embark for the United States.

I am, dear sir, with great truth and respect, &c.

JONATHAN RUSSELL.

N. B. Sent at three o'clock.

Lord Castlereagh to Mr. Russell.

SIR:

FOREIGN OFFICE, *September 18, 1812.*

Under the explanations you have afforded me of the nature of the instructions which you have received from your Government, I have, as on the preceding occasion, been induced to lay your letter of the 12th instant before His Royal Highness the Prince Regent.

His Royal Highness commands me to express to you his regret that he cannot perceive any substantial difference between the proposition for a suspension of hostilities, which you are now directed to make, and that which was contained in your letter of the 24th of August last. The form of the proposed arrangement, it is true, is different; but it only appears to aim at executing the same purpose in a more covert, and, therefore, in a more objectionable manner.

You are now directed to require, as preliminary to a suspension of hostilities, a clear and distinct understanding, without, however, requiring it to be formal, on all the points referred to in your former proposition. It is obvious that, were this proposal acceded to, the discussion on the several points must substantially precede the understanding required.

This course of proceeding, as bearing on the face of it a character of disguise, is not only felt to be in principle inadmissible, but as unlikely to lead in practice to any advantageous result. As it does not appear, on the important subject of impressment, that you are either authorized to propose any specific plan, with reference to which the suspension of that practice could be made a subject of deliberation, or that you have received any instructions for the guidance of your conduct on some of the leading principles which such a discussion must, in the first instance, involve:

Under these circumstances, the Prince Regent sincerely laments that he does not feel himself enabled to depart from the decision which I was directed to convey to you in my letter of the 2d instant.

I have the honor, &c.

CASTLEREAGH.

JONATHAN RUSSELL, Esq.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, *September 19, 1812.*

Since writing you this morning, fearing that this Government should infer from my silence an acquiescence in the strange and unwarrantable view which Lord Castlereagh has, in his last note, thought fit to take of the overtures which I have submitted, and of the powers under which I acted, I have considered it my duty to return an answer, of which the enclosed is a copy.

With great consideration and respect, I am, sir, &c.

JONA. RUSSELL.

The Hon. JAMES MONROE.

[Enclosed in Mr. Russell's despatch of September 19, 1812.]

Mr. Russell to Lord Castlereagh.

MY LORD:

LONDON, *September 19, 1812.*

I had the honor to receive last evening your lordship's note of yesterday, and have learned, with great regret and disappointment, that His Royal Highness the Prince Regent has again rejected the just and moderate propositions for a suspension of hostilities which I have been instructed to present on the part of my Government.

After the verbal explanations which I had the honor to afford your lordship on the 16th instant, both as to the object and sufficiency of my instructions, I did not expect to hear repeated any objections on these points. For itself, the American Government has nothing to disguise; and by varying the proposition, as to the manner of coming to a preliminary understanding, it merely intended to leave to the British Government that which might be most congenial to its feelings. The propositions presented by me, however, on the 24th of August and 12th inst., are distinguishable by a diversity in the substance, as well as in the mode of the object which they embraced; as by the former the discontinuance of the practice of impressment was to be immediate, and to precede the prohibitory law of the United States relative to the employment of British seamen, when by the latter both these measures are deferred to take effect simultaneously hereafter. Having made a precise tender of such law, and exhibited the instructions which warranted it to your lordship, I have learned with surprise that it does not appear to your lordship that I am authorized to propose any specific plan on the subject of impressment. I still hope that the overtures made by me may again be taken into consideration by His Britannic Majesty's Government; and, as I leave town this afternoon for the United States, that it will authorize some agent to proceed thither and adopt them as a basis for reconciliation between the two countries, an event so devoutly to be wished.

I have the honor to be, &c.

JONA. RUSSELL.

Mr. Russell to Mr. Monroe.

SIR:

ON BOARD THE LARK, *November 7, 1812.*

I have the honor to inform you that I am now passing the Narrows, and expect to land at New York this day. I conceive it to be my duty to repair to the seat of Government, and shall set off as soon as I can obtain my baggage. In the mean time I am sorry to inform you that the second proposition for an armistice was rejected like the first, and a vigorous prosecution of the war appears to be the only honorable alternative left to us.

I have the honor to be, with great consideration and respect, sir,

your very obedient servant,

HON. JAMES MONROE, &c.

JONA. RUSSELL.

Mr. Russell to Mr. Monroe.

SIR:

WASHINGTON, *November 16, 1812.*

I have the honor to hand you herewith an account of the conversation alluded to in a postscript to my letter of the 19th September, and which I had not then sufficient time to copy.

I have the honor to be, &c.

JONATHAN RUSSELL.

The Hon. JAMES MONROE, &c.

[Enclosed in Mr. Russell's letter of November 16.]

Mr. Russell to the Secretary of State.

SIR:

LONDON, *September 17, 1812.*

On the 12th instant I had the honor to receive your letter of the 27th of July last. I called immediately at the Foreign Office to prepare Lord Castlereagh, by imparting to him the nature and extent of my instructions, for the communication which it became me to make to him. His lordship was in the country, and I was obliged to write to him without previously seeing him. I however accompanied my official note with a private letter, offering explanation, if required, and soliciting despatch.

I waited until two o'clock, the 16th instant, without hearing from his lordship, when I was much surprised at receiving a note from Mr. Hamilton, the under secretary, indefinitely postponing an official reply. To give more precision to the transaction, I instantly addressed to him an answer, and a little before five o'clock, on the same day, I received an invitation from Lord Castlereagh to meet him at his house that evening at nine o'clock.

I waited on his lordship at the time appointed, and found him, in company with Mr. Hamilton, at a table loaded with the records of American correspondence, which they appeared to have been examining.

I was courteously received, and, after a conversation of a few minutes, on indifferent subjects, I led the way to the business on which I came, by observing that I had once more been authorized to present the olive branch, and hoped it would not be again rejected.

His lordship observed, that he had desired the interview to ascertain, before he submitted my communication of the 16th instant to the Prince Regent, the form and nature of the powers under which I acted. To satisfy him at once on both these points, I put into his hands your letter of the 27th July. I the more willingly adopted this mode of procedure, as, besides the confidence which its frankness was calculated to produce, the letter itself would best define my authority and prove the moderation and conciliatory temper of my Government.

His lordship read it attentively. He then commented at some length both on the shape and substance of my powers. With regard to the former he observed, that all my authority was contained in a letter from the Secretary of State, which, as my diplomatic functions had ceased, appeared but a scanty foundation on which to place the important arrangement I had been instructed to propose. With regard to the extent of my powers, he could not perceive that they essentially differed from those under which I had brought forward the propositions contained in my note of the 24th of August. He considered that to enter with me into the understanding, required as a preliminary to a convention for an armistice, he would be compelled to act on unequal ground, as, from his situation, he must necessarily pledge his Government, when, from the nature of my authority, I could give no similar pledge for mine. He could not, therefore, think of committing the British faith and leaving the American Government free to disregard its engagements. Besides, it did not appear to him that, at the date of my last instructions, the revocation of the orders in council on the 23d of June had been received at Washington, and that great hopes were entertained of the favorable effect such intelligence would produce there. The question of impressment, he went on to observe, was attended with difficulties of which neither I nor my Government appeared to be aware. "Indeed," he continued, "there has evidently been much misapprehension on this subject, and an erroneous belief entertained that an arrangement, in regard to it, has been nearer an accomplishment than the facts will warrant. Even our friends in Congress, I mean (observing, perhaps, some alteration in my countenance,) those who were opposed to going to war with us, have been so confident in this mistake, that they have ascribed the failure of such an arrangement solely to the misconduct of the American Government. This error probably originated with Mr. King, for being much esteemed here, and always well received by the persons then in power, he seems to have misconstrued their readiness to listen to his representations and their warm professions of a disposition to remove the complaints of America, in relation to impressment, into a supposed conviction, on their part, of the propriety of adopting the plan which he had proposed. But Lord St. Vincent, whom he might have thought he had brought over to his opinions, appears never for a moment to have ceased to regard all arrangement on the subject to be attended with formidable, if not insurmountable, obstacles. This is obvious from a letter which his lordship addressed to Sir William Scott at the time." Here Lord Castlereagh read a letter, contained in the records before him, in which Lord St. Vincent states to Sir William Scott the zeal with which Mr. King had assailed him on the subject of impressment, confesses his own perplexity and total incompetency to discover any practical project for the safe discontinuance of that practice, and asks for counsel and advice. "Thus you see," proceeded Lord Castlereagh, "that the confidence of Mr. King on this point was entirely unfounded.

"The extreme difficulty, if not total impracticability, of any satisfactory arrangement for the discontinuance of impressment, is most clearly manifested by the result of the negotiation carried on between Messrs. Monroe and Pinkney and Lords Auckland and Holland. The doctrines of which these noblemen had been the advocates, when in opposition, bound them by all the force of consistency to do every thing under their commission for the satisfaction of America, relative to impressment, which the nature of the subject would possibly admit. There were many circumstances on that occasion peculiarly propitious to an amicable arrangement on this point, had such an arrangement been at all attainable. Both parties accordingly appear to have exhausted their ingenuity in attempting to

devise expedients satisfactorily to perform the office of impressment; and nothing can more conclusively demonstrate the inherent difficulty of the matter, and the utter impossibility of finding the expedient which they sought, than that all their labors, pursued on that occasion with unexampled diligence, cordiality, and good faith, should have been in vain."

His lordship now turned to a letter in a volume before him, addressed at the close of the negotiation by these commissioners to the American ministers, conceived in the kindest spirit of conciliation, in which they profess the most earnest desire to remove all cause of complaint on the part of America concerning impressment, regret that their endeavors had hitherto been ineffectual, lament the necessity of continuing the practice, and promise to provide as far as possible against the abuse of it.

"If," resumed his lordship, "such was the result of a negotiation entertained under circumstances so highly favorable, where the powers and the disposition of the parties were limited only by the difficulties of the subject, what reasonable expectation can be encouraged that, in the actual state of things, with your circumscribed and imperfect authority, we can come to a more successful issue? I shall have to proceed in so weighty a concern with the utmost deliberation and circumspection; and it will be necessary for me to consult the great law officers of the crown. You are not aware of the great sensibility and jealousy of the people of England on this subject; and no administration could expect to remain in power that should consent to renounce the right of impressment, or to suspend the practice, without the certainty of an arrangement which should obviously be calculated most unequivocally to secure its object. Whether such an arrangement can be devised is extremely doubtful, but it is very certain that you have no sufficient powers for its accomplishment."

Such was the substance, and, in many parts, the language of his lordship's discourse. To which I replied, that the main object of my powers being to effect a suspension of hostilities, their form could not be material—it was sufficient that they emanated from competent authority, and were distinctly and clearly conferred; that in requiring as a condition to an armistice a clear understanding relative to impressment and other points of controversy between the two countries, it was intended merely to lay the basis of an amicable adjustment, and thereby to diminish the probability of a renewal of hostilities. To come to such an understanding to be in itself informal, and which expressly left the details of the points which it embraced to be discussed and adjusted by commissioners to be hereafter appointed, was certainly within the instructions which I had received, and I could of course thus far pledge my Government for its observance. I did not acknowledge the force of his objection, predicated on the inequality of our respective powers, nor perceive how the British faith would be particularly committed. The faith of both Governments would be equally committed for whatever was done under their respective authority; and although his lordship might have power to go beyond the armistice and understanding for which I was instructed, yet there was no necessity for doing so; and while we acted within those limits, we stood on equal ground. And were it otherwise, yet, as the promise of the one party would be the sole consideration for the promise of the other, should either fail in the performance of its engagements, the other would necessarily be discharged, and the imputation of bad faith could alone attach to the first delinquent. Nor was I dismayed at the very formidable difficulties with which he had thought proper to array the subject of impressment; and, although willing to acknowledge my inferiority to the American negotiators who had preceded me in the matter, yet I was not disposed, on account of their failure, to shrink from the discharge of a duty imposed on me by my Government. To me, indeed, the whole question appeared much less alarming than his lordship had described it to be; and that if Mr. King had really been mistaken with regard to the near completion of an adjustment, his lordship must, on an attention to the *whole correspondence* at the time, acquit him from the imputation of any excessive want of penetration.

As to the supposed ignorance in America of the revocation of the orders in council at the time my instructions were dated, I observed, that if this ignorance did in fact exist, yet, from certain expressions in those instructions, an expectation of such a measure seems to have been confidently entertained, and the orders in council appeared no longer to form an obstacle to a reconciliation. However this might be, it ought not to be supposed that the American Government would be ready to abandon one main point for which it contended, merely because it had obtained another which was generally considered to be of minor importance, and to submit to the continuance of impressment on account of the discontinuance of the orders in council. At any rate, having authorized me to propose terms of accommodation here, it would probably wait for information concerning the manner in which they had been received, before it would consent to more unfavorable conditions. In the mean time, the war would be prosecuted, and might produce new obstacles to a pacific arrangement. I was happy to learn that the failure of a former negotiation concerning impressment could not be ascribed to a want of sincerity and moderation in the American Government, and I hoped the mode now suggested for securing to Great Britain her own seamen might remove the difficulties which had hitherto embarrassed this question. If the people of England were so jealous and sensitive with regard to the exercise of this harsh practice, what ought to be the feelings of the people of America, who were the victims of it? In the United States this practice of impressment was considered as bearing a strong resemblance to the slave trade; aggravated, indeed, in some of its features, as the negro was purchased, already bereft of his liberty, and his slavery and exile were at least mitigated by his exemption from danger, by the interested forbearance of his task-master, and the consciousness that, if he could no longer associate with those who were dear to him, he was not compelled to do them injury; while the American citizen is torn, without price, at once, from all the blessings of freedom, and all the charities of social life, subjected to military law, exposed to incessant perils, and forced at times to hazard his life in despoiling or destroying his kindred and countrymen. It was matter of astonishment that, while Great Britain discovered such zeal for the abolition of the traffic in the barbarous and unbelieving natives of Africa, as to endeavor to force it on her reluctant allies, she could so obstinately adhere to the practice of impressing American citizens, whose civilization, religion, and blood, so obviously demanded a more favorable distinction.

I next pointed out to his lordship the difference between the propositions which I now submitted and those contained in my note of the 24th of August. That although the object of both was essentially the same, there was great diversity in the manner of obtaining it. The discontinuance of the practice of impressment, which was before required to be immediate, and to constitute a formal preliminary to an armistice, was now deferred to commence contemporaneously with the operation of the law of the United States prohibiting the employment of British seamen, and was consigned, with the other conditions, to a separate and informal arrangement. In this way it was, no doubt, intended, by respecting the feelings of the British Government, to obviate any objection which might have been the mere suggestions of its pride.

I finally offered, in order to answer at once all the observations and inquiries of Lord Castlereagh, that the proposed understanding should be expressed in the most *general terms*; that the laws, to take effect on the discontinuance of the *practice* of impressment, should prohibit the employment of the *native* subjects or citizens of the one State, excepting such only as had already been naturalized, on board the private or public ships of the other; thus removing any objection that might have been raised with regard to the future effect of naturalization, or the formal renunciation of any pretended right. With regard to blockades I proposed to follow the same course, and only to

agree that none should be instituted by either party which were not conformable to the acknowledged laws of nations, leaving the definition of such blockade, and all other details, to be settled by the commissioners in the definitive treaty.

I was disappointed and grieved to find that these propositions, moderate and liberal as they were, should be treated in a manner which forbids me to expect their acceptance. I was even asked by Mr. Hamilton, if the United States would *deliver up* the native British seamen who might be naturalized in America. Although shocked at this demand, I mildly replied that such a procedure would be disgraceful to America, without being useful to Great Britain; that the habits of seamen were so peculiarly unaccommodating, that no one would patiently go through the long probation required by law, to become a citizen of a country where he could not pursue his professional occupations; and that not to employ him in this way would be virtually to surrender him to Great Britain.

I was disposed to believe, however, that a reciprocal arrangement might be made for giving up deserters from public vessels.

Here, perhaps, I owe an apology to my Government for having, without its precise commands, hazarded the overture above mentioned, relative to British subjects who may hereafter become citizens of the United States. In taking this step, however, I persuaded myself that I did not trespass against the spirit of the instructions which I had received; and, had the proposition been accepted, I should not have been without all hope that it would have been approved by the President, as its prospective operation would have prevented injustice, and its reciprocity disgrace. Should I, however, urged by too great a zeal to produce an accommodation, have mistaken herein the intentions of the President, I still should have derived some consolation from reflecting that this proposition, thus frankly and explicitly made, afforded an opportunity of satisfactorily testing the disposition of this Government, and might be useful in removing much misconception and error. The refusal, indeed, of this proposition sufficiently explains the view with which I was assailed with the ostentatious parade of the abortive negotiations relative to impressment; the exaggeration of its pretended difficulties; the artificial solemnity given to its character; the affected sensibility to the popular sentiment concerning it; and the fastidious exceptions taken to my powers; and proves most unequivocally the predetermination of the British Government to reject, at this time, every overture for the discontinuance of this degrading practice.

Most unfeignedly desiring to suspend the existing hostilities between the two States, with a reasonable prospect of finally terminating them in a manner honorable to both, I perhaps pressed with too much earnestness the adoption of the arrangement which I was instructed to propose; for Lord Castlereagh once observed, somewhat loftily, that if the American Government was so anxious to *get rid of the war*, it would have an opportunity of doing so on learning the revocation of the orders in council. I felt constrained on this occasion to assure his lordship, that the anxiety of the American Government to *get rid of the war* was only a proof of the sincerity with which it had constantly sought to avoid it; but that no event had occurred, or was apprehended, to increase this anxiety. His lordship, correcting his manner, rejoined, that it was not his intention to say any thing offensive, but merely to suggest, that if the American Government sincerely wished for a restoration of the friendly relations between the two countries, it would consider the revocation of the orders in council as affording a fair occasion for the attainment of that object. After a pause of a few moments, he added, that if the United States did not avail themselves of this occasion, not only to put an end to the war which they had declared, but to perform the conditions on which those orders were revoked, the orders would, of course, revive. I could not forbear to remind his lordship, that when I took this view of the subject, in my note of the 24th of August, he had found it to be *incorrect*; but I hoped that now I was so fortunate as to agree with him on this point, some provision would be made, in case the terms proposed for an armistice should be accepted, to prevent the revival of those edicts. His lordship attempted to explain, but I could not distinctly seize his meaning.

The conversation ended with an assurance on the part of his lordship that he would, with as little delay as possible, communicate officially to me the decision of the Prince Regent; and I took my leave, forbidden to hope that, while the present councils and the present opinion of the American people prevailed here, this decision will be favorable.

I have the honor to be, &c.

JONA. RUSSELL.

His Excellency JAMES MONROE, &c.

Admiral Warren to the Secretary of State.

STR:

HALIFAX, NOVA SCOTIA, *September 30, 1812.*

The departure of Mr. Foster from America has devolved upon me the charge of making known to you, for the information of the Government of the United States, the sentiments entertained by His Royal Highness the Prince Regent upon the existing relations of the two countries.

You will observe, from the enclosed copy of an order in council, bearing date the 23d of June, 1812, that the orders in council of the 7th of January, 1807, and the 26th of April, 1809, ceased to exist nearly at the same time that the Government of the United States declared war against His Majesty.

Immediately on the receipt of this declaration in London, the order in council, of which a copy is herewith enclosed to you, was issued, on the 31st day of July, for the embargo and detention of all American ships.

Under these circumstances, I am commanded to propose to your Government the immediate cessation of hostilities between the two countries, and I shall be most happy to be the instrument of bringing about a reconciliation so interesting and beneficial to America and Great Britain.

I, therefore, propose to you that the Government of the United States of America shall instantly recall their letters of marque and reprisal against British ships, together with all orders and instructions for any acts of hostility whatever against the territories of His Majesty or the persons or property of his subjects; with the understanding that, immediately on my receiving from you an official assurance to that effect, I shall instruct all the officers under my command to desist from corresponding measures of war against the ships and property of the United States, and that I shall transmit, without delay, corresponding intelligence to the several parts of the world, where hostilities may have commenced, the British commanders in which will be required to discontinue hostilities from the receipt of such notice.

Should the American Government accede to the above proposal for terminating hostilities, I am authorized to arrange with you as to the revocation of the laws which interdict the commerce and ships of war of Great Britain from the harbors and waters of the United States; in default of which revocation, within such reasonable periods as may be agreed upon, you will observe, by the order of the 23d June, the orders in council of January, 1807, and April, 1809, are to be revived.

The officer who conveys this letter to the American coast has received my orders to put to sea immediately upon the delivery of this despatch to the competent authority; and I earnestly recommend that no time may be lost in communicating to me the decision of your Government, persuaded, as I feel, that it cannot but be of a nature to lead to a speedy termination of the present differences.

The flag of truce, which you may charge with your reply, will find one of my cruisers at Sandy Hook ten days after the landing of this despatch, which I have directed to call there with a flag of truce for that purpose.

I have the honor to be, &c.

JOHN BORLASE WARREN,
Admiral of the Blue, and Commander-in-chief, &c.

The Secretary of State to Admiral Warren.

SIR:

DEPARTMENT OF STATE, *October 27, 1812.*

I have had the honor to receive your letter of the 30th ultimo, and to submit it to the consideration of the President.

It appears that you are authorized to propose a cessation of hostilities between the United States and Great Britain, on the ground of the repeal of the orders in council, and, in case the proposition is acceded to, to take measures, in concert with this Government, to carry it into complete effect on both sides.

You state, also, that you have it in charge, in that event, to enter into an arrangement with the Government of the United States for the repeal of the laws which interdict the ships of war and the commerce of Great Britain from the harbors and waters of the United States; and you intimate that, if the proposition is not acceded to, the orders in council, repealed conditionally by that of the 23d June last, will be revived against the commerce of the United States.

I am instructed to inform you that it will be very satisfactory to the President to meet the British Government in such arrangements as may terminate, without delay, the hostilities which now exist between the United States and Great Britain, on conditions honorable to both nations.

At the moment of the declaration of war the President gave a signal proof of the attachment of the United States to peace. Instructions were given, at that early period, to the late *chargé des affaires* of the United States at London to propose to the British Government an armistice on conditions which, it was presumed, would have been satisfactory. It has been seen with regret that the proposition made by Mr. Russell, particularly in regard to the important interest of impressment, was rejected, and that none was offered through that channel as a basis on which hostilities might cease.

As your Government has authorized you to propose a cessation of hostilities, and is doubtless aware of the important and salutary effect which a satisfactory adjustment of this difference cannot fail to have on the future relations between the two countries, I indulge the hope that it has ere this given you full power for the purpose. Experience has evinced that no peace can be durable unless this object is provided for. It is presumed, therefore, that it is equally the interest of both countries to adjust it at this time.

Without further discussing questions of right, the President is desirous to provide a remedy for the evils complained of on both sides. The claim of the British Government is to take from the merchant vessels of other countries British subjects. In the practice, the commanders of British ships of war often take from the merchant vessels of the United States American citizens. If the United States prohibit the employment of British subjects in their service, and enforce the prohibition by suitable regulations and penalties, the motive for the practice is taken away. It is in this mode that the President is willing to accommodate this important controversy with the British Government, and it cannot be conceived on what ground the arrangement can be refused.

A suspension of the practice of impressment, pending the armistice, seems to be a necessary consequence. It cannot be presumed, while the parties are engaged in a negotiation to adjust amicably this important difference, that the United States would admit the right, or acquiesce in the practice of the opposite party, or that Great Britain would be unwilling to restrain her cruisers from a practice which would have the strongest tendency to defeat the negotiation. It is presumable that both parties would enter into the negotiation with a sincere desire to give it effect. For this purpose it is necessary that a clear and distinct understanding be first obtained between them, of the accommodation which each is prepared to make. If the British Government is willing to suspend the practice of impressment from American vessels, on consideration that the United States will exclude British seamen from their service, the regulations by which this compromise should be carried into effect would be solely the object of negotiation. The armistice would be of short duration: if the parties agreed, peace would be the result; if the negotiation failed, each would be restored to its former state and to all its pretensions by recurring to war.

Lord Castlereagh, in his note to Mr. Russell, seems to have supposed that, had the British Government accepted the proposition made to it, Great Britain would have suspended immediately the exercise of a right, on the mere assurance of this Government that a law would be afterwards passed to prohibit the employment of British seamen in the service of the United States, and that Great Britain would have no agency in the regulations to give effect to that prohibition. Such an idea was not in the contemplation of this Government, nor is it to be reasonably inferred from Mr. Russell's note. Lest, however, by possibility, such an inference might be drawn from the instructions to Mr. Russell, and anxious that there should be no misunderstanding in the case, subsequent instructions were given to Mr. Russell, with a view to obviate every objection of the kind alluded to. As they bear date on the 27th of July, and were forwarded by the British packet *Althea*, it is more than probable that they may have been received and acted on.

I am happy to explain to you thus fully the views of my Government on this important subject. The President desires that the war which exists between our countries should be terminated on such conditions as may secure a solid and durable peace. To accomplish this great object it is necessary that the interest of impressment be satisfactorily arranged. He is willing that Great Britain should be secured against the evils of which she complains. He seeks, on the other hand, that the citizens of the United States should be protected against a practice, which, while it degrades the nation, deprives them of their rights as freemen, takes them by force from their families and their country into a foreign service, to fight the battles of a foreign Power, perhaps against their own kindred and country.

I abstain from entering, in this communication, into other grounds of difference. The orders in council having been repealed, with a reservation not impairing a corresponding right on the part of the United States, and no illegal blockades revived or instituted in their stead, and an understanding being obtained on the subject of impressment in the mode herein proposed, the President is willing to agree to a cessation of hostilities, with a view

to arrange by treaty, in a more distinct and ample manner, and to the satisfaction of both parties, every other subject of controversy.

I will only add that, if there be no objection to an accommodation of the difference relating to impressment in the mode proposed other than the suspension of the British claim to impressment during the armistice, there can be none to proceeding without the armistice to an immediate discussion and arrangement of an article on that subject. This great question being satisfactorily adjusted, the way will be open for an armistice, or any other course leading most conveniently and expeditiously to a general pacification.

I have the honor to be, &c.

JAMES MONROE.

12th CONGRESS.]

No. 252.

[2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, DECEMBER 22, 1812.

To the House of Representatives of the United States:

DECEMBER 21, 1812.

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 9th instant.

JAMES MADISON.

DEPARTMENT OF STATE, December 19, 1812.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 9th instant, requesting information touching the conduct of British officers towards persons taken in American armed ships, has the honor to lay before the President the accompanying papers, marked A, B, C, from which it appears that certain persons, some of whom are said to be native, and others naturalized citizens of the United States, being parts of the crews of the United States' armed vessels the Nautilus and the Wasp, and of the private armed vessel the Sarah Ann, have been seized, under the pretext of their being British subjects, by British officers, for the avowed purpose, as is understood, of having them brought to trial for their lives; and that others, being part of the crew of the Nautilus, have been taken into the British service.

The Secretary of State begs leave, also, to lay before the President the papers marked D and E. From these it will be seen that, whilst the British naval officers arrest as criminals such persons taken on board American armed vessels as they may consider British subjects, they claim a right to retain on board British ships of war American citizens who may have married in England, or been impressed from on board British merchant vessels; and that they consider an impressed American, when he is discharged from one of their ships, as a prisoner of war.

All which is respectfully submitted.

JAMES MONROE.

A, No. 1.

Extract of a letter from Lieutenant F. H. Babbitt to Master Commandant William M. Crane, of the United States' navy, (late of the United States' brig Nautilus,) dated

BOSTON, MASS., 13th September, 1812.

Enclosed I send you a description of the proportion of our little crew who have been so debased and traitorous as to enter the service of our enemy; also, a list* of those gallant fellows, whose glory it would have been to have lost their lives in the service of their country, and whose misfortune it has been to cross the Atlantic on suspicion of their being British subjects; four of them native born Americans, and two naturalized citizens. On their parting with me, and removal from the Africa of sixty-four guns to the Thetis frigate, (the latter with a convoy from England, then in 43° 30' north, and 46° 30' west,) their last request and desire was that I would particularly acquaint you with their situation, with their determination never to prove traitors to that country whose flag they were proud to serve under, and whose welfare and prosperity they equally hoped and anticipated to realize.

F. H. BABBITT.

A list of men said to have entered on board His Britannic Majesty's frigate Shannon, Commodore Broke, with their description, as far as known.

JESSE BATES, seaman, about five feet nine inches high, dark hair and complexion, dark snapping eyes, has an impediment in his speech, and at times affects lunacy; has a wife and family in Boston, Massachusetts.

SAMUEL LANG, marine, born in Kentucky, five feet eight inches high, or thereabouts, and is supposed to be with Captain Hall, of the United States' marines, New York.

JOHN YOUNG, marine, five feet five inches high, large mouth, enlisted with Captain Hall, navy yard, New York; when addressed, or is addressing an officer, casts down his eyes. For his particular description, as well as that of JOHN ROSE, marine, about five feet eight inches high, brown hair, full face, thick set, and a scowl in his countenance, refer to Captain John Hall.

* This list not received.

JOHN O'NEAL, seaman, about twenty-five years of age, five feet five inches high, dark hair, sharp face, dark eyes, thick set, and was shipped at Norfolk, Virginia, previous to your taking command of the Nautilus.

WILLIAM JONES, ordinary seaman, about five feet eight inches high, light hair, twenty-four years of age, full face, thick set, downcast look, and is a very alert man; entered at New York, April last.

F. H. BABBITT.

A, No. 2.

Sir John Borlase Warren to Mr. Monroe.

SIR:

HALIFAX, 30th September, 1812.

Having received information that a most unauthorized act has been committed by Commodore Rodgers, in forcibly seizing twelve British seamen, prisoners of war, late belonging to the *Guerriere*, and taking them out of the English cartel brig *Endeavor*, on her passage down the harbor of Boston, after they had been regularly embarked on board of her for an exchange, agreeable to the arrangements settled between the two countries, and that the said British seamen, so seized, are now detained on board the United States' frigate *President* as hostages; I feel myself called upon to request, sir, your most serious attention to a measure so fraught with mischief and inconvenience, destructive of the good faith of a flag of truce and the sacred protection of a cartel. I should be extremely sorry that the imprudent act of any officer should involve consequences so particularly severe as the present instance must naturally produce, if repeated; and although it is very much my wish, during the continuance of the differences existing between the two countries, to adopt every measure that might render the effect of war less rigorous, yet, in another point of view, the conviction of the duty I owe my country would, in the event of such grievances as I have already stated being continued, not admit of any hesitation in retaliatory decisions; but as I am strongly persuaded of the high liberality of your sentiments, and that the act complained of has originated entirely with the officer who committed it, and that it will be as censurable in your consideration as it deserves, I rely upon your taking such steps as will prevent a recurrence of conduct so extremely reprehensible in every shape.

I have the honor to be, with the highest consideration,

Sir, your most obedient and most faithful, humble servant,

JOHN BORLASE WARREN,

Admiral of the Blue, and Commander-in-chief.

His Excellency JAMES MONROE, Esq., *Secretary of State.*

Mr. Monroe to Sir John Borlase Warren.

SIR:

DEPARTMENT OF STATE, October 28, 1812.

I have had the honor to receive your letter of the 30th September, complaining that Commodore Rodgers, commanding a squadron of the United States' navy at the port of Boston, had taken twelve British seamen, lately belonging to His Britannic Majesty's ship the *Guerriere*, from a cartel in the harbor of Boston, and that he detained them on board the *President*, a frigate of the United States, as hostages.

I am instructed to inform you that inquiry shall be made into the circumstances attending, and the causes which produced the act of which you complain, and that such measures will be taken, on a knowledge of them, as may comport with the rights of both nations, and may be proper in the case to which they relate.

I beg you, sir, to be assured that it is the sincere desire of the President to see (and to promote, so far as depends on the United States,) that the war which exists between our countries be conducted with the utmost regard to humanity.

I have the honor, &c. &c.

JAMES MONROE.

SIR JOHN BORLASE WARREN,

Admiral of the Blue, and Commander-in-chief, &c.

B.

SIR:

WASHINGTON, December 17, 1812.

I have the honor to annex a list of twelve of the crew of the late United States' sloop of war *Wasp*, detained by Captain John Beresford, of the British ship *Poictiers*, under the pretence of their being British subjects.

I have the honor to be, respectfully, sir, your obedient servant,

GEORGE S. WISE, *Purser.*

The Hon. PAUL HAMILTON, *Secretary of the Navy.*

[List referred to in the preceding note, marked B.]

WASHINGTON CITY, December 17, 1812.

JOHN McCLLOUD, boatswain, has been in the service since 1804. Married in Norfolk in 1804 or 1805, and has a wife and four children there.

JOHN STEPHENS, boatswain's mate, has been in the service five or six years.

GEORGE M. D. READ, quartermaster, has a protection, and has sailed out of New York and Philadelphia for several years.

WILLIAM MITCHELL, James Gothright, John Wright, Thomas Phillips, Peter Barron, seamen; John Connor, John Rose, George Brooks, ordinary seamen; and Dennis Dougherty, marine. The greater number, if not all, had protections at the time of entering and being taken. Two others were detained, John Wade and Thomas Hutchins, but were given up; the former on Captain Jones's assuring Captain Beresford he knew him to be a native citizen; the latter on a like assurance from D. Rodgers. William Mitchell was in the service during 1805 and 1806, in the Mediterranean.

GEORGE S. WISE, *Purs e.*

C.

Extract of a letter from Major General Pinckney to the Secretary of War, dated

HEAD-QUARTERS, CHARLESTON, November 4, 1812.

Information having been given upon oath to Lieutenant Grandison, who at present commands in the naval department here, that six American seamen, who had been taken prisoners on board of our privateers, had been

sent to Jamaica to be tried, as British subjects, for treason, he called upon the marshal to retain double that number of British seamen as hostages. The marshal, in consequence of instructions from the Department of State, asked my advice on the subject, and I have given my opinion that they ought to be detained until the pleasure of the President shall be known. The testimony of Captain Moon is herewith. I hope, sir, you will have the goodness to have this business put in the proper train to have the President's pleasure on this subject communicated to the marshal.

Copy of a letter from Captain Moon, of the privateer Sarah Ann.

NASSAU, NEW PROVIDENCE, October 14, 1812.

Six of my crew, claimed as British subjects, were this day taken out of jail and put on board His Majesty's brig the Sappho, and sailed for Jamaica, where, it is said, they are to be tried for their lives; consequently, I questioned each, respectively, as to the place of their nativity, and title to protection by the American Government, when they stated as follows, to wit:

DAVID DICK, seaman, that he was born in the north of Ireland, but has resided in the United States ever since the year 1793; has served ten years in the United States' navy, viz: on board the frigates Chesapeake, President, Constitution, John Adams, schooner Enterprise, and gunboat No. 2. David Dick, shoemaker, in Alexandria, is his uncle. Dick is about five feet six and a half inches high, dark hair, has a scar on his left elbow and one on each wrist; he entered on board the Sarah Ann in Baltimore.

JOHN GAUL, seaman, says he was born in Marblehead, State of Massachusetts, where his parents, brothers, and sisters now reside; is married in New York, and his wife (Mary Gaul) lives in Roosevelt street, No. 37; has a regular discharge from the navy of the United States, by Captain Hugh G. Campbell, dated at St. Mary's, Georgia, 14th August, 1812; says he has served on board the United States' brig Vixen, and gunboats No. 10 and No. 15S. from the last of which he was discharged. Gaul is twenty-seven years of age, about five feet seven inches high, brown hair, light complexion; he entered on board the Sarah Ann in Baltimore.

MICHAEL PLUCK, ordinary seaman, says he was born in Baltimore; his parents are dead, but he is known by William Doulan, Thomas Turner, and McDonald, of Baltimore; has a sister in some part of Pennsylvania, whose name is Ann Welsh; was never at sea before; never had a protection. Pluck is twenty-six years old, five feet six and a half inches high, and has a scar on his left cheek bone; entered on board the Sarah Ann at Baltimore.

THOMAS ROGERS, seaman, says he was born in Waterford, Ireland, but has resided many years in the United States, and has been duly naturalized; a copy of which naturalization is filed in the custom-house at Baltimore; is known by Joseph Carey, and Tom Rogers, cork-cutter, both of Baltimore; has a wife and three children in Baltimore; has lost his protection, but requests Joseph Carey to do all he can to effect his discharge from the British. Rogers entered on board the Sarah Ann in Baltimore.

GEORGE ROBERTS, a colored man and seaman. This man I had not an opportunity of questioning, but I know him to be a native born citizen of the United States, of which fact he had every sufficient document, together with free papers. Roberts entered on board the Sarah Ann in Baltimore, where he is married.

SONNY TAYLOR, boy, says he was born in Hackensack, New Jersey, but has neither friends, relations, nor acquaintance there; says Jane Snowden, of Savannah, Georgia, is his mother; never had a protection. Taylor is fifteen years old, has brown hair and light complexion; he entered on board the Sarah Ann in Savannah.

RICHARD MOON,

Late commander of the privateer Sarah Ann.

D.

Copy of a letter from Admiral Warren to Mr. Mitchell, agent for the exchange of American prisoners of war, dated

SIR:

HALIFAX, October 21, 1812.

I have the honor to receive your letter and its enclosures, relating to Thomas Dunn,* and beg leave to inform you that it appears the said man is married in England, has been eight years in His Majesty's service, and received a pension from Government; under these circumstances, and the man never having made any application for his discharge from prison, he continues on board the Statira.

I have the honor to be, sir, your most obedient, humble servant,

JOHN BORLASE WARREN.

E.

Extract of a letter from William H. Savage, late agent for American seamen and commerce at Jamaica, to the Secretary of State, dated

WASHINGTON, December 1, 1812.

I take the liberty to enclose you copies of a correspondence which took place between Vice Admiral Stirling (commanding on the Jamaica station) and myself, since the declaration of war. I should have furnished it you at an earlier period, but an accident prevented, which I was not aware of until my arrival at this city.

No. 1.

Copy of my letter to Vice Admiral Stirling, commanding on the Jamaica station, on the subject of American seamen, after the declaration of war.

SIR:

KINGSTON, JAMAICA, August 6, 1812.

Enclosed is a copy of a letter received by me yesterday from on board His Majesty's ship Sappho, purporting to have been written by four American seamen on board that ship, with a view to solicit my aid towards effecting their discharge, in consequence of the declaration of war by the Government of the United States against Great Britain.

In making this application, I am fully aware that my duties ceased as agent for the commerce and seamen of the United States on the knowledge of such declaration being made known here; but, sir, I am led to believe that, at this period, it will not be deemed inadmissible on your part to receive, nor improper on mine to make, the

* The application was made at the request of his father, John Dunn, of Boston, who transmitted a deposition of his birth.

request that you will be pleased to grant an order for the discharge of these seamen, feeling conscious (should they even not be protected with the usual documents afforded to citizens of the United States) that an English seaman would not declare himself otherwise than such under existing circumstances.

I seize the present opportunity, also, to forward to you twenty-one documents, as proofs of the citizenship of that number of seamen, said to have been impressed by ships of war on this station, the greatest number of which have been heretofore unsuccessfully claimed by me on behalf of the United States, and which may still comprise, at this time, some part of the crews of His Majesty's ships on this station.

I beg further to state to you, that I have received numerous applications from on board various of His Majesty's ships on this station, for the relief of seamen, who, I doubt not, are entitled to the protection of the American Government, many of them having with them the proofs of their citizenship, as I am led to believe from the assertions contained in their communications. Applications have also been made for the relief of many, without success; the latter amount in number to forty-six, as per list of names enclosed, several of whom, I understand, have been shifted (since their impressment) on board of other vessels than those they were at first taken on board of. All of which I beg to offer for your consideration, feeling, as I do, anxious to extend my last efforts in behalf of those seamen who are entitled to them, and at the same time being impressed with the idea that it would be foreign to you, sir, to retain any Americans in the service of the navy of Great Britain, contrary to their disposition, during the present conflict. I therefore take the liberty of adding to my former request, that you will be pleased to grant orders that such seamen may be discharged from duty on board His Majesty's ships on this station.

With sentiments of the highest respect, &c.

WILLIAM H. SAVAGE.

No. 2.

Copy of Vice Admiral Stirling's secretary's letter in answer to mine to the Vice Admiral, of 6th August, 1812.

SIR:

ADMIRAL'S PENN, August 7, 1812.

I am desired by Vice Admiral Stirling to acknowledge the receipt of your letter of yesterday's date, and to acquaint you that directions were given some days ago that all seamen in the squadron under his command, who can prove themselves to be American born subjects, should be sent to the prison-ship until an exchange of prisoners is established between the two countries, in consequence of the late declaration of war by the United States against Great Britain.

I return, herewith, the papers which accompanied your letter, and am, sir, &c.

CHARLES STIRLING, JUN., Secretary.

No. 3.

Extract of a letter from William H. Savage, Esq., late agent for American seamen and commerce at Jamaica, to Charles Stirling, Jun. Esq., dated

KINGSTON, September 16, 1812.

In answer to my letter of the 6th ultimo, you were pleased to inform me that directions had been given by the vice admiral, some days prior to the date of my letter, for the removal of all native Americans (who could prove themselves such) from on board His Majesty's ships to that of the prison-ship; but as some time has now elapsed since you were pleased to give me this information, and learning that some instances of detention at present exist on board His Majesty's schooner *Decouverte*, I am led to embrace the subject again, as, in one instance, I shall hope to satisfy Vice Admiral Stirling of the man's being entitled to his removal from duty on board His Majesty's schooner of war. The person alluded to is Elijah Stirling, an American seaman, who was impressed from on board the British merchant ship *Brilliant*, at the bay of Honduras, in the early part of the year 1810, by His Majesty's schooner *Flor del Mar*, and has since been detained on board of various of His Majesty's ships on this station, although provided with a regular protection, which instrument this man got conveyed to me about the 20th of September following, and which was by me forwarded to Admiral Rowley, accompanied (as usual in like cases) with a request that the man might be discharged. On the receipt of my letter, the admiral answered, through his secretary, that the nature of Stirling's impressment was such that he could not comply with my request; but which answer was unaccompanied, in return, with the protection in question, and what has become of it I am unable to say.

About this period I was led to understand from Admiral Rowley, that all American seamen who should be impressed from on board any British merchant vessel would be retained in the service of His Majesty; but that all American seamen who should be impressed from on board of American vessels would, on application, accompanied by proof, be discharged. As this information was received about the period of my application for the discharge of Stirling, I was led to conclude it stamped the nature of his impressment; and what confirmed it in my mind was, that I received similar assurances to various applications made for American seamen, who had, under various circumstances, shipped on board of British ships, and were from thence impressed on board of His Majesty's ships of war, all of which, I hope, the admiral will be pleased to take into consideration; for, to insist on the service of this man, I think, will be a dereliction to the marked manner of his amiable endeavors to distinguish and relieve American seamen from duty on board the squadron under his command. I beg to enclose a note from Mr. Meek, the late secretary, relative to my application for this man's discharge, and to observe that, if it is possible, the protection may yet be found among the papers of the late secretary, as it has not been usual to return me the protections of those men whose applications for discharge were not complied with.

I beg furthermore to observe, that there appears also to be on board His Majesty's schooner *Decouverte* two other American seamen, viz: John Englefield and Richard Lauderkin, the former of whom asserts that he served his apprenticeship to the trade of a cooper at Boston, but has lost his protection; the latter declares himself to be a native of Rhode Island, and that his protection has been destroyed by Mr. Oliver, commander of His Majesty's schooner *Decouverte*. I shall not now animadvert on the impropriety of such a circumstance, but request, should the instances here cited be found correct, that they may meet the attention of the vice admiral.

No. 4.

Extract of a letter from Vice Admiral Stirling's secretary to W. H. Savage, Esq., in answer to his of the 16th September, 1812.

ADMIRAL'S PENN, September 19, 1812.

I have just received your letter of the 16th instant, which I have laid before Vice Admiral Stirling, and I am directed to acquaint you that Elijah Stirling and other persons on board of His Majesty's schooner *Decouverte*, said to be American seamen, have not, when called upon, produced proof of being subjects of the United States. They do not fall under the description of persons which I informed you in my letter of the 7th ultimo were intended to be discharged from the King's service, and to be detained on board the prison-ship until an exchange of prisoners takes place with America.

The note from Mr. Meek, dated the 21st September, 1810, is returned herewith; and as it appears thereby that Admiral Rowley thought the circumstances under which Elijah Stirling was impressed did not permit him to be discharged, Vice Admiral Stirling does not feel himself justified in attending to the man's wishes on a bare assertion. The protection you allude to is not to be found among Admiral Rowley's papers left in this office.

[The following documents, relating to the same subject, were communicated to Congress by the message of January 22, 1813.]

Extract of a letter from John Mitchell, Esq. agent for American prisoners of war at Halifax, to the Secretary of State, dated

DECEMBER 5, 1812.

I cover you a copy of a correspondence, which took place in consequence of different applications I received, either by letter or personal, from persons detained on board His Britannic Majesty's ships of war in this place.

I formerly mentioned to you that the admiral had assured me, that he would discharge all the citizens of the United States who were in the fleet, and actually did discharge several. This induced me to think I should be correct, and in the perfect line of my duty, in sending him a list of the applicants to me, and requesting an inquiry to be made, and discharges granted to all who were citizens of the United States; I, therefore, covered him a list of the names now enclosed to you, which produced his letter to me of the same date, (1st December, 1812.)

I read it with surprise, because some of the men had informed me their captains had refused to report them to the admiral. Now, if no one here was or is allowed to do it, their situation is hopeless.

It is not my place, sir, to reason with you on this business. *Proof of nativity*, in his first letter, is a strong expression; and how few are in possession of it, and how many who cannot obtain it!

The second paragraph in the second letter, prevents my interfering; and I have since been obliged to send a man away, requesting him to apply to his commanding officer.

Copy of a letter from John Mitchell, Esq., agent for American prisoners of war at Halifax, to Admiral Sir John Borlase Warren, dated

DECEMBER 1, 1812.

Sir:

Since the sailing of the last cartels, in which you were pleased to send home several Americans who had been in His Britannic Majesty's service, others, who are now on board of the *Centurion* and *Statira*, have requested of me to procure their discharge, and to be sent home.

Will you, sir, have the goodness to direct an inquiry, and order the release of such as are citizens of the United States?

Besides the enclosed list, I am told there are others, whose names I have not.

I have the honor to be, &c.

JOHN MITCHELL, *Agent, &c.*

Copy of a letter from Admiral Sir John Borlase Warren, to John Mitchell, Esq. agent for American prisoners of war at Halifax, dated

DECEMBER 1, 1812.

Sir:

I have the honor to acknowledge the receipt of your letter of this date, respecting some men therein mentioned on board His Majesty's ships under my command, said to be citizens of the United States; and in reply, beg to acquaint you, that whenever I have received representations from the captains of His Majesty's ships of any part of their crews being citizens of America, with sufficient proof of their nativity, I have directed their discharge from the service.

I must observe to you, that I cannot permit the interference of any applications from men belonging to His Majesty's ships, but through their commanding officers; and in your department, of prisoners of war only, I shall at all times be most happy to receive your communications.

I have the honor to be, &c.

JOHN BORLASE WARREN.

Copy of a letter from John Mitchell, Esq., agent for American prisoners of war at Halifax, to Admiral Sir John Borlase Warren, dated

DECEMBER 3, 1812.

Sir:

I had yesterday the honor to receive your letter dated the 1st instant, and observe that you cannot permit the interference of any application from men on board His Britannic Majesty's ships of war, but through their commanding officers.

Desirous of conforming, as far as possible, to established regulations, permit me the honor to inquire of your excellency, if by your letter I am to understand that I am not to receive the applications of seamen declaring themselves citizens of the United States, who are on board of His Majesty's ships of war, and communicate the same to you? If this is the meaning, I shall most certainly conform, though I must lament the regulation.

I have the honor to be, &c.

JOHN MITCHELL, *Agent, &c.*

Copy of a letter from Admiral Sir John Borlase Warren to John Mitchell, Esq., agent for American prisoners of war at Halifax, dated

SIR:

DECEMBER 4, 1812.

In reply to your letter dated yesterday, I have to acquaint you that whenever any address is made relative to men on board His Majesty's ships, it must be by the commanders of such vessels direct.

I cannot permit any application by other persons, in time of war, but in the above mode.

It will always afford me pleasure to attend to your wishes in any respect relative to the situation or exchange of prisoners, or to afford any aid or relief in my power.

I have the honor to be, &c.

JOHN BORLASE WARREN.

From Commodore Rodgers to the Secretary of the Navy.

SIR:

U. S. FRIGATE PRESIDENT, BOSTON, January 14, 1813.

Herewith you will receive two muster-books of His Britannic Majesty's vessels Moselle and Sappho, found on board the British packet Swallow.

As the British have always denied that they detained on board their ships of war American citizens, knowing them to be such, I send you the enclosed, as a public document of their own, to prove how ill such an assertion accords with their practice.

It will appear by these two muster-books that, so late as August last, about an eighth part of the Moselle and Sappho's crews were Americans; consequently, if there is only a quarter part of that proportion on board their other vessels, that they have an infinitely greater number of Americans in their service than any *American* has yet had an idea of.

Any further comment of mine on this subject I consider unnecessary, as the enclosed documents speak but too plainly for themselves.

I have the honor to be, &c.

JOHN RODGERS.

The Hon. PAUL HAMILTON, *Secretary of the Navy.*

[12th CONGRESS.]

No. 253.

[2d SESSION.]

FRANCE.

COMMUNICATED TO THE SENATE, JANUARY 26, 1813.

To the Senate of the United States:

JANUARY 26, 1813.

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 18th instant.

JAMES MADISON.

DEPARTMENT OF STATE, January 25, 1813.

The Secretary of State, to whom was referred the resolution of the Senate of the 18th instant, has the honor to submit to the President the enclosed papers, marked A and B.

All which is respectfully submitted.

JAMES MONROE.

A.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, May 2, 1812.

I have the honor to transmit herewith the copy of my note of yesterday to the Duke of Bassano. The importance of the objects, and the urgency of the occasion, I hope will justify the solicitude with which I have pressed the propositions.

The result, as far as it may be known within a few days, shall be transmitted by the Wasp. The Hornet sailed from Cherbourg the 26th of April, with orders to land a messenger in England with my despatches for Mr. Russell, but not to wait a return from London.

[Enclosed in the preceding.]

Extract:—Mr. Barlow to the Duke of Bassano.

MAY 1, 1812.

In the note I had the honor to address to your excellency on the 10th November last, the spirit of the English Government was so far noticed as to anticipate the fact, now proved by experience, that its orders in council violating the rights of neutrals would not be revoked. The declaration of the Prince Regent on the 21st of April has placed that fact beyond all question. In doing this he has repeated the assertion, so often advanced by his ministers and judges, that the decrees of France of a similar character are likewise unrevoked.

You will notice that he finds a new argument for this conclusion in your excellency's late report to the Emperor concerning neutral rights, in which you avoid taking notice of any repeal or modification of these decrees, or of their non-application to the United States. We know, indeed, that they do not apply to the United States, because we do not suffer our flag to be denationalized in the manner evidently contemplated by the Emperor in the rule he meant to establish. But it would have been well if your excellency had noticed their non-application to the United States, since His Majesty has uniformly done it in his decisions of prize causes since November, 1810.

It is much to be desired that the French Government would now make and publish an authentic act declaring the Berlin and Milan decrees, as relative to the United States, to have ceased in November, 1810; declaring that they have not been applied in any instance since that time, and that they shall not be applied in future.

The case is so simple, the demand so just, and the necessity so urgent, that I cannot withhold my confidence in the prompt and complete success of my proposition.

The declaration I solicit, though important in itself, should not be sent to the United States alone. It ought to be accompanied with two other acts of equal or superior moment. These are, a convention of indemnity for past spoliations on American property, in violation of our mutual rights, and a treaty of commerce, founded on the liberal principle of reciprocal benefit and concession, which I have understood from your excellency that His Majesty is ready to subscribe.

Extract:—Mr. Barlow to the Secretary of State.

PARIS, May 12, 1812.

After the date of my last, of which I have the honor to enclose you a copy, I found, from a pretty sharp conversation with the Duke of Bassano, that there was a singular reluctance to answering my note of the 1st of May. Some traces of that reluctance you will perceive in the answer that finally came, of which a copy is here enclosed. This, though dated the 10th, did not come to me till last evening. I consider the communication to me so important, in the present crisis of our affairs with England, that I despatch the Wasp immediately to carry it to Mr. Russell, with orders to return with his answer as soon as possible.

I am confident that the President will approve the motive of my solicitude in this affair, and the earnest manner in which I pressed the minister with it, as soon as my knowledge of the declaration of the Prince Regent enabled me to use the argument that belonged to the subject. When, in the conversation above alluded to, the duke first produced to me the decree of 28th April, 1811, I made no comment on the strange manner in which it had been so long concealed from me, and probably from you. I only asked him if that decree had been published. He said no; but declared it had been communicated to my predecessor here, and likewise sent to Mr. Serurier, with orders to communicate it to you. I assured him that it was not among the archives of this legation; that I never before had heard of it; and since he had consented to answer my note, I desired him to send me, in that official manner, a copy of that decree, and of any other documents that might prove to the incredulous of my country (not to me) that the decrees of Berlin and Milan were in good faith, and unconditionally repealed with regard to the United States. He then promised me he would do it; and he has performed his promise.

I send you a copy of the April decree, as likewise of the letter of the Grand Judge, and that of the Minister of Finance, though the two latter pieces have been before communicated to our Government, and published.

[Enclosed in Mr. Barlow's despatch of May 12, 1812.]

[TRANSLATION.]

The Duke of Bassano to Mr. Barlow.

PARIS, May 10, 1812.

SIR:

In conversing with you about the note which you did me the honor to address to me on the 1st May, I could not conceal from you my surprise at the doubt which you had expressed in that note respecting the revocation of the decrees of Berlin and Milan. That revocation was proven by many official acts, by all my correspondence with your predecessors and with you, by the decisions in favor of American vessels. You have done me the honor to ask a copy of the letters which the Grand Judge and the Minister of Finance wrote on the 25th of December, 1810, to secure the first effects of that measure; and you have said, sir, that the decree of the 28th April, 1811, which proves definitively the revocation of the decrees of Berlin and Milan in regard to the Americans, was not known to you.

I have the honor to send you, as you have desired, a copy of these three acts: you will consider them, without doubt, sir, as the plainest answer which I could give to this part of your note. As to the two other questions to which that note relates, I will take care to lay them before the Emperor. You know already, sir, the sentiments which His Majesty has expressed in favor of American commerce, and the good dispositions which have induced him to appoint a plenipotentiary to treat with you on that important interest.

Accept, sir, the assurances of my high consideration.

THE DUKE OF BASSANO.

[Enclosed in Mr. Barlow's despatch of May 12, 1812.]

[TRANSLATION.]

NAPOLEON, Emperor of the French, &c. &c.

PALACE OF ST. CLOUD, April 28, 1811.

On the report of our Minister of Foreign Relations:

Seeing, by a law passed on the 2d of March, 1811, the Congress of the United States has ordered the execution of the provisions of the act of non-intercourse which prohibits the vessels and merchandise of Great Britain, her colonies, and dependencies, from entering into the ports of the United States:

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British orders in council, and a formal refusal to adhere to a system invading the independence of neutral Powers, and of their flag, we have decreed, and do decree, as follows:

The decrees of Berlin and Milan are definitively, and to date from the 1st day of November last, considered as not having existed [*non avenus*] in regard to American vessels.

NAPOLEON.

By the Emperor.

The Minister Secretary of State,

THE COUNT DARU.

B.

Mr. Barlow to the Secretary of State.

SIR.

PARIS, October 25, 1812.

By the letter from the Duke of Bassano, and my answer, copies of which are herewith enclosed, you will learn that I am invited to go to Wilna, and that I have accepted the invitation. Though the proposal was totally unexpected, and, on many accounts, disagreeable, it was impossible to refuse it without giving offence, or at least risking a postponement of a negotiation which I have reason to believe is now in a fair way to a speedy and advantageous close.

From the circumstances which have preceded and which accompany this proposition, I am induced to believe that it is made with a view of expediting the business. There may, indeed, be an intention of coupling it with other views not yet brought forward. If so, and they should extend to objects beyond the simplicity of our commercial interests and the indemnities which we claim, I shall not be at a loss how to answer them.

I shall have the honor to write you as soon as possible from Wilna, and shall return to Paris without any unnecessary delay.

I remain, &c.

JOEL BARLOW.

HON. JAS. MONROE, *Secretary of State.*

[Enclosed in Mr. Barlow's despatch of October 25.]

[TRANSLATION.]

The Duke of Bassano to Mr. Barlow.

SIR:

WILNA, October 11, 1812.

I have had the honor to make known to you how much I regretted, in the negotiation commenced between the United States and France, the delays which inevitably attended a correspondence carried on at so great a distance. Your Government has desired to see the epoch of this arrangement draw near. His Majesty is animated by the same dispositions, and willing to assure to the negotiation a result the most prompt, he has thought that it would be expedient to suppress the intermediaries, and to transfer the conference to Wilna. His Majesty has, in consequence, authorized me, sir, to treat directly with you; and, if you will come to this town, I dare hope that, with the desire which animates us both to conciliate such important interests, we will immediately be enabled to remove all the difficulties which, until now, have appeared to impede the progress of the negotiation.

I have apprized the Duke of Dalberg that his mission was thus terminated; and I have laid before His Majesty the actual state of the negotiation, to the end that, when you arrive at Wilna, the different questions being already illustrated [*éclaircis*] either by your judicious observations, or by the instructions I shall have received, we may, sir, conclude, without delay, an arrangement so desirable, and so conformable to the mutually amicable views of our two Governments.

Accept, sir, &c.

THE DUKE OF BASSANO.

[Enclosed in Mr. Barlow's despatch of October 25.]

Extract:—Mr. Barlow to the Duke of Bassano.

PARIS, October 25, 1812.

In consequence of the letter you did me the honor to write me on the 11th of this month, I accept your invitation, and leave Paris to-morrow for Wilna, where I hope to arrive in fifteen or eighteen days from this date.

The negotiation on which you have done me the honor to invite me at Wilna is so completely prepared in all its parts between the Duke of Dalberg and myself, and, as I understand, sent on to you for your approbation about the 18th of the present month, that I am persuaded, if it could have arrived before the date of your letter, the necessity of this meeting would not have existed, as I am confident that His Majesty would have found the project reasonable and acceptable in all its parts, and would have ordered that minister to conclude and sign both the treaty of commerce and the convention of indemnities.

12th CONGRESS.]

No. 254.

[2d SESSION.]

GREAT BRITAIN.

REPORTED TO THE HOUSE OF REPRESENTATIVES, JANUARY 29, 1813.

Mr. GRUNDY, from the committee to whom was referred so much of the President's message of the 4th of November last as relates to our foreign affairs, submitted, in part, the following report:

That, in presenting to the House, at this time, a view of our relations with Great Britain, it is deemed unnecessary to recite the causes which produced the war. The wrongs which the United States had received from that Power for a long series of years have already been laid before the public, and need not again be enumerated; they were too deeply felt to have been forgotten, although they may be forgiven by the American people. The United States having engaged in the war for the sole purpose of vindicating their rights and honor, that motive alone should animate them to its close. It becomes a free and virtuous people to give a useful example to the world. It is the duty of a Representative Government to render a faithful account of its conduct to its constituents. A just sensibility to great and unprovoked wrongs and indignities will justify an appeal to arms; an honorable reparation should restore the blessings of peace; every step which they take should be guided by a sacred regard to principle.

To form a correct estimate of the duties which the United States have to perform, it is necessary to take a view of the communications which have passed between the Executive of the United States and the British Government since the declaration of war. Such a view, the committee is persuaded, will show distinctly the existing grounds of controversy between the two nations, and the indispensable obligation on the United States to maintain it.

Your committee have seen, with much satisfaction, that, at the moment of the declaration of war, the attention of the Executive was engaged in an effort to bring it to a speedy and honorable termination. As early as the 26th of June last, the *chargé des affaires* of the United States at London was instructed to propose to the British Government an armistice, to take immediate effect, on conditions which it is believed the impartial world will consider safe, honorable, and advantageous to Great Britain. They were few in number, and limited to positive wrongs daily practised. "That the orders in council should be repealed, and that our flag should protect our seamen," were the only indispensable conditions insisted on. Other wrongs, however great, were postponed for amicable negotiation. As an inducement to the British Government to forbear these wrongs, it was proposed to repeal the non-importation law, and to prohibit the employment of British seamen in the public and private vessels of the United States; particular care was taken that these propositions should be made in a form as conciliatory as they were amicable in substance.

Your committee cannot avoid expressing their astonishment at the manner in which they were received. It was not sufficient to reject the proposed armistice; terms of peculiar reproach and insult were adopted to make the rejection offensive.

It happened that almost on the same day on which the United States, after having been worn out with accumulated wrongs, had resorted to the last and only remaining honorable alternative in support of their rights, the British Government had repealed conditionally its orders in council. That measure was unexpected, because every previous application for it had failed, although repeated to the very moment it was decided on. Conditional as the repeal was, it was admitted to have removed a great obstacle to accommodation. The other only remained, the practice of impressment. It was proposed to the British Government to open an amicable negotiation to provide a substitute for it, which should be considered an ample equivalent. The substitute proposed was defined, and of a character so comprehensive, as to have removed, as was presumed, every possible objection to an accommodation. The proposition before made to exclude British seamen from our service was enlarged, so as to comprehend all native British subjects not already naturalized, or entitled to naturalization, under the laws of the United States; this was likewise rejected.

Your committee have sought with anxiety some proof, of a disposition in the British Government to accommodate, on any fair condition, the important difference between the two nations relative to impressment, but they have sought in vain; none is to be found either in the communications of the British minister to the American *chargé des affaires* at London, or in those of the commander of the British naval forces at Halifax, made by order of his Government to the Department of State. They have seen with regret, that although Lord Castlereagh professed a willingness in his Government to receive and discuss amicably any proposition having in view either to check abuse in the practice of impressment, or to provide a substitute for it, he not only declined entering into a negotiation for the purpose, but discountenanced the expectation that any substitute could be proposed which his Government would accept. It merits notice, also, though it ceased to be a cause of surprise, that in the communication of Admiral Warren to the Department of State, the subject of impressment was not even alluded to.

Had the Executive consented to an armistice, on the repeal of the orders in council, without a satisfactory provision against impressment, or a clear and distinct understanding with the British Government to that effect, in some mode entitled to confidence, your committee would not have hesitated to disapprove it.

The impressment of our seamen being deservedly considered a principal cause of the war, the war ought to be prosecuted until that cause was removed. To appeal to arms in defence of a right, and to lay them down without securing it, or a satisfactory evidence of a good disposition in the opposite party to secure it, would be considered in no other light than a relinquishment of it. To attempt to negotiate afterwards for the security of such right, in the expectation that any of the arguments which had been urged before the declaration of war and been rejected, would have more weight after that experiment had been made in vain, would be an act of folly, which would not fail to expose us to the scorn and derision of the British nation and of the world.

On a full view, therefore, of the conduct of the Executive in its transactions with the British Government since the declaration of war, the committee consider it their duty to express their entire approbation of it. They perceive in it a firm resolution to support the rights and honor of their country, with a sincere and commendable disposition to promote peace, on such just and reasonable conditions as the United States may with safety accept.

It remains, therefore, for the United States to take their final attitude with Great Britain, and to maintain it with consistency and with unshaken firmness and constancy. The manner in which the friendly advances and liberal propositions of the Executive have been received by the British Government has, in a great measure, extinguished the hope of an amicable accommodation. It is, however, possible that the British Government, after instructing Admiral Warren to communicate to the Department of State the repeal of the orders in council, may have declined the arrangement proposed by Mr. Russell, in the expectation that *that measure* would have been satisfactory to the United States. Be this as it may, your committee consider it the duty of this House to explain to its constituents the remaining cause of controversy, the precise nature of that cause, and the high obligation which it imposes.

From what has been stated, it appears, that, however great the sensibility to other wrongs, the impressment of our seamen was that alone which prevented an armistice, and in all probability an accommodation. Had that great interest been arranged in a satisfactory manner, the President was willing to rely on the intrinsic justice of other claims, and the amicable spirit in which the negotiation would have been entered into for satisfaction in their favor. Great Britain claims a right to impress her own seamen, and to exercise it in American vessels. In the practice British cruisers impress American citizens, and, from the nature of things, it is impossible that that abuse should not be carried to great extent. A subaltern, or any other officer of the British navy, ought not to be arbiter in such a case. The liberty and lives of American citizens ought not to depend on the will of such a party.

The British Government has insisted that every American citizen should carry with him the evidence of his citizenship, and that all those not possessed of it might be impressed. This criterion, if not otherwise objectionable, would be so as the document might be lost, destroyed, or taken from the party to whom it was granted; nor might it in all cases be entitled to respect, as it might be counterfeited, transferred, or granted to improper persons. But this rule is liable to other and much stronger objections. On what principle does the British Government claim of the United States so great and shameful a degradation? Ought the free citizens of an independent Power to carry with them, on the main ocean, and in their own vessels, the evidence of their freedom? And are all to be considered British subjects, and liable to impressment, who do not bear with them that badge? Is it not more consistent with every idea both of public as well as of private right, that a party setting up a claim to any interest, whether it be to persons or property, should prove his right? What would be the conduct of Great Britain under similar circumstances? Would she permit the public ships of any other Power, disregarding the rights of her flag, to enter on board her merchant vessels, take from them such part of their crews as the boarding officers thought fit, often her own subjects, exposing by means thereof their vessels to destruction? Would she suffer such a usurpation to derive any sanction from her patient forbearance?

With the British claim to impress British seamen the United States have no right to interfere, provided it be in British vessels, or in any other than those of the United States. That American citizens should be exempted from its operation, is all that they demand. Experience has shown that this cannot be secured otherwise, than by the vessel in which they sail. Take from American citizens this barrier, which ought to be held sacred, and there is nothing to protect them against the rapacious grasp of the British navy. This, then, is the extent of the demand of the United States—a demand so just in itself, so consistent and inseparable from their rights as an independent nation, that it has been a cause of astonishment that it should ever have been called in question. The foundation of the British claim is, that British seamen find employment in the service of the United States; this is represented as an evil affecting essentially the great interests of the British nation. This complaint would have more weight if sanctioned by the British example. It is known, on the contrary, that it is in direct repugnance to it. Great Britain does not scruple to receive into her service all who enter into it voluntarily. If she confined herself within that limit, the present controversy would not exist. Heretofore the subjects of even the most despotic Powers have been left at liberty to pursue their own happiness, by honest industry, wherever their inclination led them. The British Government refuses to its seamen that privilege. Let not this, then, be a ground of controversy with Great Britain. Let it be distinctly understood that, in case an arrangement should be made between the two nations, whereby each should exclude from its service the citizens and subjects of the other, on the principles and conditions above stated, that this House will be prepared, so far as depends on it, to give it effect; and for that purpose to enact laws, with such regulations and penalties as will be adequate. With this pledge, it is not perceived on what ground the British Government can persist in its claim. If British seamen are excluded from the service of the United States, as may be effectually done, the foundation of the claim must cease. When it is known that not one British seaman could be found on board American vessels, it would be absurd to urge that fact as a motive for impressment.

In declaring a willingness to give effect to the proposed arrangement, your committee consider it equally the duty of the House to declare, in terms the most decisive, that should the British Government still decline it and persevere in the practice of impressment from American vessels, the United States will never acquiesce in that practice, but will resist it unceasingly with all their force. It is not necessary now to inquire what the course would have been with respect to impressment in case the orders in council had been repealed before the declaration of war, or how long the practice of impressment would have been borne, in the hope that that repeal would have been followed by a satisfactory arrangement with respect to impressment.

War having been declared, and the case of impressment being necessarily included as one of the most important causes, it is evident that it must be provided for in the pacification. The omission of it in a treaty of peace would not leave it on its former ground; it would, in effect, be an absolute relinquishment; an idea at which the feelings of every American must revolt. The seamen of the United States have a claim on their country for protection, and they must be protected. If a single ship is taken at sea, and the property of an American citizen wrested from him unjustly, it rouses the indignation of the country. How much more deeply then ought we to be excited, when we behold so many of this gallant and highly meritorious class of our fellow-citizens snatched from the bosom of their families and of their country and carried into a cruel and afflicting bondage! It is an evil which ought not, which cannot be longer tolerated. Without dwelling on the sufferings of the victims, or on that wide scene of distress which it spreads among their relatives through the country, the practice in itself is in the highest degree degrading to the United States as a nation. It is incompatible with their sovereignty. It is subversive of the main pillars of their independence. The forbearance of the United States under it has been mistaken for pusillanimity.

The British pretension was maturing fast into a right. Had resistance been longer delayed, it might have become one. Every administration remonstrated against it, in a tone which bespoke the growing indignation of the country. Their remonstrances produced no effect. It was worthy the illustrious leader of our armies, when called by the voice of his country to the head of the Government, to pause, rather than to recommend to his fellow-citizens a new war, before they had recovered from the calamities of the late one. It was worthy his immediate successors to follow his example.

In peace our free system of Government would gain strength, and our happy Union become consolidated. But at the last session the period had arrived when forbearance could be no longer justified. It was the duty of Congress to take up this subject in connexion with the other great wrongs of which they complained, and to seek redress in the only mode which became the representatives of a free people. They have done so, by appealing to arms, and that appeal will be supported by their constituents.

Your committee are aware that an interesting crisis has arrived in the United States; but they have no painful apprehension of its consequences. The course before them is direct. It is pointed out equally by a regard to the honor, the rights, and the interest of the nation. If we pursue it with firmness and vigor, relying on the aid of Heaven, our success is inevitable.

Our resources are abundant, the people are brave and virtuous, and their spirit unbroken. The gallantry of our infant navy bespeaks our growing greatness on that element; and that of our troops, when led to action, inspires full confidence of what may be expected from them when their organization is complete. Our Union is always most strong when menaced by foreign dangers. The people of America are never so much one family, as when their liberties are invaded.

Your committee, for the considerations above set forth, recommend to the House the passing of the bill herewith reported, for the regulation of seamen on board the public vessels and in the merchant service of the United States.

GREAT BRITAIN—LICENSES TO TRADE.

COMMUNICATED TO CONGRESS, FEBRUARY 25, 1813.

To the Senate and House of Representatives of the United States:

FEBRUARY 24, 1813.

I lay before Congress copies of a proclamation of the British Lieutenant Governor of the island of Bermuda, which has appeared under circumstances leaving no doubt of its authenticity. It recites a British order in council of the 26th of October last, providing for the supply of the British West Indies and other colonial possessions, by

a trade under special licenses, and is accompanied by a circular instruction to the colonial Governors, which confines licensed importations from ports of the United States to the ports of the Eastern States exclusively.

The Government of Great Britain had already introduced into her commerce during war, a system, which, at once violating the rights of other nations, and resting on a mass of forgery and perjury unknown to other times, was making an unfortunate progress in undermining those principles of morality and religion which are the best foundations of national happiness.

The policy now proclaimed to the world introduces into her modes of warfare a system equally distinguished by the deformity of its features and the depravity of its character; having for its object to dissolve the ties of allegiance and the sentiments of loyalty in the adversary nation, and to seduce and separate its component parts, the one from the other.

The general tendency of these demoralizing and disorganizing contrivances will be reprobated by the civilized and Christian world; and the insulting attempt on the virtue, the honor, the patriotism, and the fidelity of our brethren of the Eastern States, will not fail to call forth all their indignation and resentment, and to attach, more and more, all the States to that happy union and constitution, against which such insidious and malignant artifices are directed.

The better to guard, nevertheless, against the effect of individual cupidity and treachery, and to turn the corrupt projects of the enemy against himself, I recommend to the consideration of Congress the expediency of an effectual prohibition of any trade whatever, by citizens or inhabitants of the United States, under special licenses, whether relating to persons or ports; and in aid thereof, a prohibition of all exportations from the United States in foreign bottoms, few of which are actually employed; whilst multiplying counterfeits of their flags and papers are covering and encouraging the navigation of the enemy.

JAMES MADISON.

[From the Bermuda Gazette of January 16.]

BERMUDAS, *alias* SOMERS' ISLANDS.

By His Excellency Brigadier General George Horsford, Lieutenant Governor and Commander-in-chief in and over these islands, &c.

A PROCLAMATION.

Whereas I have received a copy of His Royal Highness the Prince Regent's order in council, bearing date at the court at Carlton House, the 26th of October, 1812, which order is in the words following, viz: "Whereas, during the late and present war, emergencies have at various times arisen, essentially affecting the necessary supply of the British West India islands, and of lands and territories belonging to His Majesty on the continent of South America, and it has been found expedient and necessary for the trade and commerce of said islands, lands, &c. and for the support of the inhabitants thereof, further to extend, for a limited time, the importation into, and exportation from, the said islands, lands, and territories, His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, is pleased, by and with the advice of His Majesty's privy council, to authorize and empower the Governor or Lieutenant Governor of any of the islands or territories in the West Indies, (in which description the Bahama islands and the Bermudas or Somers' islands are included,) and of any of the lands or territories on the continent of South America, to His Majesty belonging; and they are hereby respectively authorized and empowered to permit, until the 30th day of June, 1813, the importation into the said islands, lands, and territories, respectively, of staves and lumber, horses, mules, asses, neat cattle, sheep, hogs, and every other species of live stock and live provisions, and also of every other kind of provisions whatsoever, (beef, pork, butter, salted, dried, and pickled fish excepted,) in any unarmed ship or vessel not belonging to France, or to the subjects or inhabitants thereof, or of any port or place annexed to the territories of France, under the license of the said respective Governor or Lieutenant Governor, which are hereby empowered to grant in His Majesty's name, subject to such instructions as His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, shall, from time to time, think fit to issue, to be signified by one of His Majesty's principal Secretaries of State; and also to permit, under licenses to be granted as aforesaid, the exportations from the said islands, lands, and territories, into which such importation as aforesaid shall be made, and in the ships aforesaid in which such importations shall have been made, of rum and molasses, and of any other goods and commodities whatsoever, except sugar, indigo, cotton wool, coffee, and cocoa: Provided, That such ships or vessels shall duly enter into, report, and deliver their respective cargoes, and reload at such ports only where regular custom-houses shall have been established. But it is His Royal Highness's pleasure, nevertheless, and His Royal Highness, in the name and on behalf of His Majesty, and by and with the advice aforesaid, is pleased to order, and it is hereby ordered, that nothing hereinbefore contained shall be construed to permit the importation of staves, lumber, horses, mules, asses, neat cattle, sheep, hogs, poultry, live stock, live provisions, or any kind of provisions whatever, as aforesaid, into any of the said islands, lands, or territories in which there shall not be, at the time when such articles shall be brought for importation, the following duties on such articles of the growth or produce of the United States of America, namely:

	£.	s.	d.
On wheat flour, per barrel, not weighing more than one hundred and ninety-six pounds neat weight,	0	5	8
On bread or biscuit of wheat flour, or any other grain per barrel, not exceeding more than one hundred pounds weight, - - - - -	0	3	4
On bread, for every hundred pounds, made from wheat or any other grain whatever, imported in bags or other packages than barrels, weighing as aforesaid, - - - - -	0	3	4
On flour or meal made from rye, peas, beans, Indian corn, or other grain than wheat, per barrel, not weighing more than one hundred and ninety-six pounds, - - - - -	0	3	4
On peas, beans, rye, Indian corn, calivances, or other grain, per bushel, - - - - -	0	0	10
On rice, for every one hundred pounds, neat weight, and so in proportion for a less or larger quantity,	0	3	4
On shingles, called Boston chips, not more than twelve inches in length, per thousand, - - - - -	0	3	4
On shingles, being more than twelve inches in length, per thousand, - - - - -	0	6	8
For every twelve hundred, commonly called one thousand, red oak staves, - - - - -	1	0	0
For every twelve hundred, commonly called one thousand, white oak staves, and for every one thousand pieces of heading, - - - - -	0	15	0
For every one thousand feet of white or yellow pine lumber, of all descriptions, - - - - -	0	10	0
For every thousand feet of pitch pine lumber, - - - - -	0	15	0
For all other kinds of wood or timber not before enumerated, - - - - -	0	15	0
For every thousand wood hoops, - - - - -	0	5	0
And in proportion for a less or larger quantity of all and every of the articles enumerated.			
Horses, neat cattle, and other live stock, for every hundred pounds of the value thereof at the port or at the place of importation, - - - - -	10	0	0

And whereas, I have deemed it expedient and necessary to make known and publish the same within this His Majesty's Government: I do therefore issue this my proclamation to the end that all persons whom it doth or may concern, being duly apprized thereof, may govern themselves accordingly.

Given under my hand, and the great seal of the islands, this 14th day of January, 1813, and in the fifty-third year of His Majesty's reign.

By His Excellency's command,

GEORGE HORSFORD.

ROBERT KENNEDY.

God save the King.

CIRCULAR.

SIR:

DOWNING STREET, *November 9, 1812.*

I have the honor of enclosing an order of council, which it has been judged expedient to issue, in consequence of the existing hostilities between His Majesty and the United States of America. By this order you are authorized to grant licenses for importation of certain articles enumerated in the order, and for the exportation of certain articles in the same order, in the ships in which the importation shall be made.

This intercourse is to be subject to the condition stated in the order, and such instructions as you may, from time to time, receive from one of His Majesty's principal Secretaries of State. I am commanded by His Royal Highness the Prince Regent to signify to you that, in granting the licenses for importation of the above enumerated articles, you take care that the articles so to be imported be severally enumerated in the body of the license; that the port or place from whence the importation is to be made, and the port to which the vessel is bound, are also to be inserted in the body of the license.

That if the person applying for the license shall not be able to state the name of the vessel on board of which the proposed importation is to be made, the condition of the license should be, that the name of the vessel, the name of the master, her tonnage, and her national character, be endorsed on the license on quitting her port of clearance, and that the condition of her license should also be, that she proceed direct for the port of her destination.

Although the order in council authorizes you to permit the importations of the enumerated articles in any vessels not French, you will not grant these licenses to any except to vessels in amity with His Majesty, unless you are convinced that the island will be exposed to serious embarrassments by so confining the importation in question.

Whatever importations are proposed to be made, under the order, from the United States of America, should be by your licenses confined to the ports in the EASTERN STATES EXCLUSIVELY, unless you have reason to suppose that the object of the order would not be fulfilled if licenses are not also granted for the importations from the other ports in the United States.

With respect to the licenses for exportation on board the vessels in which an importation shall have been previously made, you will observe that the order does not require that the port of destination in such case shall be the same as that from whence the importation had been made; but you will take care that in the body of the license be inserted the name of the vessel, her tonnage, the name of the master, and her national character, the port of clearance, and the port of destination; and that the cargo be described in the body of the license, according to the words of the order, viz: rum, molasses, or any other goods and commodities whatsoever, except sugar, indigo, cotton wool, coffee, and cocoa.

You will take care that the term of the import license does not exceed the term of the order on which it is granted, and that you do not issue any license for exportation under this order after that period.

The fee payable for each license is not in any case to exceed the sum of one pound one shilling.

I have the honor to be, sir, your most obedient humble servant,

To Lt. Col. Governor HARCOURT, &c.

12th CONGRESS.]

No. 256.

[2d SESSION.]

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 3, 1813, AND JULY 12, 1813.

MARCH 3, 1813.

To the House of Representatives of the United States:

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 1st instant.

JAMES MADISON.

DEPARTMENT OF STATE, *March 3, 1813.*

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 1st instant, has the honor to submit to the President the enclosed papers, marked A and B.*

All which is respectfully submitted.

JAMES MONROE.

To the House of Representatives of the United States:

WASHINGTON, *July 12, 1813.*

I transmit to the House of Representatives a report of the Secretary of State, containing the information requested by their resolutions of the 21st of June last.

JAMES MADISON.

*The papers accompanying this report are the same as those transmitted with the President's message of January 26, 1813, No. 253, pages 602, 603, and 604.

DEPARTMENT OF STATE, *July 12, 1813.*

The Secretary of State, to whom were referred several resolutions of the House of Representatives of the 21st ultimo, requesting information on certain points relating to the French decree of the 28th April, 1811, has the honor to make to the President the following report:

In furnishing the information required by the House of Representatives, the Secretary of State presumes that it might be deemed sufficient for him to state what is now demanded, what part thereof has been heretofore communicated, and to supply the deficiency. He considers it, however, more conformable to the views of the House, to meet, at this time, without regarding what has been already communicated, every inquiry, and to give a distinct answer to each, with the proper explanation relating to it.

The House of Representatives has requested information when, by whom, and in what manner, the first intelligence was given to this Government of the decree of the Government of France, bearing date on the 28th April, 1811, and purporting to be a definitive repeal of the decrees of Berlin and Milan; whether Mr. Russell, late chargé d'affaires of the United States to the Government of France, ever admitted or denied to his Government the correctness of the declaration of the Duke of Bassano to Mr. Barlow, as stated in Mr. Barlow's letter of the 12th May, 1812, to the Secretary of State, that the said decree had been communicated to his (Mr. Barlow's) predecessor there; and to lay before the House any correspondence with Mr. Russell on that subject which it may not be improper to communicate; and also any correspondence between Mr. Barlow and Mr. Russell, in possession of the Department of State; whether the minister of France to the United States ever informed this Government of the existence of the said decree, and to lay before the House any correspondence with the said minister relative thereto, not improper to be communicated, with any other information in possession of the Executive, which he may not deem it injurious to the public interest to disclose, relative to the said decree, tending to show at what time, by whom, and in what manner, it was first made known to this Government, or to any of its representatives or agents; and lastly, to inform the House whether the Government of the United States hath ever received from that of France any explanation of the reasons of that decree being concealed from this Government and its minister, for so long a time after its date; and if such explanation has been asked by this Government, and has been omitted to be given by that of France, whether this Government has made any remonstrance or expressed any dissatisfaction to the Government of France at such concealment?

These inquiries embrace two distinct objects. The first relates to the conduct of the Government of France, in regard to this decree. The second, to that of the Government of the United States. In satisfying the call of the House on this latter point, it seems to be proper to meet it in a two-fold view: first, as it relates to the conduct of this Government in this transaction; secondly, as it relates to its conduct towards both belligerents, in some important circumstances connected with it. The resolutions do not call specially for a report of such extent; but as the measures of the Executive, and the acts of Congress founded on communications from the Executive, which relate to one of the belligerents, have, by necessary consequence, an immediate relation to the other, such a report seems to be obviously comprised within their scope. On this principle the report is prepared, in the expectation that the more full the information given on every branch of the subject, the more satisfactory will it be to the House.

The Secretary of State has the honor to report, in reply to these inquiries, that the first intelligence which this Government received of the French decree of the 28th April, 1811, was communicated by Mr. Barlow, in a letter bearing date on the 12th of May, 1812, which was received by this Department on the 13th of July following; that the first intimation to Mr. Barlow of the existence of that decree, as appears by his communications, was given by the Duke of Bassano in an informal conference on some day between the 1st and 10th of May, 1812, and that the official communication of it to Mr. Barlow was made on the 10th of that month, at his request; that Mr. Barlow transmitted a copy of that decree, and of the Duke of Bassano's letter announcing it, to Mr. Russell, in a letter of May 11, in which he also informed Mr. Russell that the Duke of Bassano had stated that the decree had been duly communicated to him; that Mr. Russell replied, in a letter to Mr. Barlow of the 29th of May, that his first knowledge of the decree was derived from his letter, and that he has repeatedly stated the same since to this Government. The paper marked A is a copy of an extract of Mr. Barlow's letter to the Department of State of May 12, 1812; * B, of the Duke of Bassano's letter to Mr. Barlow of the 10th of the same month; * C, of an extract of Mr. Barlow's letter to Mr. Russell of May 11th; D, of an extract of Mr. Russell's answer of the 29th of May; and E, of Mr. Russell's letter to the Department of State of the 30th.

The Secretary of State reports, also, that no communication of the decree of the 28th April, 1811, was ever made to this Government by the minister of France, or other person than as above stated, and that no explanation of the cause of its not having been communicated to this Government, and published, at the time of its date, was ever made to this Government, or, so far as it is informed, to the representatives or agents of the United States in Europe. The minister of France has been asked to explain the cause of a proceeding apparently so extraordinary and exceptionable; who replied, that his first intelligence of that decree was received by the Wasp, in a letter from the Duke of Bassano of May 10, 1812, in which he expressed his surprise that a prior letter, of May, 1811, in which he had transmitted a copy of the decree, for the information of this Government, had not been received. Further explanations were expected from Mr. Barlow, but none were given. The light in which this transaction was viewed by this Government was noticed by the President in his message to Congress, and communicated also to Mr. Barlow in the letter of the 14th July, 1812, with a view to the requisite explanation from the French Government. On the 9th of May, 1812, the Emperor left Paris for the north, and in two days thereafter the Duke of Bassano followed him. A negotiation for the adjustment of injuries and the arrangement of our commerce with the Government of France, long depending, and said to have been brought nearly to a conclusion at the time of Mr. Barlow's death, was suspended by that event. His successor, lately appointed, is authorized to resume the negotiation, and to conclude it. He is instructed to demand redress of the French Government for every injury, and an explanation of its motive for withholding from this Government a knowledge of the decree for so long a time after its adoption.

It appears by the documents referred to that Mr. Barlow lost no time, after having obtained a knowledge of the existence of the French decree of the 28th April, 1811, in demanding a copy of it, and transmitting it to Mr. Russell, who immediately laid it before the British Government, urging, on the ground of this new proof of the repeal of the French decrees, that the British orders in council should be repealed. Mr. Russell's note to Lord Castlereagh bears date on the 20th May; Lord Castlereagh's reply on the 23d, in which he promised to submit the decree to the consideration of the Prince Regent. (See papers marked F.) It appears, however, that no encouragement was given at that time to hope that the orders in council would be repealed in consequence of that decree; and that, although it was afterwards made the ground of their repeal, the repeal was, nevertheless, to be ascribed to other causes. Their repeal did not take effect until the 23d of June, more than a month after the French decree had been laid before the British Government; a delay indicating in itself, at a period so momentous and critical, not merely neglect, but disregard of the French decree. That the repeal of the British orders in council was

* These two letters were also transmitted with the President's message of January 26, 1813, No. 253. See pages 602 and 603.

not produced by the French decree, other proofs might be adduced. I will state one, which, in addition to the evidence contained in the letters from Mr. Russell herewith communicated, marked G, is deemed conclusive. In the communication of Mr. Baker to Mr. Graham, on the 9th August, 1812, marked H, which was founded on instructions from his Government, of as late date as the 17th of June, in which he stated that an official declaration would be sent to this country, proposing a conditional repeal of the orders in council, so far as they affected the United States, no notice whatever was taken of the French decree. One of the conditions then contemplated was, that the orders in council should be revived at the end of eight months, unless the conduct of the French Government, and the result of the communications with the Government of the United States, should be such as, in the opinion of the British Government, to render their revival unnecessary; a condition which proves incontestably that the French decree was not considered by the British Government a sufficient ground on which to repeal the orders in council. It proves, also, that on that day the British Government had resolved not to repeal the orders on the basis of that decree; since the proposed repeal was to depend, not on what the French Government had already done, but on what it might do, and on arrangements to be entered into with the United States, unconnected with the French repeal.

The French decree of the 28th April, 1811, was transmitted to the United States by the *Wasp*, a public vessel, which had been long awaiting, at the ports of Great Britain and France, despatches from our ministers relating to these very important concerns with both Governments. It was received at the Department of State on the 13th July, 1812, nearly a month after the declaration of war against Great Britain. Intelligence of the repeal of the orders in council was not received until about the middle of the following month. It was impossible, therefore, that either of these acts, in whatever light they might be viewed, should have been taken into consideration, or have had any influence in deciding on that important event.

Had the British Government been disposed to repeal its orders in council, in conformity with the principle on which it professed to have issued them, and on the condition which it had itself prescribed, there was no reason to delay the repeal until such a decree as that of the 28th April, 1811, should be produced. The declaration of the French Government of August 5, 1810, had fully satisfied every claim of the British Government, according to its own principles on that point. By it the decrees of Berlin and Milan were declared to be repealed, the repeal to take effect on the 1st of November following; on which day it did take effect. The only condition attached to it was, either that Great Britain should follow the example, and repeal her orders in council, or that the United States should carry into effect against her their non-importation act. This condition was, in its nature, subsequent, not precedent; reserving a right in France to revive her decrees, in case neither alternative was performed. By this declaration it was put completely in the power of Great Britain to terminate this controversy in a manner the most honorable to herself. France had yielded to her the ground on a condition with which she had declared her willingness to comply. Had she complied, the non-importation act would not have been carried into effect, nor could the French decrees have been revived. By refusing to comply, she has made herself responsible for all that has since followed.

By the decree of the 28th April, 1811, the decrees of Berlin and Milan were said to be definitively repealed, and the execution of the non-importation act against Great Britain was declared to be the ground of that repeal. The repeal, announced by the declaration of the 5th August, 1810, was absolute and final, except as to the condition subsequently attached to it. This latter decree acknowledges that that condition had been performed, and disclaims the right to revive it in consequence of that performance; and, extending back to the 1st of November, confirms, in every circumstance, the preceding repeal. The latter act, therefore, as to the repeal, is nothing more than a confirmation of the former. It is in this sense that those two acts are to be understood in France. It is in the same sense that they are to be regarded by other Powers.

In repealing the orders in council on the pretext of the French decree of the 28th of April, 1811, the British Government has conceded that it ought to have repealed them on the declaration of the 5th August, 1810. It is impossible to discriminate between the two acts, or to separate them from each other, so as to justify, on sound and consistent principles, the repeal of the orders in council on the ground of one act, and the refusal to repeal them on that of the other. The second act makes the repeal definitive; but for what reason? Because the non-importation act had been put in force against Great Britain, in compliance with the condition subsequently attached to the former repeal, and her refusal to repeal her orders in council. That act being still in force, and the decree of the 28th April, 1811, being expressly founded on it, Great Britain repeals her orders in council on the basis of this latter decree. The conclusion is therefore irresistible, that by this repeal, under all the circumstances attending it, the British Government has acknowledged the justice of the claim of the United States to a repeal on the former occasion. By accepting the latter repeal, it has sanctioned the preceding one. It has sanctioned also the conduct of this Government in carrying into effect the non-importation act against Great Britain, founded on the preceding repeal.

Other important consequences result from this repeal of the British Government. By fair and obvious construction, the acceptance of the decree of the 28th April, 1811, as the ground of the repeal of the orders in council, ought to be construed to extend back to the 1st of November, 1810, the day on which the preceding repeal took effect. The Secretary of State has full confidence that, if this question could be submitted to the judgment of an impartial judicial tribunal, such would be its decision. He has equal confidence that such will be the judgment pronounced on it by the enlightened and impartial world. If, however, these two acts could be separated from each other, so as that the latter might be made the basis of the repeal of the orders in council, distinct from the former, it follows that, bearing date on the 28th April, 1811, the repeal ought to have relation to that date. In legal construction, between nations as well as individuals, acts are to be respected from the time they begin to operate; and where they impose a moral or political obligation on another party, that obligation commences with the commencement of the act. But it has been urged that the French decree was not promulgated or made known to the British Government until a year after its date. This objection has no force. By accepting an act bearing date a year before it was promulgated, it is admitted that, in the interval, nothing was done repugnant to it. It cannot be presumed that any Government would accept from another, as the basis on which it was to found an important measure, an act of anterior and remote date, pledging itself to a certain course of conduct, which that Government had, in the interval, departed from and violated. If any Government had violated an act, the injunctions of which it was bound to observe, by an anterior one in relation to a third party, and which it professed to have observed before its acceptance by the other, it could not be presumed that it would cease to violate it after the acceptance. The conclusion is irresistible, that, if the other Government did accept such act, with a knowledge of its antecedent violation, as the foundation of any measure on its own part, such act must have been the ostensible only, and not the real, motive to such measure.

The declaration of the Prince Regent of the 21st April, 1812, is in full confirmation of these remarks. By this act of the British Government, it is formally announced, on the authority of a report of the Secretary of Foreign Affairs to the Conservative Senate of France, that the French decrees were still in force, and that the orders in council should not be repealed. It cannot fail to excite considerable surprise that the British Government

should immediately afterwards, that is, on the 23d of June, repeal its orders in council, on the ground of the French decree of the 28th April, 1811. By this proceeding the British Government has involved itself in manifest inconsistency. It has maintained by one act that the French decrees were in full force, and by another that they were repealed during the same space of time. It admits, also, that by no act of the French Government, or of its cruisers, had any violation of the repeal, announced by the declaration of the French Government of the 5th August, 1810, been committed, or, at least, that such violation had not had sufficient weight to prevent the repeal of the orders in council.

It was objected that the declaration of the French Government of the 5th August, 1810, was not such an act as the British Government ought to have regarded. The Secretary of State is thoroughly satisfied that this objection is altogether unfounded. It was communicated by the Emperor through his highest official organ, the Secretary of Foreign Affairs, to the minister plenipotentiary of the United States at Paris. It is impossible to conceive an act more formal, authentic, or obligatory on the French Government than that alluded to. Does one Government ever ask or expect from another to secure the performance of any duty, however important, more than its official pledge, fairly and fully expressed? Can better security be given for its performance? Had there been any doubt on this subject, the conduct of Great Britain herself, in similar cases, would have completely removed it. The whole history of her diplomatic intercourse with other Powers, on the subject of blockade, is in accord with this proceeding of the French Government. We know that when her Government institutes a blockade, the Secretary of Foreign Affairs announces it to the ministers of other Powers at London, and that the same form is observed when they are revoked. Nor was the authenticity of either act, thus announced, ever questioned.

Had a similar declaration been made by the minister of France in the United States to this Government, by the order of his own, would it not have been entitled to respect and been respected? By the usage of nations such respect could not have been withheld. The arrangement made with Mr. Erskine is a full proof of the good faith of this Government, and of its impartiality in its transactions with both the belligerents. It was made with that minister on the ground of his public character, and the confidence due to it; on which basis the non-intercourse was removed as to England, and left in full force against France. The failure of that arrangement was imputable to the British Government alone, who, in rejecting it, took on itself a high responsibility, not simply in regard to the consequences attending it, but in disavowing and annulling the act of its minister, without showing that he had exceeded his authority. In accepting the declaration of the French Minister of Foreign Affairs, in proof of the French repeal, the United States gave no proof of improper credence to the Government of France. On a comparison of both transactions, it will appear that if a marked confidence and respect was shown to either Government, it was to that of Great Britain. In accepting the declaration of the Government of France, in the presence of the Emperor, the United States stood on more secure ground than in accepting that of a British minister in this country.

To the demand made by the United States of the repeal of the British orders in council, founded on the basis of the French repeal of August 5, 1810, the British Government replied, by demanding a copy of the orders issued by the French Government for carrying into effect that repeal; a demand without example in the intercourse between nations. By this demand it ceased to be a question whether the French repeal was of sufficient extent, or was founded on justifiable conditions. The pledge of the French Government was doubted; a scrutiny was to be instituted as to the manner in which it was to be discharged, and its faith preserved, not by the subsequent conduct of its cruisers towards the vessels of the United States, but by a copy of the orders given to its cruisers. Where would this end? If the French Government intended a fraud by its declaration of repeal, announced to the minister of the United States, and afterwards to this Government, might it not likewise commit a fraud in any other communication which it might make? If credit was refused by the British Government to the act of the French Government, thus formally announced, is it probable that it would have been given by it to any document of inferior character, directed to its own people? Although it was the policy, and might be the interest of the British Government to engage the United States in such a controversy with the French Government, it was far from comporting with their interests to do it. They considered it their duty to accept the repeal already made by the French Government of its decrees, and to look to its conduct, and to that of its cruisers, sanctioned by the Government, for the faithful performance or violation of it. The United States having been injured by both Powers, were unwilling, in their exertions to obtain justice of either, to become the instrument of the other. They were the less inclined to it in the present instance, from the consideration that the party making the pressure on them maintained in full force its unlawful edicts against the American commerce, while it could not deny that a considerable advance at least had been made by the other towards a complete accommodation; it being manifest to the world, not only that the faith of the French Government stood pledged for the repeal of its decrees, but that the repeal did take effect on the 1st of November, 1810, in regard to the United States; that several American vessels taken under them had been delivered up; and judicial decisions suspended on all, by its order; and that it also continued to give the most positive assurances that the repeal should be faithfully observed.

It has also been urged that the French repeal was conditional, and for that reason could not be accepted. This objection has already been fully answered. It merits attention, however, that the acts of the British Government relating to this subject, particularly the declaration of the 21st April, 1812, and the repeal of that of the 23d June of the same year, are equally and in like manner conditional. It is not a little surprising that the British Government should have objected to a measure in another Government, to which it has itself given a sanction by its own acts. It is proper, however, to remark, that this objection has been completely waived and given up by the acceptance of the decree of the 28th of April, 1811.

The British Government has urged, also, that it could not confide in the faithful performance by the French Government of any engagement it might enter into relative to the repeal of its decrees. This objection would be equally applicable to any other compact to be entered into with France. While maintained, it would be a bar to any treaty, even to a treaty of peace, between them. But it also has been admitted to be unfounded by the acceptance of the decree of the 28th April, 1811.

The Secretary of State presumes that these facts and explanations, supported as they are by authentic documents, prove: First, that the repeal of the British orders in council was not to be ascribed to the French decree bearing date on the 28th April, 1811; and, Secondly, that, in making that decree the basis of their repeal, the British Government has conceded that it ought to have repealed them on the ground of the declaration of the French Government of the 5th August, 1810, so as to take effect on the 1st November following. To what cause the repeal of the British orders in council was justly attributable cannot now remain a doubt with any who have marked, with a just discernment, the course of events. It must afford great consolation to the good people of these States to know that they have not submitted to privations in vain.

The discussion of other wrongs, particularly that relating to impressment, had been closed some time before the period alluded to. It was unworthy the character of the United States to pursue the discussion on that difference, when it was evident that no advantage could be derived from it. The right was reserved to be brought forward and urged again when it might be done with effect. In the mean time, the practice of impressment was persevered in with rigor.

At the time when war was declared against Great Britain, no satisfactory arrangement was offered, or likely to be obtained, respecting impressment; and nothing was more remote from the expectation of this Government than the repeal of the orders in council. Every circumstance which had occurred tending to illustrate the policy and views of the British Government, rendered such an event altogether improbable. From the commencement of that system of hostility which Great Britain had adopted against the United States, her pretensions had gradually increased, or at least become more fully unfolded, according to circumstances, until, at the moment when war was declared, they had assumed a character which dispelled all prospect of accommodation. The orders in council were said to have been adopted on a principle of retaliation on France, although at the time when the order of May, 1806, was issued, no measure of France had occurred on which it could be retaliatory; and at the date of the next order, (January, 1807,) it was hardly possible that this Government should have even heard of the decree of Berlin, to which it related. It was stated at the time of their adoption, and for some time afterwards, that they should be revoked as soon as France revoked her decrees, and that the British Government would proceed with the Government of France *pari passu* in the revocation. After the declaration, however, of the French Government of the 5th August, 1810, by which the Berlin and Milan decrees were declared to be repealed, the British Government changed its tone, and continued to rise in its demands to the moment that war was declared. It objected, first, that the French repeal was conditional and not absolute; although the only condition attached to it was, that Great Britain should follow the example, or the United States fulfil their pledge, by executing the non-importation act against her. It was then demanded that France should repeal her internal regulations, as a condition of the repeal of the British orders in council; next, that the French repeal should be extended to all neutral nations as well as to the United States; and, lastly, that the ports of her enemies, and all ports from which the British flag was excluded, should be opened to British manufactures in American vessels; conditions so extravagant, as to satisfy all dispassionate minds that they were demanded, not in the expectation that they would or could be complied with, but to terminate the discussion.

On full consideration of all circumstances, it appeared that the period had arrived when it became the duty of the United States to take that attitude with Great Britain which was due to their violated rights, to the security of their most important interests, and to their character as an independent nation. To have shrunk from the crisis would have been to abandon every thing valuable to a free people. The surrender of our seamen to British impressment, with the destruction of our navigation and commerce, would not have been its only evils. The desolation of property, however great and widely spread, affects an interest which admits of repair. The wound is incurable only which fixes a stigma on the national honor. While the spirit of the people is unsubdued, there will always be found in their virtue a resource equal to the greatest dangers and most trying emergencies. It is in the nature of free government to inspire in the body of the people generous and noble sentiments; and it is the duty of the constituted authorities to cherish and to appeal to those sentiments and to rely on the patriotic support of their constituents. Had they proved themselves unequal to the crisis, the most fatal consequences would have resulted from it. The proof of their weakness would have been recorded; but not on them alone would its baneful effect have been visited. It would have shaken the foundation of the Government itself, and even of the sacred principles of the revolution, on which all our political institutions depend. Yielding to the pretensions of a foreign Power, without making a manly effort in defence of our rights, without appealing to the virtue of the people or to the strength of our Union, it would have been charged, and believed, that in these sources lay the hidden defects. Where would the good people of these States have been able to make another stand? Where would have been their rallying point? The Government of their choice having been dishonored, its weakness and that of their institutions demonstrated, the triumph of the enemy would have been complete. It would also have been durable.

The constituted authorities of the United States neither dreaded nor anticipated these evils. They had full confidence in the strength of the Union, in the firmness and virtue of the people, and were satisfied, when the appeal should be made, that ample proof would be afforded that their confidence had not been misplaced. Foreign pressure, it was not doubted, would soon dissipate foreign partialities and prejudices, if such existed, and unite us more closely together as one people.

In declaring war against Great Britain, the United States have placed themselves in a situation to retort the hostility which they had so long suffered from the British Government. The maintenance of their rights was the object of the war. Of the desire of this Government to terminate the war on honorable conditions, ample proof has been afforded by the proposition made to the British Government, immediately after the declaration of war, through the *chargé des affaires* of the United States at London, and by the promptitude and manner of the acceptance of the mediation of the Emperor of Russia.

It was anticipated by some that a declaration of war against Great Britain would force the United States into a close connexion with her adversary, much to their disadvantage. The Secretary of State thinks it proper to remark, that nothing is more remote from the fact. The discrimination in favor of France, according to law, in consequence of her acceptance of the proposition made equally to both Powers, produced a difference between them in that special case, but in that only. The war with England was declared without any concert or communication with the French Government; it has produced no connexion between the United States and France, or any understanding as to its prosecution, continuance, or termination. The ostensible relation between the two countries is the true and only one. The United States have just claims on France for spoliations on their commerce on the high seas, and in the ports of France; and their late minister was, and their present minister is, instructed to demand reparation for these injuries, and to press it with the energy due to the justice of their claims, and to the character of the United States. The result of the negotiation will be communicated to Congress in due time. The papers marked I, contain copies of two letters, addressed from this Department to Mr. Barlow; one of the 16th June, 1812, just before the declaration of war; the other of the 14th July following, which show distinctly the relation existing between the United States and France at that interesting period. No change has since occurred in it.

All which is respectfully submitted.

JAMES MONROE.

The PRESIDENT OF THE UNITED STATES.

Copy of a letter from the Minister of Finance to the Count of Sussy, Counsellor of State, Director General of the Customs.

DECEMBER 25, 1810.

On the 5th of last August, the Minister of Foreign Relations wrote to Mr. Armstrong, minister plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the 1st of November they would cease to have effect; it being well understood, that, in consequence of this declaration, the English would revoke their orders in council, and renounce the new principles of blockade which they wished to

establish, or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation, which announces the revocation of the Berlin and Milan decrees after the 1st of November; and which declares that, in consequence thereof, all the restrictions imposed by the act of the 1st of May, 1809, should cease with respect to France and her dependencies.

The same day the Treasury Department addressed to the collector of the customs a circular, which directs them to admit into the ports and waters of the United States armed French vessels, and enjoins it on them to apply, after the 2d of February next, the law of the 1st of May, 1809, prohibiting all commercial relation to English vessels, of every description, as well as to productions of the soil, industry, or commerce of England and her dependencies.

His Majesty having seen in these two pieces the enunciation of the measures which the Americans propose taking on the 2d of February next, to cause their rights to be respected, has ordered me to inform you that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the 1st of November, or may enter in future; and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the 2d of February I shall acquaint you with the intentions of the Emperor with regard to the definitive measures to be taken for distinguishing and favoring the American navigation.

I have the honor to salute you.

The Minister of Finance,

THE DUKE OF GAETE.

[TRANSLATION.]

Copy of a letter from his excellency the Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes.

FRENCH EMPIRE.

MR. PRESIDENT:

PARIS, December 26, 1810.

The Minister of Foreign Relations, by order of His Majesty the Emperor and King, addressed on the 5th of August last to the plenipotentiary of the United States of America, a note containing the following words:

"I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being well understood, that in consequence of this declaration the English will revoke their orders in council, and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation, to announce the revocation of the decrees of Berlin and Milan, and declared that, in consequence thereof, all the restrictions imposed by the act of the 1st of May must cease with respect to France and her dependencies; on the same day the Treasury Department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the ports and waters of the United States, armed French vessels; prescribes to them to apply, after the 2d of February next, to English vessels of every description, and to the productions arising from the soil and industry or the commerce of England and her dependencies, the law which prohibits all commercial relations, if at that period the revocation of the English orders in council, and of all the acts violating the neutrality of the United States, should not be announced by the Treasury Department.

In consequence of this engagement, entered into by the Government of the United States to cause their rights to be respected, His Majesty orders that all the causes that may be pending in the Council of Prizes of captures of American vessels made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagements to cause their rights to be respected, the said captures shall be declared null by the council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration,

THE DUKE OF MESSA.

C.

Extract of a letter from Mr. Barlow to Mr. Russell.

PARIS, May 11, 1812.

I have concluded to despatch the Wasp to England, expressly to carry to you the documents herewith enclosed.

I was not a little surprised to learn by the declaration of the Prince Regent in council, of the 21st of April, that it was still believed by the British Government that the French decrees of Berlin and Milan yet remained in force, as applicable to the United States. On reading that declaration, I therefore addressed to the Duke of Bassano a note bearing date the 1st of May, of which I enclose you a copy.

This drew from him the answer of which I likewise hand you a copy, with the three documents that accompanied it. The most remarkable of these is the decree of the 28th April, 1811. This piece I had never before seen; it appears that it had not been published at the time of its date, and, not finding it among the archives of this legation, I suspect that, by some omission or neglect, it was not communicated to you as it ought to have been. The duke, however, assures me that it was so communicated. Be this as it may, I am convinced it has not been made known to the British Government.

D.

Extract of a letter from Mr. Russell to Mr. Barlow.

LONDON, *May 29, 1812.*

Your letter of the 11th of this month, with its enclosures, was handed me on the 20th, and I immediately communicated copies of the letters from the French minister of the 21st of December, 1810, and also of the decree of the 28th of April, 1811, to this Government. The letters were already known; but the decree, from the cause undoubtedly which you so justly assign, namely "an omission or neglect in not having communicated it to me," was entirely new.

The Duke of Bassano has unquestionably full faith in what he assures you, but the date of the decree is so very remote, that it is not surprising that our memories should not accord on the subject.

E.

Extract of a letter from Mr. Russell to Mr. Monroe.

LONDON, *May 30, 1812.*

With regard to the French decree of the 28th of April, 1811, Mr. Barlow, in a letter to me, makes the following remarks: "This piece I had never before seen; it seems that it had not been published at the time of its date; and not finding it among the archives of this legation, I suspect that, by some omission or neglect, it was not communicated to you, as it ought to have been. The duke assures me, however, that it was so communicated. Be this as it may, I am convinced it has not been made known to the British Government." I content myself with saying, that, until communicated to me by Mr. Barlow, I had never heard of such a thing. I persuade myself that there is no necessity of my adding any further explanation or comment on this strange business.

With great respect, I am, sir, &c.

JONATHAN RUSSELL.

F.

Mr. Russell to Mr. Monroe.

LONDON, *May 25, 1812.*

SIR:

I have the honor to hand you herein a copy of my note of the 20th of this month, communicating to Lord Castlereagh a decree of the French Government, dated the 28th of April, 1811, and two letters of the French minister, of the 25th of December, 1810. I also send you copies of that decree and of a note from his lordship, acknowledging the receipt of my communication, and engaging to submit the documents above mentioned to His Royal Highness the Prince Regent.

I have the honor to be, with profound respect, sir, your faithful servant,

JONATHAN RUSSELL.

The Hon. JAMES MONROE, &c.

Mr. Russell to Lord Castlereagh.

18, BENTINCK STREET, *May 20, 1812.*

The undersigned, chargé des affaires of the United States of America, has the honor to transmit to Lord Castlereagh authentic copies of a decree purporting to be passed by the Emperor of the French on the 28th day of April, 1811; of a letter addressed by the French Minister of Finances to the Director General of the Customs, on the 25th day of December, 1810; and of another letter of the same date from the French Minister of Justice to the President of the Council of Prizes.

As these acts explicitly recognise the revocation of the Berlin and Milan decrees in relation to the United States, and distinctly make this revocation to take effect from the 1st day of November, 1810, the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to His Britannic Majesty's Government, remove all doubt with respect to the revocation in question, and, joined with all the powerful considerations of justice and expediency so often suggested, lead to a like repeal of the British orders in council, and thereby to a renewal of that perfect amity and unrestricted intercourse between this country and the United States which the obvious interests of both nations require.

The undersigned avails himself of this occasion to assure his lordship of his highest consideration.

JONATHAN RUSSELL.

The Right Hon. LORD VISCOUNT CASTLEREAGH, &c.

NOTE.—For the enclosures, see correspondence between Mr. Barlow and the Duke of Bassano, communicated herewith.

Lord Castlereagh to Mr. Russell.

FOREIGN OFFICE, *May 23, 1812.*

Lord Castlereagh presents his compliments to Mr. Russell, and has the honor to acknowledge the receipt of his official note of the 21st instant, transmitting copies of two official letters of the French minister, dated December 25, 1810, and of a decree of the French Government, bearing date the 28th of April, 1811.

Lord Castlereagh will immediately lay these documents before His Royal Highness the Prince Regent, and avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

JONATHAN RUSSELL, Esq., &c.

G.

Mr. Russell to Mr. Monroe.

LONDON, *May 25, 1812.*

SIR:

The assassination of Mr. Perceval has led to a dissolution of his ministry, and I hope may lead to an abandonment of his system, as far as we are concerned.

The vote on the motion of Mr. Stuart Wortley on the 21st for an address to the Prince Regent to form a more efficient administration, has driven the old ministers to offer their resignation. The new arrangements are entrusted to Lord Wellesley, but nothing is yet effected.

Mr. Canning appears to be associated with his lordship in this business, which I cannot consider as a circumstance very auspicious to us.

There will, undoubtedly, be much difficulty in forming the new cabinet; none of the old ministers will act under Lord Wellesley, he having so recently refused to act under them. Besides, there is considerable difference on essential points of policy. The members of opposition have a repugnance to act under any leader not taken from their own ranks, and they certainly will not constitute a part of any administration that does not adopt their system.

The probability, therefore, is, that either Lord Wellesley and Mr. Canning will not succeed in performing the task imposed upon them, or that they will perform it so imperfectly as to expose their work to early destruction.

Whatever may be the ingredients of which the new cabinet may be composed, I am not altogether without hope that the orders in council will be modified, if not removed. The effects of our embargo, the evidence before Parliament of the distresses occasioned by those orders, and the change of ministers itself, afford both cause and color for this proceeding.

I say nothing of the French decree, of which I this day send you a copy, as, without the circumstances just mentioned, it would, I am persuaded, have been disregarded.

I shall dismiss the Wasp as soon as the new ministry is formed, or before, unless that event happens in a few days. She will return to Cherbourg.

With great respect, I am, &c.

JONATHAN RUSSELL.

Extract of a letter from Mr. Russell to Mr. Monroe.

LONDON, June 13, 1812.

The difficulty which has been encountered in forming a new cabinet has appeared to render it necessary to support the old one; and upon this ground the House of Commons appear to have acted last evening, in giving to ministers, on the second motion of Mr. Wortley, a majority of one hundred and twenty-five.

Notwithstanding these inauspicious circumstances, and all the prejudice of the men now in place respecting the United States, yet I know not how the orders in council can be maintained without the most serious consequences both to this Government and country. It is impossible, in the face of the evidence now before Parliament, to deny the vital importance of our intercourse to this nation; and, obstinate as the ministry is, I do not entirely despair that it will be forced from its system, or from power. I have some slender hope that this evidence may, even on the motion of Mr. Brougham on Tuesday next, produce some change, although it hardly seems probable that the ministers will allow the question to come on without the certainty of a triumph.

Mr. Russell to Mr. Monroe.

SIR:

LONDON, June 18, 1812.

I hand you herein the *Times* of yesterday, containing the debate in the House of Commons on the preceding evening relative to the orders in council. From this debate it appears that these measures are to be abandoned, but as yet no official extinction of them has been announced. The time already elapsed since the declaration of Lord Castlereagh excites a suspicion that either the promised revocation will not take place, or, what is more probable, some other measure equally unjust is now under consideration to replace those which are to be revoked.

I hope, until the doings here are ascertained with certainty and precision, there will be no relaxation on our part.

With great respect, your very obedient servant,

JONATHAN RUSSELL.

Extracts of a letter from Mr. Russell to Mr. Monroe.

LONDON, June 30, 1812.

I have at length had the satisfaction to announce to you, in my letters of the 26th instant, the revocation of the orders in council.

You will, without doubt, be somewhat surprised that this revocation is founded on the French decree of the 28th of April, 1811.

The real cause of the revocation is the measures of our Government. These measures have produced a degree of distress among the manufacturers of this country that was becoming intolerable; and an apprehension of still greater misery from the calamities of war drove them to speak a language which could not be misunderstood or disregarded.

Many members of the House of Commons, who had been the advocates of the orders in council, particularly Mr. Wilberforce, and others from the northern counties, were forced now to make a stand against them, or to meet the indignation of their constituents at the approaching election. It is, therefore, the *country*, and not the opposition, which has driven the ministers to yield on this occasion; and the eloquence of Mr. Brougham would have been in vain had it been destitute of this support.

What has now been done has been most reluctantly done, and yielded to coercion instead of being dictated by a spirit of justice and conciliation. The ministers were resolved to concede nothing until the last extremity. Lord Castlereagh undoubtedly went down to the House of Commons on the 16th instant determined to preserve the orders in council in their full force; and when he perceived that he should be in the minority, he endeavored to compromise by giving up as little as possible.

It was decided by the cabinet, in consequence of the vague declarations of his lordship on that night, to *suspend* the orders in council, and to make this suspension to depend upon conditions to be previously proposed to the United States. Driven from this ground by the motion of Mr. Brougham for the call of the House for Thursday, the 25th of this month, the ministers at length issued the order of the 23d, and even this order was carried in the cabinet by a small majority, only five members voting against it. With these facts before me, I feel myself constrained to chasten my exultation on what has taken place, with some fear of a return of the old injustice in a new form.

H.

Mr. Graham to Mr. Russell.

SIR:

DEPARTMENT OF STATE, August 9, 1812.

The Secretary left this city about ten days ago on a short visit to Virginia. Since that period Mr. Baker has, in consequence of some despatches from his Government addressed to Mr. Foster, made to me a communication respecting the intentions of his Government as regards the orders in council. It was of a character, however, so entirely informal and confidential, that Mr. Baker did not feel himself at liberty to make it in the form of a note verbal or *pro memoria*, or even permit me to take a memorandum of it at the time he made it. As it authorizes an expectation that something more precise and definite in an official form may soon be received by this Government, it is the less necessary that I should go into an explanation of the views of the President in relation to it, more particularly as the Secretary of State is daily expected, and will be able to do it in a more satisfactory manner.

I refer you to the enclosed papers for information as to the maritime and military movements incident to the war, and will add, that the President is anxious to know as soon as possible the result of the proposals you were authorized to make to the British Government respecting an armistice. He considers them so fair and reasonable, that he cannot but hope that they will be acceded to, and thus be the means of hastening an honorable and permanent peace.

I have the honor, &c.

JONATHAN RUSSELL, Esq., &c.

JOHN GRAHAM.

Mr. Graham to Mr. Russell.

SIR:

DEPARTMENT OF STATE, August 10, 1812.

Thinking that it may possibly be useful to you, I do myself the honor to enclose a memorandum of the conversation between Mr. Baker and myself, alluded to in my letter of this date. From a conversation with Mr. Baker, since this memorandum was made, I find that I was correct in representing to the President that the intimation from Mr. Foster and the British authorities at Halifax was to be understood as connected with a suspension of hostilities on the frontiers of Canada.

I have the honor, &c.

JONATHAN RUSSELL, Esq., &c.

JOHN GRAHAM.

[Memorandum referred to in the above letter.]

Mr. Baker verbally communicated to me, for the information of the President, that he had received despatches from his Government, addressed to Mr. Foster, (dated, I believe, about the 17th June,) from which he was authorized to say, that an official declaration would be sent to this country, that the orders in council, so far as they affected the United States, would be repealed on the 1st of August, to be revived on the 1st May, 1813, unless the conduct of the French Government, and the result of the communications with the American Government, should be such as, in the opinion of His Majesty, to render their revival unnecessary. Mr. Baker moreover stated, that the orders would be revived, provided the American Government did not, within fourteen days after they received the official declaration of their repeal, admit British armed vessels into their ports, and put an end to the restrictive measures which had grown out of the orders in council.

The despatches authorizing the communication to the American Government expressly directed that it should be made verbally, and Mr. Baker did not consider himself at liberty to reduce it to writing, even in the form of a note verbal or *pro memoria*, or to suffer me to take a memorandum of his communication at the time he made it. I understood from him that the despatches had been opened by Mr. Foster at Halifax, who, in consequence of a conversation he had had with Vice Admiral Sawyer and Sir John Sherbrooke, had authorized Mr. Baker to say that these gentlemen would agree, as a measure leading to a suspension of hostilities, that all captures made after a day to be fixed should not be proceeded against immediately, but be detained to await the future decision of the two Governments. Mr. Foster had not seen Sir George Prevost, but had written to him by express, and did not doubt but that he would agree to an arrangement for the temporary suspension of hostilities. Mr. Baker also stated that he had received an authority from Mr. Foster to act as *chargé des affaires*, provided the American Government would receive him in that character, for the purpose of enabling him officially to communicate the declaration which was to be expected from the British Government; his functions to be understood, of course, as ceasing on the renewal of hostilities. I replied that, although to so general and informal a communication no answer might be necessary, and certainly no particular answer expected, yet I was authorized to say, that the communication is received with sincere satisfaction, as it is hoped that the spirit in which it was authorized by his Government may lead to such further communications as will open the way, not only for an early and satisfactory termination of existing hostilities, but to that entire adjustment of all the differences which produced them, and to that permanent peace and solid friendship which ought to be mutually desired by both countries, and which is sincerely desired by this.

With this desire, an authority was given to Mr. Russell on the subject of an armistice, as introductory to a final pacification, as has been made known to Mr. Foster; and the same desire will be felt on the receipt of the further and more particular communications which are shortly to be expected.

With respect to the joint intimation from Mr. Foster and the British authorities at Halifax, on the subject of suspending judicial proceedings in the case of maritime captures, to be accompanied by a suspension of military operations, the authority given to Mr. Russell just alluded to, and of which Mr. Foster was the bearer, is full proof of the solicitude of the Government of the United States to bring about a general suspension of hostilities on admissible terms, with as little delay as possible. It was not to be doubted, therefore, that any other practicable expedient for attaining a similar result would readily be concurred in. Upon the most favorable consideration, however, which could be given to the expedient suggested through him, it did not appear to be reducible to any practical shape to which the Executive would be authorized to give it the necessary sanction. Nor, indeed, is it probable, if it was less liable to insuperable difficulties, that it could have any material effect previous to the result of the pacific advance made by this Government, and which must, if favorably received, become operative as soon as any other arrangement that could now be made. It was stated to Mr. Baker, that the President did not, under existing circumstances, consider Mr. Foster as vested with the power of appointing a *chargé des affaires*; but that no difficulty, in point of form, would be made, as any authentic communication through him, or any other channel, would be received with attention and respect.

Mr. Monroe to Mr. Barlow.

SIR:

DEPARTMENT OF STATE, June 16, 1812.

An act declaring war against Great Britain will probably pass both Houses of Congress on this day or tomorrow. It has already passed the House of Representatives, and, from what is known of the disposition of the Senate, its assent is expected without delay.

This result has grown out of the continued aggressions of that Power on our commerce. Propositions were made in both Houses of Congress to comprise France in the same declaration; and in the Senate the vote was fifteen for, to seventeen against it. In the other House the majority against it was proportionably greater. Its defeat in both Houses has been, doubtless, in a great measure, owing to a passage in your last letter, which intimated the intention of the French Government to make some proposition in favor of indemnities, to be comprised in the treaty you were negotiating, whereby an expectation was excited that that interest would be provided for, and satisfaction given on the other grounds of complaint against France. The sentiment in both Houses, as it is with the nation generally, produced by so many acts of injustice, for which reparation has not been made, is strong against France. The arrival of the *Wasp*, which you promised to despatch in two or three weeks from the date of your last letter, with the result of your labors, and which may be now daily expected, was another motive for delaying ulterior measures with respect to her. In advising the war against England, as was distinctly implied by the late message, which brought that subject under consideration, the President stated to Congress his strong dissatisfaction with the conduct of the French Government on every former ground of complaint, and to which others of more recent date have been added, with the single exception of the repeal of the decrees. He promised also to bring our affairs with that Power fully before Congress as soon as he should receive the communications which you had promised to forward by the *Wasp*. I communicate these facts, which are of a character too marked to require any comment, that you may be enabled to turn them to the best account in promoting an amicable accommodation with the French Government of every wrong received from it, which is sincerely desired.

You were informed by my letter of the 6th of May of such outrages committed by a squadron which was reported to have sailed from Nantz in January last, as were, at that time, known here. It appears that several vessels sailing from American ports to Lisbon and Cadiz, laden with the productions of the United States, were seized and burnt at sea. The crews of these vessels were taken on board one of the French vessels, and afterwards transferred to another of our vessels engaged in the same trade, which was also seized, in which they made their way home. These men forwarded here the evidence of these acts, copies of which have already been transmitted to you. I forward to you, by this conveyance, the evidence of other aggressions, which will claim, in like manner, your particular attention. Most of these documents have been laid before Congress, and referred by it to this Department.

You will analyze all these cases of recent spoliations, and place them in the class of aggressions to which they severally belong on principle. In demanding of Great Britain the repeal of her orders in council, on the ground of the repeal of the French decrees, this Government has, from a regard to justice, given to France all the credit to which she had any claim, believing that the notification alone of the French Minister of Foreign Affairs to the minister plenipotentiary of the United States at Paris of their repeal, was sufficient to justify the demand of the repeal of the orders in council of Great Britain, on her own principles. But it was never the intention of this Government to concede to France any thing on that subject, to which she was not fairly entitled. On the contrary, it has been its intention, as is sufficiently evident by your first instructions, to exact from her a most strict and rigorous compliance with her pledge in regard to the repeal. If any act in violation of that pledge has been committed, you will not fail to point it out in the most distinct manner to the French Government, and to communicate to this Department without delay any answer which you may receive from it. I have to add, admitting that the repeal of the decrees is observed with perfect good faith, that if the French Government has given other orders, or permits acts of another character, which violate our rights, the wrong will not be less sensibly felt or less resented by this Government.

Your despatches by the *Hornet* were received on the 22d May. They are the last which have come to hand.
I have the honor, &c.

JAMES MONROE.

JOEL BARLOW, Esq., &c.

Mr. Monroe to Mr. Barlow.

SIR:

DEPARTMENT OF STATE, July 14, 1812.

Your letters by the *Wasp* were received on the 13th instant. I make this acknowledgment, in the hope that it may reach Mr. Morton at Baltimore, and be conveyed with the letters and documents with which he is already charged for you.

The President has seen with great surprise and concern that the Government of France had made no accommodation to the United States on any of the important and just grounds of complaint to which you had called its attention, according to your instructions, given at the time of your departure, and repeated in several communications since. It appears that the same oppressive restraints on our commerce were still in force; that the system of license was persevered in; that indemnity had not been made for spoliations, nor any pledge given to inspire confidence that any would be made. More recent wrongs, on the contrary, and of a very outrageous character, have been added to those with which you were acquainted when you left the United States. By documents forwarded to you in my letter of 21st March, you were informed of the waste of our commerce, made by a squadron from Nantz in January last, which burnt many of our vessels trading to the peninsula. For these you were also instructed to demand redress.

It is hoped that the Government of France, regarding with a prudent foresight the probable course of events, will have some sensibility to its interest, if it has none to the claims of justice, on the part of this country.

On the French decree of the 28th of April, 1811, I shall forbear to make many observations which have already occurred, until all the circumstances connected with it are better understood. The President approves your effort to obtain a copy of that decree, as he does the communication of it afterwards to Mr. Russell.

I have the honor, &c.

JAMES MONROE.

JOEL BARLOW, Esq., &c.

[The following report, relating to the foregoing documents, was made to the House of Representatives, July 13, 1813.]

The Committee of Foreign Relations, to whom was referred the President's message of the 12th instant, and the accompanying documents, report:

That they have examined the message and documents with all the attention their importance demands. Your committee will not indulge themselves in making the various observations which the interesting subjects brought under their consideration naturally suggest. The delay incident to such a course, connected with the lateness of the session, and the advanced season of the year, forbid so wide a range; but they cannot abstain from remarking that, while the message and documents furnish strong additional proof of the justice and necessity of the war, they also present powerful motives for the steady and vigorous prosecution of it as the surest means of a safe and honorable peace. It can now no longer be doubted that it was the pressure of our measures, combined with the determination of Congress to redress our wrongs by arms, and not the repeal of the French decrees, that broke down the orders in council of 1807 and 1809, that dangerous system of monopoly by which we were, as to our commerce, in fact recolonized. Let us then persevere, and, under a just Providence, we cannot doubt of final success. The reward is worthy of the cost and privation—it is no less than the lasting peace and independence of ourselves and our posterity.

There is another view of the subject which your committee are compelled to present to the House. It is due to justice to consider the message and documents in relation to the conduct of the Executive. They are aware that, on ordinary occasions, it is not proper for this House to express sentiments of approbation or censure on the conduct of the President, but submit with deference, that, as through this body he is responsible to the people for the faithful discharge of his duties, there are cases in which it is not only the right but the duty of this House to express its opinion. Such, in the judgment of your committee, is the present. The language of the resolutions and the motives avowed by their supporters leave no alternative; to be silent, would be to condemn. Upon a full investigation of the conduct of the Executive in relation to Great Britain and France, as disclosed in the message and documents, your committee are of opinion that a just course has been pursued towards both nations, and in no instance has the dignity, honor, or interests of the United States been compromised.

Your committee, therefore, recommend the adoption of the following resolution:

Resolved, That the conduct of the Executive, in relation to the various subjects referred to in the resolutions of the 21st day of June, 1813, meets with the approbation of this House.

13th CONGRESS.]

No. 257.

[1st SESSION.]

SWEDEN.

COMMUNICATED TO THE SENATE, MAY 31, JUNE 7, AND JULY 6, 1813.

To the Senate of the United States:

MAY 29, 1813.

The Swedish Government having repeatedly manifested a desire to interchange a public minister with the United States, and having lately appointed one with that view, and other considerations occurring to render it advisable at this period to make a correspondent appointment:

I nominate Jonathan Russell, of Rhode Island, to be minister plenipotentiary of the United States to Sweden.

JAMES MADISON.

To the Senate of the United States:

WASHINGTON, June 7, 1813.

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 3d instant.

JAMES MADISON.

DEPARTMENT OF STATE, June 7, 1813.

The Secretary of State, to whom was referred the resolution of the Senate of the 3d instant, requesting the President to cause to be laid before the Senate the correspondence which may have passed between the United States and the King of Sweden, respecting the interchange of public ministers, has the honor to report to the President that no direct correspondence has taken place on the subject.

In reference to the object of the resolution, the Secretary of State submits several extracts of letters from Mr. Speyer, consul of the United States at Stockholm, and a letter from Mr. Beasley, commissary of prisoners at London, by which the wishes and intentions of the Swedish Government, in relation to the interchange of ministers, have been made known to this Department.

Respectfully submitted.

JAS. MONROE.

Mr. Beasley to the Secretary of State.

SIR:

LONDON, December 12, 1812.

Referring to my letter of the 10th instant, I have now the honor to transmit a copy of the letter which I informed you that I had received from Mr. Speyer, and of that which I stated it was my intention to address to him on the subject of our relations with Sweden.

Notwithstanding the present apparent irritation of the Swedish Government, I have been assured by Mr. De Kantzow, and I learn, from other sources, that it has invariably manifested the most friendly disposition towards

the United States. Those American vessels which have sought shelter in its ports have experienced perfect protection. British cruisers are not allowed, within its territories, to dispose of the prizes they make from the United States; and, in some instances, the protection of Swedish convoy has been afforded to American vessels passing through the Sound. Indeed, this circumstance, Mr. De Kantzow informed me, had been mentioned to him by Lord Castlereagh with no satisfaction.

I fear, however, that the art and intrigues of our enemy will, if not speedily counteracted, produce a state of things equally unfriendly. I collect, from various quarters, that considerable dissatisfaction is entertained by the Swedish Government that the United States have not appointed a minister near it. The jealousy which has long existed between Sweden and Denmark is said to have contributed no little to the feeling to which this mission has given rise, seeing that the United States have had a minister near the Danish Government. Mr. De Kantzow seemed anxious to know whether a minister was or would be appointed; and I am inclined to believe that his stay here is prolonged on that account. The Crown Prince is fond of court splendor, the Government is poor, and, to say nothing of the two great spoliators, the example of Denmark is immediately before it.

I beg to add that the result of all the information that I can collect is, that the fate of all the American property now in the dominions of Sweden will depend on the course which the Government of the United States may pursue on this critical and delicate emergency.

I have the honor to be, with great respect, your most obedient, humble servant,

R. G. BEASLEY.

Extract of a letter from John Speyer, Esq., consul of the United States at Stockholm, to the Secretary of State, dated

STOCKHOLM, January 18, 1812.

The Minister of Foreign Affairs, in the course of our conversation yesterday, mentioned that both the King and Prince Royal were desirous to maintain and extend the friendly relations and commercial intercourse now subsisting between us, and intended to send a minister or chargé d'affaires to the United States. He would name the person designated for that mission, were it ascertained whether he accepted of it.

Extract of a letter from the same to the same, dated

STOCKHOLM, January 21, 1812.

The gentleman mentioned in my last, as intended to be sent to the United States, is Mr. Kantzow, who lately returned from the Brazils, where he resided as chargé d'affaires of the King several years. He had before been consul general of Sweden in Portugal. He informed me yesterday that he was to go as chargé d'affaires, which he refused, but consented to accept the appointment as minister. From the personal knowledge I have of Mr. Kantzow, I think him well calculated to contribute to the good understanding of our respective Governments.

Extract:—Same to the same.

STOCKHOLM, March 31, 1812.

On the 24th the Minister of Foreign Affairs told me that the King had, on that day, directed him to inform me that he would send Mr. Kantzow as minister resident to the United States. I understand Mr. Kantzow is to leave this, with his family, early in May, by way of England.

Extract:—Same to the same.

OEREBRO, May 18, 1812.

Mr. Kantzow, who is appointed minister to the United States, is still here. He expects to receive his instructions soon, when he will set out on his voyage.

Extract:—Same to the same.

STOCKHOLM, September 25, 1812.

Mr. Kantzow has received his credentials as minister resident at Washington, and was despatched from Oerebro on the 15th ultimo. He is now in London, and will probably remain there next winter. The Prince Royal informed me the 4th instant that he had directed Mr. Kantzow to represent to the English Government his desire to see a good understanding restored with the United States.

Extract:—Same to the same.

STOCKHOLM, September 25, 1812.

As this Government expects the appointment of a minister or chargé d'affaires, in return for Mr. Kantzow's mission, I have not presented the commission as consul for this place. I was apprehensive it might be ungraciously received here after their notification of the appointment of a minister.

To the Senate of the United States:

WASHINGTON, July 6, 1813.

I have received from the committee appointed by the resolution of the Senate of the 14th day of June, a copy of that resolution, which authorizes the committee to confer with the President on the subject of the nomination made by him of a minister plenipotentiary to Sweden.

Conceiving it to be my duty to decline the proposed conference with the committee, and it being uncertain when it may be convenient to explain to the committee, and through them to the Senate, the grounds of my so

doing, I think it proper to address the explanation directly to the Senate. Without entering into a general review of the relations in which the constitution has placed the several departments of the Government to each other, it will suffice to remark that the Executive and Senate, in the cases of appointments to office, and of treaties, are to be considered as independent of and co-ordinate with each other. If they agree, the appointments or treaties are made. If the Senate disagree, they fail. If the Senate wish information previous to their final decision, the practice, keeping in view the constitutional relations of the Senate and the Executive, has been either to request the Executive to furnish it, or to refer the subject to a committee of their body to communicate, either formally or informally, with the head of the proper Department. The appointment of a committee of the Senate to confer immediately with the Executive himself appears to lose sight of the co-ordinate relation between the Executive and the Senate which the constitution has established, and which ought therefore to be maintained.

The relation between the Senate and House of Representatives, in whom legislative power is concurrently vested, is sufficiently analogous to illustrate that between the Executive and Senate in making appointments and treaties. The two Houses are, in like manner, independent of and co-ordinate with each other; and the invariable practice of each, in appointing committees of conference and consultation, is to commission them to confer, not with the co-ordinate body itself, but with a committee of that body; and although both branches of the Legislature may be too numerous to hold conveniently a conference with committees, were they to be appointed by either to confer with the entire body of the other, it may be fairly presumed that if the whole number of either branch were not too large for the purpose, the objection to such a conference, being against the principle, as derogating from the co-ordinate relations of the two Houses, would retain all its force.

I add only that I am entirely persuaded of the purity of the intentions of the Senate in the course they have pursued on this occasion, and with which my view of the subject makes it my duty not to accord; and that they will be cheerfully furnished with all the suitable information in possession of the Executive, in any mode deemed consistent with the principles of the constitution, and the settled practice under it.

JAMES MADISON.

13th CONGRESS.]

No. 258.

[1st SESSION.]

PROHIBITION OF EXPORTS.

(Confidential.)

COMMUNICATED TO THE SENATE, JULY 20, 1813.

To the Senate and House of Representatives of the United States:

WASHINGTON, July 20, 1813.

There being sufficient ground to infer that it is the purpose of the enemy to combine with the blockade of our ports special licenses to neutral vessels, or to British vessels in neutral disguises, whereby they may draw from our country the precise kind and quantity of exports essential to their wants, whilst its general commerce remains obstructed, keeping in view also the insidious discrimination between the different ports of the United States; and as such a system, if not counteracted, will have the effect of diminishing very materially the pressure of the war on the enemy, and encouraging a perseverance in it, at the same time that it will leave the general commerce of the United States under all the pressure the enemy can impose, thus subjecting the whole to British regulation in subserviency to British monopoly, I recommend to the consideration of Congress the expediency of an immediate and effectual prohibition of exports, limited to a convenient day in their next session, and removable, in the mean time, in the event of a cessation of the blockade of our ports.

JAMES MADISON.

13th CONGRESS.]

No. 259.

[2d SESSION.]

PROHIBITION OF EXPORTS.

(Confidential.)

COMMUNICATED TO CONGRESS, DECEMBER 9, 1813.

To the Senate and House of Representatives of the United States:

DECEMBER 9, 1813.

The tendency of our commercial and navigation laws, in their present state, to favor the enemy, and thereby prolong the war, is more and more developed by experience. Supplies of the most essential kinds find their way not only to British ports and British armies at a distance, but the armies in our neighborhood, with which our own are contending, derive from our ports and outlets a subsistence attainable with difficulty, if at all, from other sources. Even the fleets and troops infesting our coasts and waters are, by like supplies, accommodated and encouraged in their predatory and incursive warfare.

Abuses, having a like tendency, take place in our import trade. British fabrics and products find their way into our ports, under the name and from the ports of other countries, and often in British vessels disguised as neutrals by false colors and papers.

To these abuses it may be added, that illegal importations are openly made, with advantage to the violators of the law, produced by undervaluations, or other circumstances involved in the course of the judicial proceedings against them.

It is found, also, that the practice of ransoming is a cover for collusive captures, and a channel for intelligence advantageous to the enemy.

To remedy as much as possible these evils, I recommend:—

That an effectual embargo on exports be immediately enacted.

That all articles known to be derived either not at all, or in an immaterial degree only, from the productions of any other country than Great Britain, and particularly the extensive articles made of wool and cotton materials, and ardent spirits made from the cane, be expressly and absolutely prohibited, from whatever port or place, or in whatever vessels, the same may be brought into the United States; and that all violations of the non-importation act be subjected to adequate penalties.

That among the proofs of the neutral and national character of foreign vessels, it be required that the masters and supercargoes, and three-fourths, at least, of the crews, be citizens or subjects of the country under whose flag the vessels sail.

That all persons concerned in collusive captures by the enemy, or in ransoming vessels or their cargoes from the enemy, be subjected to adequate penalties.

To shorten as much as possible the duration of the war, it is indispensable that the enemy should feel all the pressure that can be given to it; and the restraints having that tendency will be borne with the greater cheerfulness by all good citizens, as the restraints will affect those most who are most ready to sacrifice the interests of their country in pursuit of their own.

JAMES MADISON.

13th CONGRESS.]

No. 260.

[2nd SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, JANUARY 7, 1814.

To the Senate and House of Representatives of the United States:

JANUARY 6, 1814.

I transmit for the information of Congress copies of a letter from the British Secretary of State for Foreign Affairs to the Secretary of State, with the answer of the latter.

In appreciating the accepted proposal of the Government of Great Britain for instituting negotiations for peace, Congress will not fail to keep in mind that vigorous preparations for carrying on the war can in no respect impede the progress to a favorable result; whilst a relaxation of such preparations, should the wishes of the United States for a speedy restoration of the blessings of peace be disappointed, would necessarily have the most injurious consequences.

JAMES MADISON.

Lord Castlereagh to the Secretary of State.

SIR:

FOREIGN OFFICE, *November 4, 1813.*

I have the honor to enclose to you, for the information of the President of the United States, copy of a note which His Britannic Majesty's ambassador at the court of St. Petersburg was directed to present to the Russian Government, as soon as His Royal Highness the Prince Regent was informed that plenipotentiaries had been nominated on the part of the American Government for the purpose of negotiating for peace with Great Britain, under the mediation of His Imperial Majesty.

His lordship having, by the last courier from the imperial head-quarters, acquainted me that the American commissioners now at St. Petersburg have intimated, in reply to this overture, that they had no objection to a negotiation at London, and were equally desirous, as the British Government had declared itself to be, that this business should not be mixed with the affairs of the continent of Europe, but that their powers were limited to negotiate under the mediation of Russia:

Under these circumstances, and in order to avoid an unnecessary continuance of the calamities of war, the Prince Regent commands me to transmit, by a flag of truce, to the American port nearest to the seat of Government, the official note above mentioned, in order that the President, if he should feel disposed to enter upon a direct negotiation for the restoration of peace between the two States, may give his directions accordingly.

In making this communication, I can assure you that the British Government is willing to enter into discussion with the Government of America for the conciliatory adjustment of the differences subsisting between the two States, with an earnest desire on their part to bring them to a favorable issue, upon principles of perfect reciprocity, not inconsistent with the established maxims of public law, and with the maritime rights of the British empire.

The admiral commanding the British squadron on the American station will be directed to give the necessary protection to any persons proceeding to Europe, on the part of the Government of the United States, in furtherance of this overture; or, should the American Government have occasion to forward orders to their commissioners at St. Petersburg, to give the requisite facilities, by cartel or otherwise, to the transmission of the same.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

CASTLEREAGH.

To the AMERICAN SECRETARY OF STATE, &c.

Lord Cathcart to the Count De Nesselrode.

A TOPLITZ, *le 1er Septembre, 1813.*

Le soussigné, ambassadeur de Sa Majesté Britannique près Sa Majesté L'Empereur de toutes les Russies, désirent profiter de la première occasion pour renouveler une matière dont il a été question dans une conférence

au moment du départ de Reichenbach, touchant l'Amérique, a l'honneur d'adresser cette note à son excellence monsieur le Comte de Nesselrode.

Quoique le Prince Regent, pour les raisons qui ont déjà été communiquées, ne se soit pas trouvé dans le cas d'accepter la médiation de Sa Majesté Impériale pour terminer les dissensions avec les Etats Unis d'Amérique, Son Altesse Royale désire, néanmoins, de donner effet aux vœux bienfaisans que Sa Majesté Impériale a déclaré de pouvoir bientôt voir terminé la guerre entre la Grande Bretagne et l'Amérique, au contentement mutuel des deux Gouvernemens.

Pour cet objet, Son Altesse Royale, ayant su que les plénipotentiaires envoyés de la part des Etats Unis pour négocier une paix avec la Grande Bretagne sous la médiation de Sa Majesté Impériale, sont arrivés en Russie, non-obstant qu'elle se trouve dans la nécessité de ne pas accepter l'entremise d'aucune Puissance amie pour la question qui fait l'objet principal en dispute entre les deux Etats, elle est, néanmoins, prête à nommer des plénipotentiaires pour traiter directement avec les plénipotentiaires Américains.

Les vœux de Son Altesse Royale sont bien sincères pour que les conférences de ces plénipotentiaires puissent réussir à rétablir entre les deux peuples le bonheur et les avantages réciproques de la paix.

Si par les bons offices de Sa Majesté Impériale cette proposition serait acceptée, le Prince Regent préférerait que les conférences puissent se tenir à Londres, à cause des facilités qui en résulteraient pour les discussions.

Mais si ce choix rencontrerait des obstacles insuperables, Son Altesse Royale consentirait à substituer Gothenbourg comme l'endroit le plus rapproché de l'Angleterre.

Le soussigné, &c.

CATHCART.

[TRANSLATION.]

TOPLITZ, September 1, 1813.

The undersigned, ambassador of His Britannic Majesty to the Emperor of all the Russias, desiring to avail himself of the first occasion to renew the subject respecting America, which was brought into discussion in a conference at the moment of his departure from Reichenbach, has the honor to address this note to his excellency the Count de Nesselrode.

Although the Prince Regent, for reasons which have been already made known, has not found himself in a situation to accept the mediation of His Imperial Majesty, for terminating the dissensions with the United States of America, His Royal Highness desires, nevertheless, to give effect to the beneficent wishes which His Imperial Majesty has expressed of seeing the war between Great Britain and America soon terminated, to the mutual satisfaction of the two Governments.

With this view, His Royal Highness, having learned that the envoys plenipotentiary of the United States for negotiating a peace with Great Britain, under the mediation of His Imperial Majesty, have arrived in Russia, notwithstanding that he finds himself under the necessity of not accepting the interposition of any friendly Power in the question which forms the principal object in dispute between the two States, he is nevertheless ready to nominate plenipotentiaries to treat directly with the American plenipotentiaries.

His Royal Highness sincerely wishes that the conferences of these plenipotentiaries may result in re-establishing between the two nations the blessing and the reciprocal advantages of peace.

If, through the good offices of His Imperial Majesty, this proposition should be accepted, the Prince Regent would prefer that the conferences should be held at London, on account of the facilities which it would give to the discussions.

But if this choice should meet with insuperable obstacles, His Royal Highness would consent to substitute Gothenburg, as the place nearest to England.

The undersigned, &c.

CATHCART.

Secretary of State to Lord Castlereagh.

MY LORD:

DEPARTMENT OF STATE, January 5, 1814.

I have had the honor to receive, by a flag of truce, your lordship's letter of the 4th of November last, and a copy of a note which His Britannic Majesty's ambassador at the court of St. Petersburg presented to the Russian Government on the 1st of September preceding.

By this communication it appears that his Royal Highness the Prince Regent rejected the mediation offered by His Imperial Majesty to promote peace between the United States and Great Britain, but proposed to treat directly with the United States at Gothenburg, or London, and that he had requested the interposition of the good offices of the Emperor in favor of such an arrangement.

Having laid your lordship's communication before the President, I am instructed to state, for the information of His Royal Highness the Prince Regent, that the President has seen with regret the new obstacle to the commencement of a negotiation for the accommodation of differences between the United States and Great Britain. As the Emperor of Russia was distinguished for his rectitude and impartiality; and was moreover engaged in a war as an ally of England, whereby it was his interest to promote peace between the United States and Great Britain, the President could not doubt that His Royal Highness the Prince Regent would accept the mediation which His Imperial Majesty had offered to them. It was the confidence with which the high character of the Emperor inspired the President that inclined him, disregarding considerations which a more cautious policy might have suggested, to accept the overture with promptitude, and to send ministers to St. Petersburg to take advantage of it. It would have been very satisfactory to the President if His Royal Highness the Prince Regent had found it compatible with the views of Great Britain to adopt a similar measure, as much delay might have been avoided in accomplishing an object which it is admitted is of high importance to both nations.

The course proposed as a substitute for negotiations at St. Petersburg, under the auspices of the Emperor of Russia, could not, I must remark to your lordship, have been required for the purpose of keeping the United States unconnected, against Great Britain, with any affairs of the continent. There was nothing in the proposed mediation tending to such a result. The terms of the overture indicated the contrary. In offering to bring the parties together, not as an umpire, but as a common friend, to discuss and settle their differences and respective claims, in a manner satisfactory to themselves, His Imperial Majesty showed the interest which he took in the welfare of both parties.

Wherever the United States may treat, they will treat with the sincere desire they have repeatedly manifested of terminating the present contest with Great Britain, on conditions of reciprocity consistent with the rights of both parties as sovereign and independent nations, and calculated not only to establish present harmony, but to provide, as far as possible, against future collisions which might interrupt it.

Before giving an answer to the proposition communicated by your lordship to treat with the United States independently of the Russian mediation, it would have been agreeable to the President to have heard from the plenipotentiaries of the United States sent to St. Petersburg. The offer of a mediation by one Power, and the acceptance of it by another, form a relation between them, the delicacy of which cannot but be felt. From the known character, however, of the Emperor, and the benevolent views with which his mediation was offered, the President cannot doubt that he will see with satisfaction a concurrence of the United States in an alternative, which, under existing circumstances, affords the best prospect of attaining speedily what was the object of his interposition. I am accordingly instructed to make known to your lordship, for the information of His Royal Highness the Prince Regent, that the President accedes to his proposition, and will take the measures depending on him for carrying it into effect at Gottenburg, with as little delay as possible; it being presumed that His Majesty the King of Sweden, as the friend of both parties, will readily acquiesce in the choice of a place for their pacific negotiations within his dominions.

The President is duly sensible of the attention of His Royal Highness the Prince Regent in giving the orders to the admiral commanding the British squadron on this coast, which your lordship has communicated.

I have the honor to be, &c.

JAS. MONROE.

13th CONGRESS.]

No. 261.

[2d SESSION.

MEDIATION OF RUSSIA.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1814.

To the House of Representatives of the United States:

JANUARY 18, 1814.

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 13th instant.

JAMES MADISON.

DEPARTMENT OF STATE, *January 18, 1814.*

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 13th instant, requesting the President to lay before the House such documents relative to the Russian mediation as, in his opinion, it may not be improper to communicate, has the honor to transmit to the President, for the information of the House, the following letters in relation to that subject, viz:

A letter in French (with a translation) from M. Daschkoff, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of Russia to the Secretary of State, of the 8th March, 1813, with the answer of the Secretary of State of the 11th of March.

An extract of a letter from the Secretary of State to Mr. Adams, minister of the United States at St. Petersburg, of the 1st July, 1812, and four letters and extracts from Mr. Adams to the Secretary of State, bearing date respectively on the 30th September, 17th October, and 11th December, 1812, and on the 26th June, 1813.

All which is respectfully submitted.

JAMES MONROE.

Mr. De Daschkoff to the Secretary of State.

WASHINGTON, le 24 Février, (*March 8,*) 1813.

Le soussigné, envoyé extraordinaire et ministre plenipotentiare de Sa Majesté l'Empereur de toutes les Russies, a l'honneur de communiquer à monsieur le Secrétaire d'Etat des Etats Unis d'Amérique, qu'il vient de recevoir des ordres de l'Empereur son maître, de faire l'ouverture suivante à son excellence monsieur le Président des Etats Unis.

La paix de la Russie avec l'Angleterre paroissait présenter cet immense bénéfice au commerce de presque tous les peuples navigateurs, qu'elle affranchissait leurs relations de cette gêne, de cette tourmente continuelle, à laquelle il était livré sans cesse depuis plusieurs années. L'Empereur considèrait avec plaisir un résultat si conforme à toutes ses pensées, et qui se présentait comme n'étant pas douteux. Il le devint, cependant, par la guerre qui s'alluma entre l'Angleterre et l'Amérique.

Le soussigné est enjoint d'exprimer à monsieur le Président des Etats Unis le regret avec lequel Sa Majesté Impériale prévoit les grandes entraves que cette nouvelle épisode va causer à la prospérité commerciale des nations. L'amour de l'humanité et ce qu'elle doit à ses peuples, dont le commerce a déjà assez souffert, lui commandent le faire tout ce qui dépendra d'elle pour écarter les maux que prépare cette guerre aux peuples même qui n'y prendront pas de part. Sa Majesté, qui se plaît à rendre justice à la sagesse du Gouvernement des Etats Unis d'Amérique, est convaincue qu'il a fait tout ce qu'il pouvait pour empêcher que cette scission n'éclata; mais qu'en traitant directement il était à cette négociation ce qu'elle pouvait avoir d'impartial. Dans une discussion directe, tout devait offrir une sorte d'aliment aux préventions et à l'aigreur des parties.

Afin d'obvier cet inconvénient, Sa Majesté l'Empereur, charmé de pouvoir donner une preuve de son amitié à Sa Majesté le Roi de la Grande Bretagne, et également aux Etats Unis d'Amérique, désira leur offrir sa médiation, et chargea le soussigné de la proposer à monsieur le Président des Etats Unis.

Le soussigné ayant l'honneur de communiquer à monsieur le Secrétaire d'Etat les sentimens et les vœux de Sa Majesté Impériale, le prie de les faire parvenir à la connaissance de son excellence monsieur le Président des Etats Unis. L'Empereur éprouverait une grande satisfaction si des dispositions semblables du Gouvernement des Etats Unis auraient l'effet d'arrêter les progrès de cette guerre nouvelle, et de l'éteindre dans son origine.

Après les assurances agréables que monsieur le Président des Etats Unis a constamment données au soussigné des sentimens d'égard et d'amitié de la part des Etats Unis, et de cette de son excellence envers la Russie, et particulièrement envers l'auguste personne de Sa Majesté, il ne peut que se flatter de recevoir une réponse qui correspondra aux généreux souhaits de l'Empereur son maître.

Le soussigné ne saurait s'empêcher d'exprimer ici à monsieur le Secrétaire d'Etat ses vœux personnels pour tout ce qui peut rétablir les relations actives entre la Russie et les Etats Unis, et avancer la prospérité de la république.

Il saisit avec empressement cette occasion de renouveler à monsieur le Secrétaire d'Etat l'assurance de sa plus haute considération et de son respect.

ANDRE DE DASCHKOFF.

A Monsieur MONROE, *Secrétaire d'Etat des Etats Unis d'Amérique, &c.*

Mr. De Daschkoff, envoy extraordinary and minister plenipotentiary of His Imperial Majesty the Emperor of all the Russias, to the Secretary of State of the United States.

[TRANSLATION.]

WASHINGTON, *February 24, (March 8), 1813.*

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of all the Russias, has the honor to make known to the Secretary of State of the United States of America, that he has just received orders from the Emperor his master, to make the following overture to his excellency the President of the United States:

The peace of Russia with England seemed to present this immense advantage to the commerce of nearly all seafaring people, that it freed their relations from that constraint, from that continual vexation, to which it had been subjected for many years without intermission. The Emperor viewed with pleasure a result so conformable to all his wishes, and which appeared as not being at all doubtful. It became so, however, by the war between England and America.

The undersigned is directed to express to the President of the United States the regret with which His Imperial Majesty foresees the great shackles which this new episode is about to oppose to the commercial prosperity of nations. The love of humanity, and what he owes to his subjects, whose commerce has already sufficiently suffered, command him to do every thing in his power to remove the evils which this war is preparing even for those nations who will not take part in it.

His Majesty, who takes pleasure in doing justice to the wisdom of the Government of the United States of America, is convinced that it has done all that it could to prevent this rupture, but that treating of it directly would take away from the negotiation all semblance of impartiality. In a direct discussion, every thing would tend to excite the prejudices and the asperity of the parties. To obviate this inconvenience, His Majesty the Emperor, gratified at being able to give a proof of his friendship alike for His Majesty the King of Great Britain and the United States of America, wished to offer to them his mediation, and charged the undersigned to propose it to the President of the United States.

The undersigned, having the honor to communicate to the Secretary of State the sentiments and the wishes of His Imperial Majesty, begs him to make them known to the President of the United States. The Emperor would feel great satisfaction if a like disposition on the part of the Government of the United States should have the effect of stopping the progress of this new war, and of extinguishing it in its origin. From the satisfactory assurances which the President of the United States has constantly given to the undersigned of the sentiments of regard and friendship on the part of the United States, and of his excellency for Russia, and particularly for the august person of His Majesty, he cannot but flatter himself that he will receive an answer which shall correspond with the generous wishes of the Emperor his master.

The undersigned cannot refrain from expressing on this occasion to the Secretary of State his individual wishes for whatever may have a tendency to re-establish active relations between Russia and the United States, and to advance the prosperity of the republic.

He seizes with eagerness this occasion to renew to the Secretary of State the assurance of his highest consideration and respect.

ANDRE DE DASCHKOFF.

The Secretary of State to Mr. Daschkoff.

SIR:

DEPARTMENT OF STATE, *March 11, 1813.*

I have had the honor to receive your note of the 8th instant, making known to the President of the United States the disposition of His Majesty the Emperor of Russia to promote peace, by his friendly mediation between the United States and Great Britain.

I am instructed by the President to assure you, that he sees in this overture, on the part of your sovereign, strong proofs of that humane and enlightened policy which have characterized his reign. It was impossible that a war between the United States and Great Britain should not materially affect the commerce of Russia, and it was worthy the high character of a prince, distinguished by his attachment to the interests of his people, to interpose his good offices for the restoration of peace. The President sees, at the same time, in this overture, and in the circumstances attending it, a strong proof of the friendly interest which His Imperial Majesty takes in the welfare of the United States.

The United States, conscious that they were not the aggressors in this contest; that, on the contrary, they had borne great wrongs for a series of years before they appealed to arms in defence of their rights, are willing and ready to lay them down as soon as Great Britain ceases to violate those rights.

The President is aware that many of the inconveniences resulting from a direct communication between the parties themselves may be avoided by the mediation of a third Power, especially one entitled to and possessing the entire confidence of both the belligerents. To the claim of Russia to that distinguished consideration the President does not hesitate to express, on the part of the United States, his full acknowledgment. He recollects with much satisfaction that, during a period of great and general contention, the relations of friendship have always subsisted between the United States and Russia; and he finds in the personal qualities and high character of the Emperor Alexander a sacred pledge for the justice and impartiality which may be expected from his interposition.

Influenced by these sentiments, the President instructs me to inform you that he willingly accepts the mediation of your sovereign to promote peace between the United States and Great Britain. I am instructed also to

state, that such arrangements will be made, without delay, as will afford to His Imperial Majesty the opportunity he has invited, to interpose his good offices for the accomplishment of so important an event. Of these arrangements I shall have the honor to advise you in an early communication.

I have the honor to be, &c.

JAMES MONROE.

Extract of a letter from the Secretary of State to John Quincy Adams, Esq., Minister Plenipotentiary of the United States at St. Petersburg.

SIR:

DEPARTMENT OF STATE, July 1, 1812.

On the 18th ultimo a declaration of war against Great Britain passed Congress; of which, of the President's message, and report of the Committee of Foreign Relations of the House of Representatives leading to it, I have the honor to transmit to you copies.

You are too well acquainted with the causes which produced this result to require any explanation of them. As it appeared that Great Britain would not revoke her orders in council on the just grounds on which it was claimed, but enlarged the conditions on which she professed her willingness to revoke them, there remained no honorable course for the United States to pursue short of war. On full consideration of all circumstances this measure was adopted, and the Government is resolved to pursue it till its objects are accomplished with the utmost decision and activity in its Power.

In resorting to war against Great Britain, as the United States have done, by inevitable necessity, it is their desire and hope that it may be confined to her only.

It is seen with much regret that the Emperor of Russia is likely to be reduced to the necessity of becoming a party to the war in Europe, if he has not already become so. Should that event take place, there is no reason why the war between the United States and Great Britain should affect, in the slightest degree, the very friendly relations which now exist between the United States and Russia. It is the sincere desire of this Government to preserve, in their utmost extent, those relations with that power.

With France our affairs in many important circumstances are still unsettled; nor is there any certainty that a satisfactory settlement of them will be obtained. Should it, however, be the case, it is not probable that it will produce any closer connexion between the United States and that Power. It is not anticipated that any event whatever will have that effect.

Extract of a letter from Mr. Adams to the Secretary of State.

ST. PETERSBURG, September 30, 1813.

On the 20th instant I received a note from the Chancellor requesting me to call upon him the next evening, which I accordingly did; he told me that he had asked to see me by the Emperor's command; that, having made peace and established the relations of amity and commerce with Great Britain, the Emperor was much concerned and disappointed to find the whole benefit which he expected his subjects would derive commercially from that event defeated and lost by the new war which had arisen between the United States and England; that he had thought he perceived various indications that there was on both sides a reluctance at engaging in and prosecuting this war, and it had occurred to the Emperor that perhaps an amicable arrangement of the differences between the parties might be accommodated more easily and speedily by indirect than by a direct negotiation; that His Majesty had directed him to see me, and to inquire if I was aware of any difficulty or obstacle on the part of the Government of the United States, if he should offer his mediation for the purpose of effecting a pacification. I answered that it was obviously impossible for me to speak on this subject any otherwise than from the general knowledge which I had of the sentiments of my Government; that I was so far from knowing what their ideas were with regard to the continuance of the war, that I had not to that day received any official communication of its declaration; but that I well knew it was with reluctance they had engaged in the war; that I was very sure, whatever determination they might form upon the proposal of the Emperor's mediation, they would receive and consider it as a new evidence of His Majesty's regard and friendship for the United States, and that I was not aware of any obstacle or difficulty which could occasion them to decline accepting it.

I knew the war would affect unfavorably the interest of Russia. I knew it must be highly injurious both to the United States and England. I could see no good result as likely to arise from it to any one. The count replied that he had considered it altogether in the same light, and so had the Emperor, who was sincerely concerned at it, and who had himself conceived this idea of authorizing his mediation. He thought an indirect negotiation conducted here, aided by the conciliatory wishes of a friend to both parties, might smooth down difficulties which, in direct discussion between the principals, might be found insuperable. To a mutual friend each party might exhibit all its claims, and all its complaints, without danger of exciting irritations or raising impediments. The part of Russia would only be to hear both sides, and to use her best endeavors to conciliate them. I observed, that there was a third party to be consulted as to the proposal—the British Government. The count answered, that it had already been suggested by him to the British ambassador Lord Cathcart, who had the day before despatched it by a messenger to his court. Some question occurred concerning the mode of enabling me to transmit this communication to the United States; upon which the count promised to see me again in the course of a few days. He said that he should write to Mr. Daschkoff, and instruct him to make the proposition to the Government of the United States.

Mr. Adams to the Secretary of State.

SIR:

ST. PETERSBURG, October 17, 1812.

I received a few days since a letter from Mr. Russell, dated at London, the 9th of September, and informing me that his mission there had closed, that he had received his passports, and that in three days from that time he should leave the city to embark at Plymouth for the United States. He adds that the British Government had rejected a proposition which he had been authorized to make for a suspension of hostilities.

The evening before last I had another interview with the Chancellor, Count Romanzoff, at his request. There had been rumors in circulation here of an armistice in Canada, and of the appointment of commissioners by the President for a new negotiation with Great Britain. The count asked me if I had any authentic information of

these circumstances. I said I had not; that my information was altogether of a different aspect; and I told him the substance of Mr. Russell's communication. He then observed that this incident would not discourage this Government from making an offer of its mediation, which he had suggested to me in a former conference. On the contrary, the failure of every new attempt at direct negotiation confirmed him in the belief and hope that a mediation might be more successful; a mediation of a common friend, not only desirous from the sentiment of friendship to see the parties reconciled to each other, but having also a strong interest of his own in their reconciliation.

The count said he had his despatches for Mr. Daschkoff ready, instructing him to make the proposition in form to the American Government; and he asked me whether I could indicate to him a mode of transmitting them directly to the United States. In our former conversation, (reported in my letter of the 30th ultimo) I had offered to despatch one of the American vessels now at Cronstadt, if the British ambassador would furnish her a passport, or any document that would protect her from capture by British armed vessels. The count said he had made the proposal to the ambassador, who had expressed his readiness to give the document, provided the vessel and messenger should go by the way of England; a condition which the count said he had told the ambassador he could not ask me to agree to, and with which I did not think it, in fact, suitable to comply. There are, however, two American gentlemen here on the point of departure for the United States, and by them I shall transmit this despatch and its duplicate, together with those of the Chancellor, to Mr. Daschkoff.

I am, with great respect, sir, your obedient, humble servant,

JOHN QUINCY ADAMS.

Mr. Adams to the Secretary of State.

SIR:

ST. PETERSBURG, December 11, 1812.

On the 4th instant I received the duplicate of your favor of 1st July last, announcing the declaration by the Congress of the United States of war against Great Britain, and enclosing printed copies of the President's proclamation founded upon it, of his previous message recommending it, of the report of the Committee of Foreign Relations proposing it, and of the National Intelligencer of the 20th June. The original of your letter, with these documents, not having yet come to hand, these gave me the first official communication of the war.

I had, on the 7th instant, an interview with the Chancellor, Count Romanzoff, in which I communicated to him the substance of that part of your despatch which related to Russia, and those which concern the state of our relations with France. In the present state of the war between this country and France, I was convinced that the view of the American Government's intentions with regard to that Power, so explicitly and so strongly manifested in your letter, would not only be gratifying to the Chancellor, but that it would be satisfactory to the Emperor, and would powerfully counteract any impressions unfavorable to the United States which the English interest here is endeavoring to excite. I therefore told the count, that, although I had not been instructed to make to him any official communication of the declaration of war, the dispositions of the American Government towards other Powers, and particularly towards Russia, on this occasion, had been distinctly suggested to me, in a manner which I felt it my duty to make known to him; that the United States, compelled by unavoidable necessity to vindicate their violated rights against Great Britain by war, were desirous that it might be confined exclusively to them and their enemy, and that no other Power might be involved in it; that it was particularly and earnestly their wish to preserve and maintain, in their fullest extent, their commercial and friendly relations with Russia; that the war in which the Emperor is now engaged against France, although it could not be known by the President to have been actually commenced at the time when your despatch was written, was, however, contemplated as more than probable, and the necessity which obliged the Emperor to take a part in it was mentioned to me as a cause of regret to the American Government; but it was hoped it would not, in the slightest degree, affect the friendly dispositions between Russia and the United States; that I was informed by you that the principal subjects of discussion which had long been subsisting between us and France remained unsettled; that there was no immediate prospect that there would be a satisfactory settlement of them; but that, whatever the event in this respect might be, it was not the intention of the Government of the United States to enter into any more intimate connexions with France. This disposition, I added, was expressed in terms as strong and clear as I thought language could afford. It was even observed that the Government of the United States did not anticipate any event whatever that could produce that effect; and I was the more happy to find myself authorized by my Government to avow this intention, as different representations of their views had been widely circulated as well in Europe as in America.

The count received this communication with assurances of his own high satisfaction at its purport, and of his persuasion that it would prove equally satisfactory to the Emperor, before whom he should lay it without delay. He said that, with regard to the friendly and commercial relations with the United States, *it was the Emperor's fixed determination to maintain them, so far as depended upon him, in their fullest extent.* He asked me if I had any objection to his communicating to the British Government itself that part of my information to him which related to France. I said that, on the contrary, as the British Government had, in the course of our discussions with them, frequently intimated the belief that the American Government was partial to France, and even actuated by French influence, I supposed that the knowledge of this frank and explicit statement, with a due consideration of the time and occasion upon which it was made, must have a tendency to remove the prejudice of the British cabinet, and, I would hope, produce on their part a disposition more inclining to conciliation.

Yesterday the count sent a note requesting me to call upon him again, which I accordingly did. He showed me the draught of a despatch to the Count Lieven, the Russian ambassador in England, which he had prepared to lay before the Emperor for his approbation, and which related the substance of my conversation with him, particularly in regard to the intentions of the American Government with reference to France; instructing Count Lieven to make it known to Lord Castlereagh, and to use it for the purpose of convincing the British Government of the error in suspecting that of the United States of any subserviency to France, in the expectation that it would promote in the British ministry the disposition to peace with the United States, which he (Count Lieven) knew His Imperial Majesty had much at heart, believing it equally for the interest of both Powers, and also for that of his own empire. The Chancellor said that, as this despatch would refer to what I had verbally stated to him in our preceding conversation, he wished, before submitting it to the Emperor, that I should peruse it to satisfy himself that he had connectedly represented the purport of my communication to him, and he desired me, if I should find any inaccuracy or variation from what I had said to him, to point it out to him; that he might make the despatch perfectly correspond with what I had said. I did, accordingly, notice several particulars in which the exact purport of what I had said might be expressed with more precision. He immediately struck out the passages which I noticed in this manner from the draught, and altered them to an exact conformity with the ideas I had intended to convey. The changes were inconsiderable, and were no otherwise material than as I was desirous of the utmost accuracy in the relation of what I had said, under the authority of your despatch.

This communication of the *settled* determination of the American Government not to contract any more intimate engagements with France, will thus be made to the British ministry with my full consent. The Chancellor's despatch does not say that he was authorized by me to make it. It merely relates the substance of that part of my conversation with him, and directs Count Lieven to use it with a view to promote the purpose of pacification. The Chancellor undertands that my consent was merely my own act, without authority from you; my motive in giving it was the same with that of his instruction to Count Lieven, because I believed its tendency would be to promote the spirit of pacification in the British cabinet. I told the Chancellor I was aware that its effect *might* be different. That the very certainty that we should not seek or even accept a community of cause with their most dreaded enemy might make them more indifferent to a peace with us. But in calculating the operation of a generous purpose even upon the mind of an inveterate enemy, I feel an irresistible impulse to the conclusion that it will be generous like itself. I asked the Chancellor whether he had received an answer from England upon the proposal of the Emperor's mediation. He said that, without accepting or rejecting it, they had intimated the belief that it would not be acceptable in America.

I am, with great respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

Extract of a letter from Mr. Adams to the Secretary of State, dated

ST. PETERSBURG, June 26, 1813.

On the 15th inst. I had an interview with the Chancellor, Count Romanzoff, at his request, when he informed me that he had received answers from Mr. Daschkoff to the despatches of which Mr. Harris was the bearer; that the President had accepted the Emperor's offer of mediation; and that Mr. Daschkoff had sent him a copy of your answer to him, expressive of that acceptance. He then put into my hands your letter to Mr. Daschkoff of March 11, with the tenor of which he appeared to be much gratified; and which he said he should immediately transmit to the Emperor. At the same time English newspapers had been received here, mentioning the appointment of Messrs. Gallatin and Bayard, but intimating strongly the determination of the British Government to reject the mediation. A few days after, I received from a friend the National Intelligencer of the 15th April, containing an editorial paragraph concerning the appointment of those gentlemen, which I communicated to the count on the 22d. I observed to him, that however the British Government might think proper to act on this occasion, that of the United States would at least have manifested in a signal manner at once its earnest and constant desire for a just and honorable peace, and its sense of the motives which had induced the Emperor's offer. That the President could not have adopted a measure better adapted to do honor to His Majesty's proposal, than by the appointment of two persons among the most distinguished of our citizens, to co-operate, on the part of the United States, in accomplishing the Emperor's friendly and benevolent purpose; and that if it should eventually fail of being successful, at least the true and only source of its failure would be known; that he had received, since he saw me last, despatches from Count Lieven; that the British minister, in terms of much politeness, had intimated to him, that there was no Sovereign whose mediation they should more readily accept than that of the Emperor, but that their differences with the United States were of a nature *involving principles of the internal government of the British nation*, and which it was thought were not susceptible of being committed to the discussion of any mediation. The count added, that it would remain to be considered whether, after this, and after the solemn step taken by the Government of the United States, it would be advisable to renew the offer to the British ministry, and give them an opportunity for a reconsideration. It was possible that further reflection might lead to a different resolution, and he should submit the question to the Emperor's determination. Different circumstances furnished other materials for deliberations.

13th CONGRESS.]

No. 262.

[2d SESSION.

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 18, 1814.

To the House of Representatives of the United States:

JANUARY 18, 1814.

I transmit to the House of Representatives a report of the Secretary of State complying with their resolution of the 11th instant.

JAMES MADISON.

DEPARTMENT OF STATE, January 18, 1814.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 11th inst. requesting the President to communicate to the House any information in his possession, and which it may not be improper to divulge, in relation to the omission or refusal of the French Government to accredit the minister plenipotentiary sent by the United States to that court, or of his reception if accredited, of the time when he was so accredited, and of the progress of his negotiation, has the honor to communicate to the President, for the information of the House, the following letters in relation to that subject, viz:

A letter from Mr. Crawford to the Secretary of State, of the 15th August, 1813, enclosing one to the Duke of Bassano of the 27th July, and his answer of the 1st August; and an extract of a letter from Mr. Crawford to the Secretary of State of the 8th of September, 1813.

Respectfully submitted,

JAMES MONROE.

Mr. Crawford to Mr. Monroe.

SIR:

PARIS, August 15, 1813.

On the 27th ult. I wrote to the Duke of Bassano, to inform him of my arrival in Paris, in quality of minister plenipotentiary of the United States. On the 8th inst. I received an answer dated at Dresden, on the 1st. Copies of my note and of his answer are herewith enclosed.

With sentiments of high respect, I remain yours, &c.

WM. H. CRAWFORD.

The Hon. JAMES MONROE, *Secretary of State.*

[Enclosed in Mr. Crawford's letter of August 15, 1813.]

Mr. Crawford to the Duke of Bassano.

MY LORD:

PARIS, July 27, 1813.

I have the honor to inform your excellency that I have been appointed by the President of the United States of America minister plenipotentiary to the court of His Imperial and Royal Majesty the Emperor of the French and King of Italy. I wait the pleasure of your excellency as to the time and manner of presenting my official credentials preparatory to my reception by the Government of His Imperial and Royal Majesty, as the accredited minister plenipotentiary of the United States of America.

I seize on the present occasion to assure your excellency of the distinguished consideration with which I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

His Excellency the DUKE OF BASSANO.

[TRANSLATION.]

From the Duke of Bassano to Mr. Crawford, dated

SIR:

DRESDEN, August 1, 1813.

I have had great pleasure in hearing of your safe arrival in France, and I have received the letter which you did me the honor to address to me on the 27th of July, on your nomination in quality of minister plenipotentiary of the United States to His Imperial Majesty the Emperor of the French and King of Italy. The choice which your Government has made of a person so distinguished in his own country, and so worthy of this honorable mission, cannot but be agreeable to His Imperial Majesty; and though he is at this time absent from Dresden, I can give you this assurance in his name. I will have the honor to communicate to you his intentions respecting the presentation of your letters of credence and your reception. Without waiting even for this, I will receive all the communications which you may think proper to make to me as the minister plenipotentiary of your Government, and the delay of a formality will produce no delay in the exercise of the mission confided to you, or in the correspondence which it will procure for me the benefit of holding with you.

Accept, sir, the assurance of my high consideration.

THE DUKE OF BASSANO.

His Excellency WM. H. CRAWFORD, &c.

Extract of a letter from Mr. Crawford to Mr. Monroe.

PARIS, September 8, 1813.

I have just received an answer to the note which I addressed to the Duke of Bassano, requesting Mrs. Barlow's passports. On the subject of recognition, he says that he is very solicitous I should present my letter of credence to the Emperor in Paris. He does not repeat his invitation to communicate with him. The operations of the war will probably detain the Emperor in the north until the winter. It is believed that the Duke of Bassano will not return before him. If this opinion should be realized, the winter will be far advanced before I shall be able to draw the attention of the French Government to the subjects of discussion between the two nations.

[13th CONGRESS.]

No. 263.

[2d SESSION.]

FRANCE.

COMMUNICATED JANUARY 20, 1814.

To the House of Representatives of the United States:

JANUARY 19, 1814.

I transmit to the House of Representatives a report of the Secretary of State complying with their resolution of the 12th instant.

JAMES MADISON.

DEPARTMENT OF STATE, January 18, 1814.

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 12th instant, requesting the President to lay before the House any correspondence with, or communication in writing from, the late minister of France, on or about the 14th of June, 1809, or by his successor since, prescribing or declaring the conditions on which their sovereign would consent to treat of amity and commerce with the United States, if such information was in the possession of the Executive, and, if it was not, to inform the House, unless the public interest forbade such disclosure, whether there has not been such a correspondence or communication, which was with-

drawn from the archives of the Department of State, and, if so, when and how the same was withdrawn, has the honor to make to the President the following report:

That of the transactions which took place in the Department of State before the Secretary of State came into office, which was in the year 1811, he has no means of acquiring a knowledge, other than from the archives of the Department, or from the persons entrusted with their safe keeping:

That he has caused the files of the Department to be carefully examined for a communication described by the resolution of the House of Representatives, and that none such has been found of the date therein referred to, or of any other date, from the former minister of France, or from his successor, or any trace or evidence of such a communication; that he has also inquired of the chief clerk of the Department, who has been in that office since the year 1807, concerning the same, and whose statement is annexed:

That no such communication was ever addressed to the Secretary of State by the present minister of France.

All which is respectfully submitted.

JAMES MONROE.

Mr. Graham's statement.

DEPARTMENT OF STATE, January 18, 1814.

I know not how I can more clearly state every thing that I know relative to a letter which was recently published in some of the public prints, from General Turreau to Robert Smith, Esq., and which I suppose to be "the communication" alluded to in the resolution of the House of Representatives of the 12th instant, than by observing that, when that letter, as published, was shown to me by a gentleman of this office, I told him I could not say whether it was genuine; that some parts of it did not appear new to me, but that other parts of it did. We immediately looked at General Turreau's file, and no such letter was there. I then observed, that, if it was genuine, it must be the letter from General Turreau which had been withdrawn.

The fact of one of his letters which I had translated for Mr. Smith having been withdrawn, I distinctly remember, though I cannot speak with certainty either of its date or of its contents, more than four years having elapsed since I saw it; but I remember it was considered exceptionable, and that Mr. Smith directed me not to put it on the files, but to lay it aside. I can add, too, that it was the only letter from General Turreau which, to my knowledge, was ever withdrawn.

This letter was withdrawn by a gentlemen attached to the French legation, who called at the Department of State to get it, and it was delivered to him either by Mr. Smith himself, or by me under his directions. When this was done I cannot now recollect, nor have I any means of ascertaining, except by reference to a subsequent event, which happened in the month of November, 1809. I allude to the dismissal of Mr. Jackson. For I remember, in a conversation I had with Mr. Smith respecting that occurrence, at the time it took place, he observed that he supposed General Turreau would now be glad he had withdrawn his letter.

In what way the translation of this letter has got into the public prints I know not; nor do I know when, or by whom, it was taken from this office.

JOHN GRAHAM,
Chief Clerk of the Department of State.

13th CONGRESS.]

No. 264.

[2d SESSION.]

REMOVAL OF COMMERCIAL RESTRICTIONS.

COMMUNICATED TO CONGRESS, MARCH 31, 1814.

To the Senate and House of Representatives of the United States:

MARCH 31, 1814.

Taking into view the mutual interest which the United States and the foreign nations in amity with them have in a liberal commercial intercourse, and the extensive changes favorable thereto which have recently taken place: taking into view, also, the important advantages which may otherwise result from adapting the state of our commercial laws to the circumstances now existing:

I recommend to the consideration of Congress the expediency of authorizing, after a certain day, exportations (specie excepted) from the United States, in vessels of the United States, and in vessels owned and navigated by the subjects of Powers at peace with them, and a repeal of so much of our laws as prohibits the importation of articles not the property of enemies, but produced or manufactured only within their dominions.

I recommend, also, as a more effectual safeguard and encouragement to our growing manufactures, that the additional duties on imports, which are to expire at the end of one year after a peace with Great Britain, be prolonged to the end of two years after that event; and that, in favor of our moneyed institutions, the exportation of specie be prohibited throughout the same period.

JAMES MADISON.

The Committee of Foreign Relations, to whom were referred the message of the President of the 31st of March, submit to the House the following report:

Taking into consideration the great importance of the measures recommended, the committee think it a duty which they owe to the House and to the nation, to state the grounds on which their report is founded. Uniting with the Executive in the policy of those measures, they wish to explain the reasons which have produced that union.

Of the past it is unnecessary to take a review. The attention of the committee is drawn with more solicitude to the future.

Previous to the late changes in Europe, the bearing of our restrictive measures was, for the most part, confined to our enemies; the obstructions to our commercial intercourse with the friendly Powers of the world being, in a manner, insuperable.

At present, a prospect exists of an extended commercial intercourse with them, highly important to both parties, and which, it may be presumed, they will find an equal interest and disposition to promote. Denmark, all Germany, and Holland, heretofore under the double restraint of internal regulations and external blockades and depredations, from a commerce with the United States, appear, by late events, to be liberated therefrom. Like changes, equally favorable to the commerce of this country, appear to be taking place in Italy and the more eastern parts of the Mediterranean. With respect to Spain and Portugal, in the commerce with whom the United States have great interest, it may be expected that commerce may be carried on without the aid heretofore afforded to the enemy. Should peace take place between France and her enemies, including Great Britain, the commerce of the United States with France will fall under the same remarks.

The considerations of an internal nature which urge a repeal of these acts at this time are not less forcible than those which have been already related. Among those are the following: The committee are persuaded that it will considerably augment the public revenue, and thereby maintain the public credit; that it will enhance the price and promote the circulation of our produce in lieu of specie, which has of late become so much the object of speculations tending to embarrass the Government.

[13th CONGRESS.]

No. 265.

[2d SESSION.]

GREAT BRITAIN—NATURALIZATION.

COMMUNICATED TO THE SENATE, APRIL 16, 1814.

To the Senate of the United States:

APRIL 16, 1814.

I transmit to the Senate a report of the Secretary of State, complying with their resolutions of the 2d February and 9th of March.*

JAMES MADISON.

DEPARTMENT OF STATE, April 14, 1814.

The SECRETARY OF STATE, to whom were referred several resolutions of the Senate of the 2d July and 9th March last, has the honor to submit to the President the following report:

Although these resolutions are of different dates, and refer to subjects in some respects distinct in their nature, yet, as they are connected in others of considerable importance, which bear essentially on the conduct of both parties in the present war, it is thought proper to comprise them in the same report.

The first of these resolutions calls for the names of the individuals who were selected from the American prisoners of war, and sent to Great Britain for trial; their places of residence in the United States; the times when, and the courts by which, they were admitted to become citizens; the regiments to which they belong; when and where they were taken; with copies of any official correspondence respecting the treatment of prisoners of war, and of any orders for retaliation on either side.

The other resolutions request information of the conduct of Great Britain towards her native subjects taken in arms against her, and of the general practice of the nations of Europe relative to naturalization, and the employment in war, each, of the subjects of the other; of the cases, with their circumstances, in which any civilized nation has punished its native subjects taken in arms against it, for which punishment retaliation was inflicted by the nation in whose service they were taken; and, lastly,

Under what circumstances, and on what grounds, Great Britain has refused to discharge native citizens of the United States impressed into her service; and what has been her conduct towards American seamen on board her ships of war at and since the commencement of the present war with the United States.

* The resolutions are as follows:

Resolved, That the President of the United States be requested to cause to be laid before the Senate a statement of the names of the individuals selected from American prisoners of war and sent to Great Britain for trial, as mentioned in his message at the commencement of the present session of Congress; and also their respective places of residence in the United States, with the times when, and the courts where, they were admitted to become citizens of the United States, and the regiments or corps to which they belonged in the service of the United States when taken by the enemy, and the times and places of their being so taken; together with copies of any official correspondence respecting the treatment of prisoners of war, and any orders for retaliation on either side, which the President may judge proper to be communicated.

FEBRUARY 2, 1814.

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess, calculated to show what has been the practice of Great Britain concerning her native subjects naturalized in other countries and taken in arms against her; also, what is the general practice of the nations of Europe relative to the naturalization or employment in war between two nations of the native subjects of each other.

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess, of the cases, with their circumstances, in which any civilized nation has punished its native subjects taken in arms against her, and for which punishment retaliation has been inflicted by the nation in whose service they were taken.

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess, calculated to show under what circumstances, and on what grounds, Great Britain has been in the practice of refusing to discharge native citizens of the United States impressed into her service.

Resolved, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess, calculated to show what has been the conduct of Great Britain relative to American seamen on board her ships of war at and since the commencement of the war with the United States.

MARCH 9, 1814.

The paper marked A contains the names of the American prisoners who were sent to England for trial by the British commander in Canada; of the corps to which they belong; of the times when, and of the places where, they were taken; of their places of residence in the United States; of the times and the courts in which they were admitted to become citizens, there is no evidence in this Department; nor is there any to show whether they were naturalized or native citizens of the United States. This paper contains, also, a copy of the orders of both Governments for retaliation, and of the correspondence between their respective commissaries concerning the treatment of prisoners.

The paper marked B states various grounds on which the British Government has refused to deliver up American seamen impressed into the British service, on the application of the agents of the United States, regularly authorized to demand them, with the correspondence relating to the same. It communicates, also, such information as this Department has been able to obtain of the conduct of the British Government towards American seamen on board British ships of war, at and since the commencement of the present war. Among the causes assigned for their detention, the following are the most deserving of notice:

1. That they had no documents, or that their documents were irregular.
2. That they were released from prison in Gottenburg.
3. That they were exchanged as British subjects.
4. Were said to be impostors.
5. To have married in England.
6. Did not answer the descriptions given of them in their protections.
7. Had attempted to desert.
8. Were sent into the service for smuggling.
9. Were not to be found on board of the ship stated.
10. Had voluntarily entered into the British service.
11. Were natives of foreign countries, Prussia, Sweden, Italy, &c.

It is possible that some of the seamen, whose discharges were demanded, may not have been native citizens of the United States, but very presumable that the greater part were. Indeed, the pretext assigned for their detention seems to admit it. Had they been native subjects of England, being there, their origin might have been traced. But that is the ground in few instances only. In urging that some had no protections, or that their protections were irregular; that others had been exchanged as British prisoners; were impostors; had attempted to desert; did not answer the protections given them; were natives of Prussia, Sweden, &c.; it is fairly to be inferred that the public authority in England, to whom this duty is assigned, sought rather to evade the application than to justify the refusal. The pretext that some were natives of Prussia, Sweden, &c., deserves particular attention. On this circumstance the Secretary will remark only, that in extending impressment, in American vessels, to persons who could not be mistaken for British subjects, and refusing to surrender them, on application, to the voluntary service from which they were taken, it is evident that the recovery of the British seamen has not been the sole object of the practice.

By the report of the American commissary of prisoners in England, it appears that a considerable number of our seamen have been transferred from British ships of war to prisons; that their exchange for British seamen taken in battle was demanded in the first instance, but that that claim seems to have been since waived. It might have been expected that the British Government, on being satisfied that these men or that any of them were American citizens, would have liberated and sent them home at its own charge. They are, however, still held prisoners in confinement. That many of them, if not all, are native citizens cannot be doubted; for had the proof not been irresistible, it cannot be presumed, while so many others are detained on board British ships of war, that these would have been exempted from that service. That many are still detained on board British ships of war may be fairly inferred, even without other evidence, from the indiscriminate manner of British impressment; from the distant service in which the men thus impressed are often necessarily employed, depriving their friends of an opportunity to communicate with them; and from the inconsiderable number discharged, compared with that which has been demanded. Without relying altogether on the reports heretofore made to Congress by this Department, the letter of Commodore Rodgers, hereunto annexed, affords data from which an estimate may be formed. On this point the correspondence between General Taylor and the captain of the British ship the *Dragon*, and Commodore Decatur and Commodore Capel, deserve also particular attention. If the British Government would order a strict search to be made through the British navy for American seamen, it would then be seen how many of our native citizens have participated in the lot of the unfortunate men mentioned in the correspondences referred to.

The contrast which these documents present, in the pretensions and conduct of Great Britain, with the pretensions and conduct of the United States, cannot fail to make a deep impression in favor of the latter. The British Government impresses into its navy native citizens of the United States, and compels them to serve in it, and, in many instances, even to fight against their country; while it arrests as traitors, and menaces with death, persons suspected to be native British subjects, for having fought under our standard against British forces, although they had voluntarily entered into our army after having emigrated to the United States, and incorporated themselves into the American society. The United States, on the other hand, have forced no persons into their service, nor have they sought, nor are they disposed to punish any, who, after having freely emigrated to any part of the British dominions, and settled there, may have entered voluntarily into the British army.

The remaining inquiries relate to objects other than the immediate conduct of the parties in the present war. They demand information of the conduct of Great Britain and of other Powers in past times, without limitation in the retrospect, in circumstances bearing on the question of retaliation. The information required relates to the following points:—

- 1st. The conduct of Great Britain and the other nations of Europe as to naturalization, and the employment in war, each of the subjects of the other.
- 2d. As to the punishment of their native subjects taken in arms against them in the service of other Powers.
- 3d. Examples of retaliation by the latter in such cases.

These inquiries necessarily involve an extensive research into the history and jurisprudence of the nations of Europe. For so important a task the other duties of the Secretary of State have altogether disqualified him since the call was made. The approaching close of the session does not leave him time for more than the following observations:—

That all the nations of Europe naturalize foreigners.

That they all employ in their service the subjects of each other, and frequently against their native countries, even when not regularly naturalized.

That they all allow their own subjects to emigrate to foreign countries.

That although examples may be found of the punishment of their native subjects taken in arms against them, the examples are few, and have either been marked by peculiar circumstances taking them out of the controverted

principle, or have proceeded from the passions or policy of the occasion. Even in prosecutions and convictions having the latter origin, the final act of punishment has, with little exception, been prevented by a sense of equity and humanity, or a dread of retaliation. It is confidently believed that no instance can be found in which the alleged purposes of the enemy against the twenty-three prisoners in question, under all the circumstances which belong to their case, even should any of them not have been regularly naturalized, are countenanced by the proceedings of any European nation.

That if no instances occur of retaliation, in the few cases requiring it, or in any of them, by the Governments employing such persons, it has been, as is presumed, because the punishment which had been inflicted by the native country might be accounted for on some principle other than its denial of the right of emigration and naturalization. Had the Government, employing the persons so punished by their native country, retaliated in such cases, it might have incurred the reproach, either of countenancing acknowledged crimes, or of following the example of the other party in acts of cruelty, exciting horror rather than of fulfilling its pledge to innocent persons in support of rights fairly obtained, and sanctioned by the general opinion and practice of all the nations of Europe, ancient and modern.

All which is respectfully submitted.

JAMES MONROE.

The PRESIDENT OF THE UNITED STATES.

A.

List of twenty-three American soldiers belonging to the 1st, 6th, and 13th United States' regiments, captured at Queenstown, in Upper Canada, on the 13th October, 1812, and sent to England for trial, on pretext of being British subjects, viz:—

Henry Kelly,	John M'Gowan,	John Donnelly,
Henry Blaney,	James Gill,	John Currey,
George M'Cammon,	John Fulsum,	Nathan Shaley,
John Dolton,	Patrick M'Braharty,	Edward M'Garigan,
Michael Condin,	Matthew Mooney,	John Dinnue,
John Clark,	Patrick Karns,	John Williams,
Peter Burr,	John Fitzgerald,	George Johnson.
Andrew Doyle,	John Wiley,	

OFFICE OF COMMISSARY GENERAL OF PRISONERS, April 13, 1814.

SIR:

In obedience to your instructions under the resolution of the Senate of the United States of the 9th of February, I have the honor to transmit you copies of the orders for retaliation which have issued from this office, and of such orders of like nature, on the part of the enemy, as have been received; together with copies of such official correspondence as has been held with the agents of the enemy, or other persons, in direct relation to the treatment of prisoners of war. With these are filed the official letters and papers furnished me from time to time by any of the Departments of the Government, which are connected with either subject.

Each case, for the greater facility of reference, has been made up separately, without regard to dates, other than those of the papers immediately belonging to it. The cases marked from A to K relate to the treatment of prisoners, on account of which retaliation has been resorted to by one or both parties. The cases marked L relate to the treatment of prisoners, for which measures of retaliation have not yet been used by either party.

In the case A five of the men of the American sloop of war Nautilus were sent back from England to Halifax, and restored to the ordinary state of prisoners; when ten of the men of the British ship Guerriere, confined to answer for them at Boston, were immediately released. The sixth man of the Nautilus has not yet been accounted for; two men of the Guerriere are held as hostages for him.

In the case B the six men of the American private armed vessel Sarah Anne, confined at Jamaica, and threatened with trial, were given up. As soon as this fact was made known, the twelve British seamen set apart and confined at Charleston on their account, were released and placed among the prisoners for exchange.

In the case C, commencing with twenty-three prisoner soldiers of the United States' army, transported by the enemy to England for trial, on pretext of being British subjects, all the officers and soldiers designated in retaliation on either side are yet held as hostages; although a partial relaxation has taken place on the part of the enemy, as well in regard to the manner of confinement of some of our officers, as in giving limited paroles. These departures from the first measures of severity, it will be seen, have been fully met by corresponding acts of indulgence to their officers similarly situated.

In the case D, Thomas King, one of the two American seamen confined at Bermuda, having, by singular enterprise and good fortune, effected his escape from the prison ship, and reached his country again in safety, after navigating the ocean for nine days, alone, in an open boat, the two British seamen in confinement on his account were released from the condition of hostages. John Stevens being still under accusation, in the hands of the enemy, the two men selected to answer for his safety are yet so held.

In the case E, it was regularly announced during last winter, that Captain Nicholls was then considered by the enemy as an ordinary prisoner of war in their hands. So soon as it was known that the accusations brought against him were withdrawn, one of the British captains allotted to answer, in his person, for the safety and proper treatment of Captain Nicholls, was released from confinement, and admitted to parole. The other British captain has been retained in the same sort of confinement to which Captain Nicholls is yet subjected. It will be perceived that, latterly, it has been agreed that they both be released and exchanged against each other.

In the case F, it having been communicated, on the part of the enemy, that the sixteen American maritime officers and seamen confined at Halifax in dungeons had been removed to more airy and wholesome prison rooms, first the officers, and then the men, and that their confinement in other respects had been made less rigid, the same mitigated course, step by step, was taken here with regard to their officers and men, who, in retaliation, had been subjected to a like severe treatment. As to the one hundred and one American seamen sent to England, as first stated by the agents of the enemy, for trial, the cause for so sending them was soon after disavowed as to eighty-three of them. As many British seamen held against them were then returned to the ordinary state of

prisoners. There yet remain eighteen in close custody, subject to whatever treatment the enemy may use towards that number of our seamen of this class not satisfactorily accounted for.

For the fifty-nine American soldiers picked out and sent to England, first, on the plea of being British deserters, and then (this having been abandoned) that they had given themselves up as British subjects, fifty-nine British soldiers are yet held in separate and close confinement.

In the case G, of Joshua Penny; H, of John Swanton; I, of Thomas Goldsmith; and K, of Witmore Knaggs; for the proper treatment and safety of each, of whom a British prisoner of corresponding rank and condition has been designated and confined; no relaxation having taken place on the other side, the several hostages so designated are yet held to answer, respectively, in their persons, for the ultimate measures of the enemy.

With very great respect, I have the honor to be, sir, your most obedient servant,

J. MASON.

The Honorable JAMES MONROE, *Secretary of State.*

A.

[Here were inserted a letter from Admiral Warren to the Secretary of State, of September 30, 1812, and the reply thereto, dated October 28, 1812; for both of which see page 598.]

Extract of a letter from Admiral Sir John Borlase Warren to the Secretary of State, dated

BERMUDA, *March 8, 1813.*

I must refer you to my letter of the 30th of September, 1812, in which I stated the circumstance of twelve men belonging to the *Guerriere*, taken out of a cartel by Commodore Rodgers, and illegally detained, upon the pretext of six others, who were supposed to be British subjects, having been sent to the United Kingdom for examination; since that event, five of these people, named in the enclosed list, have been received at Halifax, with orders for their discharge. I therefore request you will communicate these particulars to the President, in order that further directions may be given respecting the *Guerriere's* men so long confined at Boston, and to obviate the other inconveniences which must inevitably arise from such practices.

Extract of a letter from the Secretary of State to Admiral Warren, dated

APRIL 16, 1813.

It appears by your letter (of the 8th of March, from Bermuda,) that five only of the seamen that were taken on board the *Nautilus*, and sent to England in confinement, have been returned; no account is given of the sixth. Orders have been issued for the release of ten of the twelve men, who, on a principle of retaliation, were confined by Commodore Rodgers at Boston.

You will be sensible that it will be impossible, on that principle, to discharge the other two men until the sixth American seaman is returned, or such an explanation given of the cause of his detention as, according to the circumstances of the case, regarding the conduct of the British Government towards American seamen under similar circumstances, ought to be satisfactory.

Colonel Barclay to General Mason.

SIR:

GEORGETOWN, *April 13, 1813.*

I beg leave to call your attention to the latter paragraph in the document A, which I had the honor of enclosing in my letter to you of this day's date, and to request that the twelve British prisoners of war therein mentioned, formerly composing part of the crew of His Majesty's ship *Guerriere*, and taken out of a cartel by Commodore Rodgers, may be included in the first exchange of prisoners of war, as five of the six detained seamen of the United States' sloop of war *Nautilus* have been discharged at Halifax as American seamen.

I have the honor to be, &c.

To General JOHN MASON, &c.

THOMAS BARCLAY.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

JUNE 12, 1813.

Ten of the men detained of the late British ship *Guerriere* were, immediately after the date of Mr. Monroe's letter, released from duress, and placed in the ordinary situation of prisoners of war; and the marshal of Massachusetts has orders to send them with the first British prisoners that go by cartel from Boston, &c.

B.

[Here was inserted an extract of a letter from Major General Pinckney to the Secretary of War, dated Head-quarters, Charleston, November 4, 1812, page 598.]

Mr. Grandison to the Commander-in-chief at Nassau.

SIR:

CHARLESTON, *November 4, 1812.*

A report having reached me that six of our prisoners are sent to Jamaica to be tried as British subjects, I have been induced to retaliate, by ordering twelve of the British prisoners to be detained as hostages until the fate of our citizens be known; their fate will decide the fate of yours.

I have the honor to be, &c.

CY. GRANDISON, *United States' Navy.*

His Excellency the COMMANDER-IN-CHIEF at Nassau.

[For the letter of Captain Moon, dated at Nassau, N. P. October 14, 1812, originally inserted here, see page 599.]

Colonel Barclay to General Mason.

SIR:

HARLEM, June 1, 1813.

I beg leave to refer you to a communication, which took place some time in the autumn or winter preceding, between Mr. Baker, His Majesty's late agent for prisoners of war, and Mr. Monroe, Secretary of State, respecting six of the crew of the late American privateer Sarah Ann, Richard Moon, master, captured by His Majesty's sloop Rhodian, John George Ross, Esq. commander, whose names are inserted in the margin,* and who it appears were sent to Jamaica, to which station the Rhodian belonged, on suspicion of their being subjects of His Majesty; and I further request your attention to a letter from Major General Pinckney to the Secretary of War, dated "Head-quarters, Charleston, November 4, 1812," from which it appears that twelve of His Majesty's subjects, then prisoners of war at Charleston, were held in prison to answer in their persons for the fate of the six men of the Sarah Ann privateer sent to Jamaica.

I have the honor to enclose you the copy of a letter from Vice Admiral Stirling, commanding His Majesty's ships of war on the Jamaica station, to Mr. Simpson, late sub-agent for prisoners of war at Charleston, from which you will perceive that the six men of the Sarah Ann are considered by the admiral as American prisoners generally, and are now on board a prison-ship, in common with other American prisoners.

Having given you this information with respect to the six men of the Sarah Ann privateer, I have to request you will take the necessary measures to have the contingent responsibility, which it was thought proper to attach to the persons of twelve British seamen, now in prison in Charleston, taken off, and that they may be informed thereof.

I understand that John Gaul, one of the six men, was paroled, and arrived at Georgetown, South Carolina, in the brig Cyrus, and that he reported himself to the marshal, who informed Mr. Simpson "that he had sent on to the Department of State his parole."

I have the honor to be, &c.

THOMAS BARCLAY.

General MASON.

Admiral Stirling to Mr. Simpson.

SIR:

SHARK, PORT ROYAL, JAMAICA, March 29, 1813.

Captain Mowbray, of His Majesty's sloop Moselle, has just sent to me the copy of a letter from you to him, and another to Mr. Cook, of His Majesty's late sloop Rhodian, dated the 25th ultimo, respecting six men mentioned in the margin,* who were sent here from the Bahamas, as having been taken in the American privateer Sarah Ann, and supposed to be subjects of His Majesty; but as no proof to what country they belong has been adduced, it has never been my intention to bring them to trial, and they are at present on board of the prison-ships, waiting an exchange of prisoners.

I am, sir, yours, &c.

CHARLES STIRLING, *Vice Admiral.*

CHARLES R. SIMPSON, Esq.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, June 9, 1813.

I learn with pleasure, by the letter you did me the honor to address me on the 1st instant, and the letter from Admiral Stirling you have enclosed, that the six men belonging to the American privateer Sarah Ann, detained in October last, and sent to Jamaica to be tried as British subjects, have been restored to the ordinary state of prisoners of war, to wait an exchange, and that there is now no intention to bring them to trial.

I very cheerfully comply with your request, sir, and have this day requested the marshal of South Carolina to restore in like manner, to the ordinary state of prisoners of war, the twelve British seamen confined under the orders of this Government by him, and to inform them that the responsibility attached to their persons for the safety of the men of the Sarah Ann has been taken off.

I have the honor to be, &c.

J. MASON.

Colonel THOMAS BARCLAY, &c.

C.

SIR:

WASHINGTON, January 30, 1813.

I think it my duty to lay before the Department, that, on the arrival at Quebec of the American prisoners of war surrendered at Queenstown, they were mustered and examined by British officers appointed to that duty, and every native born of the United Kingdoms of Great Britain and Ireland sequestered and sent on board a ship of war then in that harbor. The vessel in a few days thereafter sailed for England with those persons on board.

Between fifteen and twenty persons were thus taken from us, principally natives of Ireland, several of whom were known by their platoon officers to be naturalized citizens of the United States, and others to have been long residents within the same. One, in particular, whose name has escaped me, besides having complied with all the conditions of our naturalization laws, was represented by his officers to have left a wife and five children, all of them born within the State of New York.

I distinctly understood, as well from the officers who came on board the prison-ship for the above purpose, as from others with whom I remonstrated on this subject, that it was the determination of the British Government, as expressed through Sir George Prevost, to punish every man whom it might subject to its power found in arms against the British King, contrary to his native allegiance.

I have the honor to be, sir, your most obedient servant,

W. SCOTT, *Lt. Col. U. S. 2d artillery.*

The Hon. the SECRETARY OF WAR.

* Edward Dick, Thomas Rodgers, Adam Taylor, John Gaul, Michael Pluck, George G. Roberts.

SIR:

LONDON, *March 1, 1813.*

Annexed you have a copy of a letter from Henry Kelly, in behalf of himself and twenty-two persons. He states that they are all citizens of the United States, and have wives and families there; that they were taken last October, in Upper Canada, and that they were sent to this country because they were born within the British dominions.

I am, respectfully, &c.

To the SECRETARY OF STATE.

R. G. BEASLEY.

SIR:

ON BOARD H. M. SHIP NAMUR, LYING AT THE NORE, *February 6, 1813.*

This is to inform you of the under-named twenty-three American soldiers belonging to the 13th, 6th, and 1st regiments of the United States' armies. We were taken on the 13th of October, in Upper Canada. The reason of their sending us twenty-three here is, we were born in the British dominions, though we are all citizens of the United States, and have our wives and children there. We are in a very miserable situation for clothing, having drawn no winter clothes before we were taken. We therefore hope you will send us some relief to shelter us from the inclemency of the weather.

Sir, I remain your obedient servant,

HENRY KELLY.

Sir, these are the names of my fellow-sufferers.

Henry Blaney, George M'Cammon, John Dolton, Michael Condin, John Clark, Peter Burr, Andrew Doyle, John M'Gowan, James Gill, John Fulsum, Patrick M'Brabarty, Matthew Mooney, Patrick Karns, John Fitzgerald, John Wiley, John Donnelly, John Curry, Nathan Shaley, Edward M'Garrigan, John Dinne, John Williams, George Johnson.

Mr. R. G. BEASLEY.

SIR:

WAR DEPARTMENT, *May 15, 1813.*

You will herewith receive the copy of a letter addressed to the Secretary of State by R. G. Beasley, Esq. our commissary of prisoners in London, by which it appears, that twenty-three soldiers of the 1st, 6th, and 13th regiments of United States' infantry, made prisoners during the last campaign in Upper Canada, have been sent to England in confinement, as British subjects.

You are therefore hereby commanded to put into close confinement twenty-three British soldiers, to be kept as hostages, for the safe keeping and restoration (on exchange) of the soldiers of the United States who have been sent as above stated to England.

So soon as this order shall have been executed, you will communicate the reasons of it to the British commander-in-chief in Canada.

Very respectfully, &c.

To Maj. Gen. DEARBORN.

JOHN ARMSTRONG.

SIR:

HEAD-QUARTERS, MONTREAL, *October 17, 1813.*

Having transmitted to His Majesty's Government a copy of a letter addressed to me, on the 31st of May last, by Major General Dearborn, in which it is stated that "the American commissary of prisoners in London had made it known to his Government that twenty-three soldiers of the 1st, 6th, and 13th regiments of United States' infantry, made prisoners, had been sent to England, and held in close confinement as British subjects, and that Major General Dearborn had received instructions from his Government to put into close confinement twenty-three British soldiers, to be kept as hostages for the safe keeping and restoration, on exchange, of the soldiers of the United States, who had been sent, as above stated, to England; and that, in obedience to those instructions, General Dearborn had put twenty-three British soldiers in close confinement to be kept as hostages;" I have now the honor of acquainting you, that I have received the instructions of His Majesty's Government distinctly to state to you, for the information of the Government of the United States, that I have received the commands of His Royal Highness the Prince Regent forthwith to put in close confinement forty-six American officers and non-commissioned officers, to be held as hostages for the safe-keeping of the twenty-three British soldiers stated to have been put in close confinement by order of the American Government.

I have been directed at the same time to apprise you, that if any of the said British soldiers shall suffer death by reason that any of the said soldiers of the United States, now under confinement in England, have been found guilty, and that the known law, not only of Great Britain, but of every independent State, under similar circumstances, has been in consequence executed, that I have been further instructed to select out of the American officers and non-commissioned officers whom I shall have put into confinement, as many as may double the number of the British soldiers who shall have been so unwarrantably put to death, and to cause such officers and non-commissioned officers to suffer death immediately. I have been further instructed by His Majesty's Government to notify to you, for the information of the Government of the United States, that the commanders of His Majesty's armies and fleets on the coasts of America have received instructions to prosecute the war with unmitigated severity against all cities, towns, and villages belonging to the United States, and against the inhabitants thereof, if, after this communication shall have been made to you, and a reasonable time given for its being transmitted to the American Government, that Government shall unhappily not be deterred from putting to death any of the soldiers who now are, or who may hereafter be, kept as hostages for the purposes stated in the letter from Major General Dearborn.

I have the honor to be, with great consideration and respect, your excellency's obedient, humble servant,

GEORGE PREVOST,

Lieutenant General and commander of the forces.

His Excellency Major General WILKINSON.

*Extract of a letter from Major General James Wilkinson to Lieutenant General Sir George Prevost, dated*HEAD-QUARTERS, GRENADIER ISLAND, *November 1, 1813.*

I yesterday evening had the honor to receive your letter of the 17th past, and shall immediately transmit a copy of it to the Executive of the United States.

I forbear to animadvert on the acts of our superiors, whatever may be their tendency; but you must pardon me for taking exception to an expression in your letter. The Government of the United States cannot be "deterred" by any considerations of life or death, of depredation or conflagration, from the faithful discharge of its duty to the American nation.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, November 18, 1813.

SIR:

This despatch will be delivered or forwarded to you by Major Richard Graham of the army. You will be pleased to deliver to him all the commissioned enemy officers in your charge, belonging to any of their land troops not militia, whether captured on land or on board their vessels. They are to be immediately marched under guard to Frankfort, in Kentucky, and their subsistence money to cease from the time you so deliver them. You are particularly requested, however, to give them all the aid in your power, and to see justice done them in the settlement of their accounts with their boarding houses, and in the delivery of their baggage, &c. You will use the requisite precautions, in concert with Major Graham, to hold up the disclosure of this measure until all the officers designated are secured by him. You will then inform those gentlemen that this measure has been forced on us by the recent treatment of our officers held by the enemy in Canada.

I am sir, &c.

J. MASON.

THOMAS STEELE, Esq. *Deputy Marshal of Ohio.*

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, November 23, 1813.

SIR:

In order to secure a sufficient number of hostages to answer in their persons for the proper treatment of a certain number of American officers now in possession of the enemy, on whom the British authorities have recently threatened to exercise a severity unknown in civilized warfare, and outraging humanity, I am commanded by the President to instruct you to place forthwith in close confinement all the British commissioned officers of every rank belonging to their land service, now prisoners of war within your district, and safely to hold them until further orders.

By the last returns from your deputy, Mr. Melville, there are supposed to be, as by the annexed list, sixteen persons; but be the number more or less, you will understand the whole are to be embraced by the present order.

The place of confinement is left to your discretion; in making this selection, however, you will endeavor to fix on a town which will offer a sufficient number of safe and decent prison rooms to receive those officers, without inconveniently crowding them; the object being, at this time, to hold them with as little suffering on their part as can be done consistent with security against escape for ultimate measures dependent on the conduct of the enemy; and you are requested, for the better ordering of the first arrangement, to attend in person.

By this same mail an order will be transmitted from the Department of War to General Cushing, commanding at Boston, requiring him to act in concert with you on this occasion, and to furnish a well appointed and adequate guard for the purpose of securing the prisoners in the first instance, moving them to the place of confinement, and there guarding them in prison.

You will at once perceive, sir, that the service now required of you is of an important and delicate nature. The President counts on your zeal and discretion to execute it with promptitude, and such precautions as may be found necessary to prevent escapes, which may possibly be attempted by some, although on parole; to which end you will consult confidentially with General Cushing. Since, immediately on taking them into close custody, their paroles will be suspended, then also must the subsistence money be stopped, and you will make arrangements, in some regular way for supplying, in as comfortable manner as the nature of the case will admit, those unfortunate officers with good, wholesome fare, lodging, firing, &c.; having always regard to the proper economy.

You are particularly requested to make as early a return as possible, after this measure is executed, of the persons confined, descriptive of name, to what corps belonging, rank, place of nativity, last place of residence, &c.

I have the honor to be, sir, your most obedient servant,

J. MASON.

JAMES PRINCE, Esq. *Marshal of Massachusetts.*

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, November 24, 1813.

SIR:

Enclosed I send you a copy of a letter addressed to you on the 18th instant,* under cover to Major Graham.

In order to secure a sufficient number of hostages, to answer in their persons for the proper treatment of a certain number of American officers now in possession of the enemy, on whom the British authorities have recently threatened to exercise a severity unknown in civilized warfare, and outraging humanity, I am commanded by the President to instruct you to place forthwith in close confinement, at Frankfort, in your State, all the British officers, of whatever rank, who may be there delivered to you by Major Richard Graham of the army, as contemplated in my letter of the 18th instant; and, for the better making the first arrangements, you are requested to attend in person at the place, at the time Major Graham shall arrive there with the prisoners. Frankfort has been designated as the place of confinement on this occasion, because it was hoped that the authorities of the State would accommodate the Government with rooms in the penitentiary. The Secretary of State has addressed the Governor on the subject. You will be pleased to make application to his excellency to that end in its behalf, and pray leave of him to occupy in that building, as many safe and decent prison rooms as may be sufficient to receive these officers, without inconveniently crowding them; the object being, at this time, to hold them with as little suffering on their part as can be done consistent with security against escape, for ultimate measures dependent on the conduct of the enemy.

* This letter was a duplicate of that sent to Thomas Steele, Esq., Deputy Marshal of Ohio.

The requisite guard, duly appropriated, will be furnished you by Major Graham, for guarding the prison. You will make arrangements, in the regular way, for supplying, in as comfortable manner as the nature of the case will admit, these unfortunate officers with good, wholesome fare, lodging, and firing; having always regard to the proper economy.

You will at once perceive, sir, that the service now requested of you is of an important and delicate nature. The President counts on your zeal and discretion to execute it with promptitude, and with such precautions as may prevent escape. You are particularly requested to make as early a return as possible, after this measure is executed, of the persons confined, descriptive of name, to what corps belonging, rank, place of nativity, last place of residence, &c.

ROBERT CROCKETT, Esq., *Marshal of Kentucky.*

I am, sir, &c.

J. MASON.

Extracts of a letter from Colonel Barclay to the Commissary General of prisoners.

SIR:

HARLEM, November 26, 1813.

I have the honor to enclose to you the copy of a letter from his excellency Lieutenant General Sir George Prevost, Governor General and commanding His Majesty's forces, on the subject of his having confined forty-six officers and non-commissioned officers, American prisoners of war, in retaliation for twenty-three British prisoners confined in prison in these States, by order of this Government.

If it is the wish of the President or yourself to be possessed of a copy of Earl Bathurst's letter referred to in the enclosed copy, I will send it with pleasure. It has, however, been published in the American newspapers, taken from those published in Canada.

Extract of a letter from Lieutenant General Sir George Prevost to Colonel Thomas Barclay.

SIR:

MONTREAL, October 27, 1813.

I have the honor to transmit to you a copy of a despatch I have received from Earl Bathurst, and to acquaint you that, in obedience to the orders of His Majesty's Government therein signified to me, I have placed twenty officers and twenty-six non-commissioned officers of the American army, whose names are enclosed, in close confinement. Three general officers, and twelve other officers of different ranks, according to the list herewith transmitted, still remain at Quebec, on parole; but the remainder of the soldiers and seamen, amounting to about five hundred men, I have thought fit to send to Halifax, not having the means of providing for them during the winter.

Regretting, as I sincerely do, this necessary act of severity and retaliation, which I have communicated to Major General Wilkinson, I have thought fit to apprise you of it, that you may, should any representation be made to you upon the subject, be enabled to point out to the American Government the cause of it, and the means in its power of relieving those who are suffering from it, by the immediate discharge from confinement of the twenty-three British soldiers, prisoners of war, so unjustly imprisoned.

Extract of a letter from Major General Wilkinson to Lieutenant General Sir George Prevost.

SIR:

HEAD-QUARTERS, MALONE, December 3, 1813.

In my letter to you of the 1st ultimo, I apprized you that your communication of the 17th of October last had been transmitted to the President of the United States; and I have now the honor to lay before you the result.

In a recent communication from the War Department, I am commanded by the President to make known to you, in reply to your letter, and for the information of your Government, that the Government of the United States, adhering unalterably to the principle and purpose declared in the communication of General Dearborn to you, on the subject of the twenty-three American soldiers, prisoners of war, sent to England to be tried as criminals, and the confinement of a like number of British soldiers, prisoners of war, selected to abide the fate of the former, has, in consequence of the step taken by the British Government, as now communicated, ordered forty-six British officers into close confinement, who will be immediately put to death in case of the putting to death of the forty-six American officers and non-commissioned officers ordered into close confinement; and that they will not be discharged from their confinement until it shall be known that the forty-six American officers and non-commissioned officers in question are no longer confined.

I am further commanded by the President to advise you, for the information of your Government, that in the event of any proceedings of the British commanders on our coast against the inhabitants thereof, contrary to the laws of war observed among civilized nations, as threatened in your communication of the 17th of October, the United States will avail themselves of the means in their power for such exemplary retaliations as may produce a return to those legitimate modes of warfare, from which no other consideration than the necessity imposed by the conduct of the enemy could ever induce them to depart.

Extract of a letter from Sir George Prevost, commanding the British forces in Canada, to Major General Wilkinson.

SIR:

HEAD-QUARTERS, MONTREAL, December 11, 1813.

I have had the honor to receive your excellency's despatches of the 3d and 4th instant. In communicating to your excellency, in my letter of the 17th of October last, the retaliating measure which His Majesty's Government had been compelled to adopt, in consequence of the imprisonment, by Major General Dearborn, of twenty-three British soldiers, as hostages for as many natural born subjects of His Majesty found in the service of the United States in arms against their native country, I had entertained the hope that the American Government would have been induced to abandon a principle not recognised by any of the other civilized nations of the world, and against which, when attempted to be put in practice, they have all invariably resisted.

I regret to find myself disappointed in this just expectation, by the communication made by your excellency of the determination of your Government unalterably to adhere to the principle and purpose declared in the letter of Major General Dearborn of the 31st May last, and of its having, in consequence, directed forty-six British officers, prisoners of war, to be closely confined until the forty-six American officers and non-commissioned officers, now closely confined at Quebec as hostages, shall be released.

This step on the part of the Government of the United States leaves me no other alternative but that of directing, and which I have accordingly done, the whole of the American officers (including the three general officers) now on their parole in these provinces, to be immediately placed in close confinement; and I have further to acquaint your excellency, that it is my determination to put into close confinement every American officer who shall hereafter fall into my power, to the number of forty-six, inclusive of those who had been confined previous to the receipt of your excellency's letter, and so to keep them confined until I shall receive the further directions of His Majesty's Government on this subject.

Extract of a letter from Major General Wilkinson to Lieutenant General Sir George Prevost, commanding the British forces in Canada, dated

SIR:

HEAD-QUARTERS, MALONE, December 20, 1813.

Your excellency's letter of the 11th instant reached my outpost, on Chateaugai, the evening of the 18th, and came to my hand yesterday.

I regret the resolution you have adopted in respect to the retaliatory system forced on the Executive of the United States by the resurrection of dormant pretensions which had ceased for a long time to torment mankind, and which (your excellency will pardon the observation) have not been invariably asserted by the British Government. Several instances might be quoted to support the fact; but I will trespass the remarkable case of the late Major General Charles Lee only on your excellency's attention, because it is most directly in point. Some time after the capture of that officer by Colonel Harcourt, his exchange was demanded by Congress, and refused by the British commander on the express grounds for which you now contend; in consequence of which, Lieutenant Colonel Campbell, of the seventy-first regiment, and five Hessian field officers, were thrown into ignominious confinement, as hostages for his safety; and here the contest terminated—the British Government yielding its pretensions, and admitting General Lee to be exchanged as an ordinary prisoner of war. But while I deplore the course you have marked out for your conduct, I should fail in courtesy if I did not acknowledge my obligations to you for the candid avowal of your intentions in respect to the American officers who may hereafter fall into your hands, because this avowal will, I flatter myself, constitute their safeguard against imprisonment.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

SIR:

HARLEM, December 15, 1813.

I have the honor to enclose you a copy of a letter received yesterday from Lieutenant Colonel Grant, of the militia of Lower Canada, dated from the jail at Worcester; and I have to request you will inform me for whom the nine British officers and the volunteer mentioned therein have been placed in a more than ordinary state of strict retaliatory confinement. I had understood from you, that the officers and men on whom you intended to retaliate for the fifty-nine soldiers sent to England, and the forty-six placed in close confinement, by way of retaliation, by his excellency Sir George Prevost, were those at Newport and Chilicothe; and I am certain that the officers now in jail at Worcester, who are a part of the British troops captured by Commodore Chauncey on lake Ontario are a part of the British prisoners you promised me should be sent from Salem, in return for the military prisoners now daily expected from Nova Scotia. Why your original plan has been changed, and what British prisoners are intended to be released by you and sent to Halifax, for the Americans expected at Salem, are questions to which I entreat your answer. I beg also to be informed on what principles you have directed restrictions, independent of the strictest imprisonment, to be exercised on them; and whether they receive the usual allowance of three shillings sterling per day. These are important questions to be resolved, and admit not of my being kept in suspense.

SIR:

WORCESTER JAIL, December 6, 1813.

From the tenor of your letter of the 22d October, addressed to Lieutenant Colonel Myers, I was led to expect that an arrangement for the mutual exchange of prisoners had been made between the two Governments, by which the British prisoners then in the United States were to be immediately marched to Burlington for that purpose. On application to the deputy marshal at Pittsfield, I was informed that he had received a letter from the commissary general of prisoners, instructing him that all prisoners taken after the 5th of October were to be exchanged by the way of Halifax. It was in vain I complained of the unreasonableness of this measure. I was informed that the arrangement was decisive, and that a cartel was expected from Halifax in a short time for that purpose.

Finding that it would be useless to make any further remonstrance, I proceeded to Worcester on my parole, that I might be enabled to take advantage of the opportunity which, I was informed, would shortly offer for my exchange. I have now the honor to inform you that, by an order from the President of the United States, I have, with the undermentioned officers, been placed in close confinement, notwithstanding the assurances which have been so frequently made me of my being exchanged, without any regard to my being a militia officer, and the only instance of the kind which has presented itself during the war, that of a militia officer being even detained in the United States.

Major Villatte,
 Captain Zehender,
 Lieutenant Decenter, }
 Lieutenant Manuel, } De Watteville's,
 Lieutenant Duval, }

Lieutenant Steele, 89th regiment,
 Lieutenant Carter, royal artillery,
 Mr. Morris, volunteer, royal artillery,
 Dep. Asst. Com. Gen. J. C. Green.

I have the honor to be, sir, your obedient servant,

C. WM. GRANT, Lieut. Col. B. M. L. C.

THOMAS BARCLAY, Esq.

SIR:

HARLEM, *December 21, 1813.*

In my letter to you of the 15th current, I stated, in addition to other matters, the more than ordinary severity of the treatment Colonel Grant and the nine other British prisoners, committed to Worcester jail by the marshal of Massachusetts, experienced. I am since informed that, in order to render their situation still more unpleasant, they have, with the exception of one, been deprived of their servants, who have been marched to Boston or Salem as prisoners; and that their confinement, in every other respect, is the reverse of what gentlemen, even under sentence of death, ought to experience. I hope this treatment and privation have been exercised without the knowledge of the American Government.

The treatment which the American officers in close confinement within His Majesty's colonies receive, is very different, and in every particular as liberal and comfortable as the nature of their imprisonment will permit. In proof of this, I enclose a copy of a letter published some days since in the Philadelphia Gazette, purporting to be a letter from a captain in the United States' service, a prisoner in Quebec, to his father. The letter, I consider, bears strong marks of authenticity.

Having stated the treatment British prisoners in these States, and American prisoners in His Majesty's dominions, both placed in strict confinement on retaliatory principles, receive, it rests with your Government to procure a continuation of the same comforts and conveniences to its prisoners which they now enjoy, by immediately directing that similar indulgences be extended to British subjects in these States, under similar circumstances; or to compel His Majesty's Government to direct that the same severity be exercised towards American prisoners which His Majesty's subjects experience under their confinement in these States.

Should your Government, upon this representation, think proper to adopt the former of these alternatives, you will be pleased to return me the enclosed letter. On the contrary, should a continuance of the severity and privation be considered necessary on the part of the United States, permit me to request you will do me the favor to forward the enclosed letter, by a flag of truce, to his excellency Lieutenant General Sir George Prevost.

A return of the servants to the officers is necessary, or at least in the proportion of one servant to two officers. I am under the necessity of requesting an answer to this.

I have the honor to be, sir, your obedient servant,

General MASON, &c.

THOMAS BARCLAY.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

SIR:

WASHINGTON, *December 26, 1813.*

In reply to your inquiries of the 15th instant, relative to Lieutenant Colonel Grant, and other British officers, confined in the State of Massachusetts, (first reminding you, as you have before been apprized, that it has been uniformly the practice of this Government, in matters of retaliation, to execute the measure intended before any official communication was made,) I have the honor to inform you that these officers have been so placed, to answer, in part, for the safety and proper treatment of the forty-six American officers, commissioned and non-commissioned, confined in the common jail at Quebec, a measure announced as determined on by the letter of the 17th October, from General Sir George Prevost to Major General Wilkinson, the execution of which was made known to me by your letter of the 26th November. Orders have been given for the confinement of other British commissioned officers in Massachusetts and elsewhere, to the number of forty-six, including those named by you, for the same purpose. So soon as the returns shall be received, they will be communicated to you.

The reply to your inquiry, on what principle restrictions have been directed, independent of the strictest imprisonment, to be exercised on your officers, is, that none such have been directed; and as to what you term more than ordinary state of strict retaliatory confinement, since you have not been pleased to furnish me with any evidence of the manner in which our officers have been treated in their jail, it is not in my power to enter now upon that part of the subject. I will assure you, however, that orders were given to show to your officers, whose close confinement has been made necessary by a previous act of your Government, all the mildness, and to afford them all the accommodation, consistent with their unfortunate situation; and that the requisite inquiries have been made as to the execution of the intention of this Government. The paroles of these officers having been suspended, in lieu of the three shillings sterling per day, directions were given to supply their tables with good, plain fare, and their rooms with sufficient fuel and comfortable bedding; and, from the character of the marshal in whose custody they are, I cannot doubt that this has been done.

You could never have understood from me, sir, that it was intended to retaliate, at any given place, for the violent conduct of your Government in placing in jail forty-six of our officers at Quebec. This highly offensive and novel procedure was not known in this country at the time you last left the seat of Government, and you will find nothing written from me to that effect. There is no doubt that the British officers now imprisoned at Worcester, in Massachusetts, to whom you allude, make part of the troops I proposed should have been sent to Halifax, by return of the British cartel which you engaged should bring over to Salem, from that place, such of our land troops as had been carried there from Quebec; nor is there less doubt that the forty-six American officers, a list of whom you have furnished me in your letter of the 26th November, are part of the American prisoner troops you engaged with me should be immediately released from Canada—the soldiers and non-commissioned officers to be delivered on the lines, and the commissioned officers to be paroled, to return directly on the reception of your despatches by your commanding officer in Canada, in return for a like number to be released to you; with which arrangement your commanding general in Canada has refused to comply, even as to those he yet holds there, uninterfered with by retaliatory measures. When your cartel shall arrive from Halifax with American prisoners, I shall have from the adjacent depots a corresponding number of British prisoners to be returned by her. But in the uncertainty of a disposition according with your arrangements, as evinced by the late experiment in Canada, it is certainly best for your prisoners, and most prudent on my part, that they should not be removed until we are more certainly informed of the coming of our prisoners.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *December 26, 1813.*

In your letter of the 26th ultimo, transmitting copy of a letter from Sir George Prevost of the 27th October, and a list of forty-six American officers confined in jail at Quebec, you offer to furnish, if desired, a copy of a

letter from Earl Bathurst to Sir George Prevost; as that paper forms part of the documents in the case to which your communication has reference, I will thank you to send it to me.

Returns of all the prisoners, confined in retaliation in this country, shall be sent you as soon as they can be made complete.

Col. THOMAS BARCLAY, &c.

I have the honor to be, &c.

J. MASON.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,
WASHINGTON, December 29, 1813.

SIR:

In answer to your letter of the 21st instant, I beg leave to assure you, that it is very far from the intention of this Government, or the desire of any of its officers charged with that painful service, to cause to be felt by British officers confined in retaliation for the American officers put in jail in Quebec, more inconvenience than has been made necessary by the conduct of the enemy in regard to our officers, on whose account they are so held.

Before you advanced such a declaration as the following: "I am since informed that, in order to render their situation still more unpleasant, they have, with the exception of one, been deprived of their servants, who have been marched to Boston or Salem, as prisoners; and that their confinement, in every other respect, is the reverse of what gentlemen, even under the sentence of death, ought to experience. I hope this treatment and privation have been exercised without the knowledge of the American Government." It is to be regretted that you had not taken pains to have been better informed. The unfortunate situation of these gentlemen is sincerely to be lamented; when confined in a jail, however, you must see the impossibility of making them as comfortable as, from their habits and rank in life, would be otherwise desirable. But that they have been treated with unnecessary severity is positively denied, as having been in any degree directed or countenanced by the Government, nor is it believed as practised by the officer in whose charge they are. You might at least, sir, on this occasion, have refrained from attributing unworthy motives. If their servants have been withdrawn, they shall be restored so soon as it is ascertained that our officers, closely confined, receive that accommodation. It is the intention of this Government to make their situation in every respect similar to that of our officers held in prison, and, to that end, we shall be very glad to receive from you any information you may be able to communicate; but you must permit me, sir, to say, that we cannot take the anonymous newspaper paragraphs you have sent for authority on that subject.

You will remark, sir, by the documents sent you in my letter of yesterday, that Colonel Gardner, our agent at Quebec, has been refused permission to visit them; he may, therefore, not have been able to give me any information about their situation.

Colonel THOMAS BARCLAY, &c.

I have the honor to be, &c.

J. MASON.

I, Timothy Whiting, of Lancaster, in the county of Worcester, do testify and say, that being at Worcester on the day of the commitment of the British officers, (meaning those who had been at Worcester on parole,) I heard the marshal direct Doctor Lincoln, (his reputed agent for taking care of prisoners) to be particularly careful and see that they were treated with great humanity, and well provided with good and wholesome provisions, bedding, &c. The marshal appeared very solicitous that the humanity of the United States should not suffer from any neglect in this respect; and he observed to Doctor Lincoln, that by the cartel three shillings sterling per day was allowed to each gentleman for subsistence, and he presumed there would be no objection to his allowing to the extent of four dollars per week; that it was not intended that these officers should be served with prison beds, as for this additional sum the jailer would provide good, comfortable beds for them. This was fully acquiesced in by Doctor Lincoln and myself, and our official situation, as county officers connected with the jail, enabled us to know, and to state to the marshal, that it was in the power of the jailer to furnish as good bedding as is generally found in the best public houses in Worcester, and we had no doubt of the jailer's humane disposition. These observations were made to the marshal, from the solicitude he discovered to have the officers treated with all the kindness and attention which, he said, he thought was due to men so peculiarly situated as these officers were, and which could be done consistent with their safe keeping.

TIMOTHY WHITING.

WORCESTER, ss.

LANCASTER, January 24, 1814.

Then Timothy Whiting, Esq., personally appeared, and made solemn oath to the above deposition by him subscribed.

Before me, JOSIAH FLAGG, *Justice of the Peace.*

Extract of a letter from Colonel Barclay to the Commissary General of Prisoners.

JANUARY 6, 1814.

Agreeably to your request of the 26th ultimo, I enclose a copy of Earl Bathurst's letter to Lieutenant General Sir George Prevost of the 12th of August.

SIR:

DOWNING STREET, August 12, 1813.

I have had the honor of receiving your despatch No. 66, of the 6th June, enclosing a letter addressed to your excellency by Major General Dearborn. In this letter it is stated that the American commissary of prisoners in London had made it known to his Government, that twenty-three soldiers, of the first, sixth, and thirteenth regiments United States' infantry, made prisoners, had been sent to England, and held in close confinement as British subjects; and that Major General Dearborn had received instructions from his Government to put into close confinement twenty-three British soldiers, to be kept as hostages, for the safe-keeping and restoration, in exchange, of the soldiers of the United States who had been sent, as above stated, to England; and General Dearborn apprizes you, that, in obedience to those instructions, he had put twenty-three British soldiers in close confinement, to be kept as hostages.

The persons referred to in this letter were soldiers serving in the American army, taken prisoners at Queens-town, and sent home by you, that they might be disposed of according to the pleasure of His Royal Highness the

Prince Regent, they having declared themselves to be British born subjects. Your excellency has been directed to send home the necessary evidence upon this point, and they are held in custody to undergo a legal trial.

You will lose no time in communicating to Major General Dearborn that you have transmitted home a copy of his letter to you, and that you are, in consequence, instructed distinctly to state to him that you have received the commands of His Royal Highness the Prince Regent forthwith to put in close confinement forty-six American officers and non-commissioned officers, to be held as hostages for the safe keeping of the twenty-three British soldiers stated to have been put in close confinement by order of the American Government; and you will, at the same time, apprise him, that if any of the said British soldiers shall suffer death, by reason that the soldiers now under confinement here have been found guilty, and that the known law, not only of Great Britain, but of every independent State, under similar circumstances, has been in consequence executed, you have been instructed to select out of the American officers and non-commissioned officers, whom you shall have put into close confinement, as many as may double the number of British soldiers who shall have been so unwarrantably put to death, and cause such officers and non-commissioned officers to suffer death immediately.

And you are further instructed to notify to Major General Dearborn, that the commanders of His Majesty's armies and fleets on the coasts of America have received instructions to prosecute the war with unmitigated severity against all cities, towns, and villages belonging to the United States, and against the inhabitants thereof, if, after this communication shall have been duly made to Major General Dearborn, and a reasonable time given for its being transmitted to the American Government, that Government shall unhappily not be deterred from putting to death any of the soldiers who now are, or who may hereafter be, kept as hostages, for the purposes stated in the letter from Major General Dearborn.

I have the honor to be, &c.

BATHURST.

To Lieutenant General Sir GEORGE PREVOST, *Bart. &c.*

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay.

SIR:

WASHINGTON, January 26, 1814.

I have the honor to enclose you extracts of letters lately received from Colonel Gardner, American agent for prisoners in Canada, to wit: one of the 25th of November and 17th December, and a copy of a letter from him of 10th December, accompanied by copies of a correspondence between him and General Glasgow, to say, of the 8th and 9th December from Colonel Gardner, and of the 9th and 10th from General Glasgow.

By these you will perceive that now the American agent is barred altogether from visiting any prisoner in confinement, and that when he is permitted even to go into the lower town of Quebec, where no prisoners are held, to purchase any articles or transact any business for them, he is guarded and restricted to a few hours.

In consequence of the last paragraph of the letter from Colonel Gardner of the 17th December, and the relaxation of the commanding officer in Canada towards some of our officers, I have with pleasure found myself enabled to ameliorate, in a degree, the situation of your officers of corresponding rank. I have instructed the marshal of Kentucky to offer to the British field officers now confined at Frankfort a parole, restricting them to such houses and their premises as they can most conveniently be located in; in this order I have included Majors Chambers and Muir, understanding that they are majors by brevet, and Captain Crowther, because he has his family with him; to his lady and two small children, who, I understand, compose his family, I have directed to be paid subsistence equal to one and a half of the sum of the allowance to officers of the rank of her husband, to wit: at the rate of four shillings and six-pence sterling per day.

I enclose you a list of all the officers now confined in the State of Kentucky; so soon as I can receive the reports from the other marshals, they shall be furnished.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners.

JANUARY 27, 1814.

I am directed to acquaint you, that if it is the wish of your Government to release the whole or a part of the officers and men now in confinement on retaliatory measures, on its releasing British prisoners so confined, a similar number of American prisoners under the same kind of confinement, and of the same rank, shall be forthwith released in Canada and Nova Scotia, and be succeeded by an immediate exchange.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay.

FEBRUARY 4, 1814.

In your letter of the 27th January, you state that you are directed to acquaint me, that if it is the wish of this Government to release the whole or a part of the officers and men now in confinement on retaliatory measures, on the release of British prisoners so confined, a similar number of American prisoners under the same kind of confinement, and of the same rank, shall be forthwith released in Canada and Nova Scotia.

If you mean that all officers and men, prisoners of war, on either side, who have been confined in retaliation, or for whose confinement measures of retaliation have been resorted to, shall now be released by both Governments, your proposition will be promptly assented to; or if it is meant that leaving in each case which has occurred, those who constituted the first step of rigorous confinement on each side, to stand the one designation against the other, and to release all others held in retaliation by either nation, it will be as readily agreed to, and stipulated that exchanges for those so released, according to rank and equivalent, shall immediately follow.

If I have understood you correctly as to either mode of proceeding on this important subject, I am instructed, sir, to inform you that this Government will enter with the least possible delay on such arrangements as may be found best calculated to relieve the sufferings of the unfortunate persons implicated on both sides.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

FEBRUARY 9, 1814.

Your letter of the 4th instant I have received. I had hoped I had expressed myself with so much perspicuity in my letter of the 27th January, that my meaning would have been perfectly understood by you.

If you will examine that letter, you will find the proposal therein contained to relate to a general exchange of all the prisoners of war, including those under confinement on retaliatory principles. In answer to your question, whether it was intended to include in my proposal to you "those for whose confinement measures of retaliation have been resorted to," I beg leave to say it was not.

With respect to characters of that description, I have no authority to make any proposition.

Extract of a letter from the Commissary General of Prisoners to Thomas Steele, Esq., Deputy Marshal of Ohio, dated

WASHINGTON, January 29, 1814.

It has become necessary, in order to meet by corresponding measures the treatment used by the enemy towards our officers in their power, to confine all British officers remaining in your custody.

I enclose you a despatch from the Department of War to Lieutenant Colonel Campbell, commanding officer at Chillicothe, requesting him to furnish an officer and guard to conduct safely to Kentucky such of the British officers as you may deliver him. You will keep the contents of this despatch entirely with yourself, until you see and deliver the despatch to Colonel Campbell, and you will consult confidentially with him as to the measures to be taken to secure all the officers before any alarm is excited, in order to prevent escapes.

By your last returns it appears that you held, of the army, two cadets; of the navy, five lieutenants, two masters, three midshipmen, and six masters' mates.

These and other officers or cadets of the British army or navy you may hold, of rank not lower than those designated, if I should have mistaken your returns, are by order of the President immediately to be placed in close confinement, and delivered to Colonel Campbell, to be conducted to Frankfort, in Kentucky, there to be delivered to the marshal of that State.

You will be pleased, as requested in the former order on a similar occasion, to conduct this procedure with all the humanity and tenderness the case may be susceptible of, guarding always against risk of escape; and you will pay all the officers up the arrearages due to the time that the paroles are suspended, and see every justice done them in settling their accounts, &c. with the inhabitants.

Extract of a letter from the Commissary General of Prisoners to the Marshal of Massachusetts, dated

FEBRUARY 8, 1814.

The British authorities at Quebec and Halifax having thought proper to confine closely a number of our officers, (over and above the forty-six first confined at Quebec) on plea of retaliation for their officers confined in the United States, to be held for the safety and proper treatment of these, I am commanded by the President to instruct you to confine closely at Pittsfield, and to place under military guard all the officers British prisoners who may have been returned by your deputy, Major Melville, from Burlington, Vermont, to the State of Massachusetts, a list of whose names was forwarded you yesterday, presumed in number to be nineteen or twenty. You will be pleased, as in similar cases, and as heretofore recommended, to inform the officers the cause of their confinement, and to do all that may depend on you to make their situation as comfortable as possible consistent with safety against escape.

Extract of a letter from the Commissary General of Prisoners to James Prince, Esq., Marshal of Massachusetts, dated

FEBRUARY 22, 1814.

In mine of the 11th I requested my order, as to the confinement of the officers to be returned from Burlington to Cheshire, to be suspended. I have before me yours of the 14th, informing me of the prompt measures you had taken to execute my order of the 8th; as I had advised Major Melville by the same mail of my intentions to suspend the order for a few days, it is probable they were not executed; but be this as it may, I have now, by command of the President, to require you to deliver over to Major Sizer, to be conducted by such route as he may prefer, avoiding always any military work or maritime city, to be conducted to the city of Philadelphia, and there to deliver to the marshal of Pennsylvania, who will be apprized of their coming, all the British prisoner officers in your custody, whether heretofore confined or not, with the exception of the field officers, who I understand to be Colonel Grant, Major Villette, and Major Joseph Powell; to these you will offer the form of specific parole as hostages, sent you in my letter of 29th January; and, if accepted, take one from each, and assign them to some particular house and premises in the town of Cheshire; if not accepted, arrest either of them not so accepting, and send him on to Philadelphia with the other officers.

The officers I understand thus, under this order, to be sent on to Philadelphia or paroled, will be the seven returned in your list of the 14th instant.

Four returned in Major Melville's list of the 24th December, confined at Lenox.

Nineteen returned in Major Melville's list of the 29th January, as sent from Burlington.

Two naval officers, shown in your late returns, on parole, viz: Lieutenant Carpenter and one midshipman.

It is not meant, however, by this designation, to exclude any others of similar description I may have overlooked. Captain James S. Tyeth, intended to have been confined at Lenox with the other four, was reported by Major Melville to be in too bad a state of health to be in confinement; if he still remains so, he may remain at Cheshire on ordinary parole.

Extract of a letter from the Commissary General of Prisoners to John Smith, Esq., Marshal of Pennsylvania, dated

SIR:

FEBRUARY 23, 1814.

The conduct of the enemy in confining many of our officers prisoners in their hands on the plea of retaliation for certain hostages designated and confined in the United States, to answer for the proper treatment and safety of a like number of American prisoner soldiers separated from their fellow prisoners and sent to England for trial, has imposed upon the Government the necessity of confining British officers in our power, equal in number, to be held responsible for every improper treatment of the enemy towards our officers.

I am commanded by the President to require that you will, immediately after the reception of this letter, suspend the paroles of, and place in close confinement, all the British commissioned officers of the army or navy, or midshipmen, or masters, or masters' mates in the navy now in your custody within the State of Pennsylvania, not suffering from wounds or sickness, except Lieutenant Lovesay of the *Jaseur*, reported in yours of the 17th January, who happens to stand for the present in a peculiar situation: there are presumed to be three at Pittsburg, and a few at Lancaster, the number not precisely known; but be they more or less, this measure is to reach them all, except the lieutenant before mentioned, as the numbers now within your State, in addition to those directed to be confined in other States, will not exceed that which is now required by the circumstances of the case.

You will, sir, so conduct the procedure on your part, that no knowledge of the intention of the Government on this subject shall be given until, at each place where there may be such officers in your State, the arrest is ready, under proper precautions to be made, and the persons of the British officers secured: in order that escapes may be effectually guarded against, those who may be at Pittsburg you will instruct your deputy to hold in confinement there; those at Lancaster, or any place not more distant, you will remove under a sufficient guard, in carriages, to Philadelphia, and confine them in that city.

So soon as the arrest takes place, the parole being suspended, the subsistence money is also suspended; and you will provide the officers in each case with comfortable plain fare, suitable to their ranks in life, for subsistence; and you will direct at Pittsburg, and provide in Philadelphia, in the places destined for their confinement, on the best terms you can, comfortable rooms, with stoves or fire-places, and such beds and furniture as will be convenient and proper, so as they be not too much crowded, to be conveniently subsisted; and you will allow to each field officer (if any) one servant to each, and to each four others one servant each; the servants to be taken from the prisoner soldiers, or paid by the officers; to be confined, however, in the walls of the jail, and to have no intercourse from without. You will allow to the officers the means, through proper channels, of sending out to procure any thing of a proper nature for their use, and the use of books, pen, ink, and paper, &c.; but you will permit no person to see or converse with them but in the presence of yourself or one of your officers, and will allow no written paper or letters to pass to or from them, unless first inspected; and you will take particular care that nothing is introduced by them, or conveyed to them, that may facilitate escape.

You will, having thus taken every possible means to prevent escape, do all that may depend on you to make the situation of these unfortunate officers as comfortable as the nature of the case will admit, and treat them with as much tenderness and humanity as possible; and you are requested to explain to them the cause of their confinement, to inform them that the Government has reluctantly taken such steps, forced on it by the conduct of the enemy in regard to our officers held by them.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,
WASHINGTON, February 23, 1814.

SIR:

When I returned you, on the 26th of January, a list of British officers confined in Kentucky, because of the attempt to escape made by several of those who had been confined in Massachusetts, I was not able to ascertain, by any report I then had, with sufficient precision, the number and names of those held there. I have now the honor to enclose you a return of thirty-nine British officers, originally confined in retaliation, in part, for the forty-six American officers and non-commissioned officers imprisoned in October last at Quebec; of these, four have effected their escape, as shown at foot, and four other British officers have been ordered into confinement to replace them; of the remaining thirty-five, twenty-four were confined in Kentucky, and eleven in Massachusetts, as pointed out in the list. You will be pleased to remark, that this list includes the one sent you on the 26th January, and contains, so far as that went, the same names.

At the time of the act of your Government at Quebec which produced this step of retaliation on our part, twenty odd British officers had been, as I have before informed you, advanced to Burlington, towards the completion, on our part, of the engagement entered into with you last fall. Desirous, under these circumstances, when it was made known, that some of our officers remained uninterfered with at Quebec, by the rigid measures adopted by Sir George Prevost, and that some of our prisoner soldiers also were yet there, over and above those shipped off to England or to Halifax, to leave the British officers so advanced on parole, (and in what was thought would be the most acceptable situation) to be offered in exchange against the American officers then on parole at Quebec, it was determined, although the number designated at that time, in retaliation for the forty-six American officers confined at Quebec, was short of the numbers required here, and that the British officers sent to Burlington presented themselves as the most proper persons from whom to make the selection of the number yet requisite, in the spirit of conciliation, to save them untouched by the retaliatory system, until they should have been so offered in exchange. This having been done, with a full explanation to Sir George Prevost, and rejected by him, and it having been ascertained that, both at Quebec and Halifax, a second series of American officers had been confined, amounting in number to at least forty-six, orders have been given in Massachusetts, Pennsylvania, and Ohio, to confine an additional number of British officers, including those who had been sent to Burlington, in order to complete (with the deficit in the list now sent, against the forty-six arrested by your officers) the whole number of ninety-two, in the hope the authorities of your Government did not persist in holding in confinement with those first arrested to a greater amount.

On this subject I want information, and will thank you to inform me particularly what has been the course taken by your officers at Quebec and Halifax. I am advised by Colonel Gardner at Quebec, that, in the second step taken there in relation to our officers, ten were confined at Quebec. I am without any precise information whereby to be governed at this time.

By the letter from your agent for prisoners, of the 20th December, which you sent me, I find that all the American officers, military, naval, and of private maritime service, to the number of seventy-two, had been confined, and that it was intended to go on to arrest, to make up the number of ninety-two; that afterwards, so many

of these as came over in the *Analostan*, and Lieutenant Budd, were released. In another part of the same letter it is stated that forty-one American officers remained confined on board the ship *Malabar*. Mr. Mitchell, our agent at Halifax, was so ill at his house in the country, where he had been confined for a considerable time, that in his short letters of the last of January, by the *Bostock* cartel, he merely refers to a general list sent him by Mr. Miller, of the prisoners at Halifax, by which I am at a loss to understand whether there were thirty-one or forty-seven American officers at that time in confinement at Halifax.

So soon as the returns, under the last orders for confinement of British officers in retaliation, for those long ago confined at Quebec and Halifax, are received, they shall be communicated to you.

I have the honor to be, sir, your most obedient servant,

J. MASON.

Colonel THOMAS BARCLAY, &c.

SIR:

BLADENSBURG, *March 10, 1814.*

Agreeably to the request contained in your letter of the 28th of last month, I enclose a copy of Lieutenant Miller's letter to me on the subject of American officers in close confinement at Halifax, with a list of their names—seventeen military and fourteen maritime officers. These I believe to be the whole in close confinement at Halifax. Also, a list of twenty officers and twenty-six non-commissioned officers, American prisoners, confined at Quebec. This is the only list of officers confined at Quebec in my possession.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General MASON, &c.

D.

SIR:

H. M. SHIP *POICTIERS, May 8, 1813.*

I am sorry I am under the necessity of detaining John Stevens and John King, late of the *Vixen*, in consequence of their being British subjects.

I am, sir, &c.

To Lieutenant DRAYTON.

J. P. BERESFORD.

SIR:

NAVY DEPARTMENT, *May 17, 1813.*

You are hereby authorized and instructed to address a letter to Admiral Sir John Borlase Warren, representing the following facts and determination, viz: that a part of the officers and crew of the late United States' brig *Vixen* were returning from Jamaica on parole as prisoners of war, and entering the Delaware, when Commodore Beresford caused them to be brought on board the *Poictiers*, and detained until a part of the crew of that ship, whom he demanded in exchange, were sent down from Philadelphia; that ultimately he detained John Stevens, carpenter, and Thomas King, seaman, two of the aforesaid crew of the *Vixen*, on the plea of their being British subjects as appears by a letter from Commodore Beresford to Lieutenant Drayton, late first of the said brig *Vixen*; and that you are commanded explicitly to declare that, in retaliation for the violent and unjust detention of the said John Stevens and Thomas King, the Government of the United States will immediately cause four British subjects to be selected and held in duress, subject to the same treatment, in all respects, that the said John Stevens and Thomas King may receive during their detention.

On the receipt of the admiral's answer, you will communicate the same to me without delay.

I am, respectfully, &c.

W. JONES.

CHARLES STEWART, Esq., *Commanding naval officer, Norfolk, Va.*

SIR:

U. S. FRIGATE *CONSTELLATION, OFF NORFOLK, May 20, 1813.*

I have the honor to represent to your excellency that a part of the officers and crew of the late United States' brig *Vixen*, returning from Jamaica on parole as prisoners of war, were, on entering the Delaware, taken out of the flag of truce by Commodore Beresford, commanding on that station, and detained until a part of the crew of the *Poictiers*, then prisoners at Philadelphia, were demanded by him and sent down in exchange; that ultimately he detained on board the *Poictiers* John Stevens, carpenter, and Thomas King, seaman, late of the United States' brig *Vixen*, on plea of their being subjects of His Britannic Majesty.

This violation of the rights of prisoners on parole is so contrary to the usage of civilized nations, that I trust your excellency will give such instructions upon that head as will prevent a similar violation in future.

I have it in command from my Government to state to your excellency, that, in retaliation for so violent and unjust a procedure on the part of Commodore Beresford, in detaining the above Mr. John Stevens and Thomas King, four subjects of His Britannic Majesty will be immediately selected and held in duress, subject to the same treatment, in all respects, which may be shown towards the aforesaid two persons during their detention. I hope your excellency will give this subject your earliest attention, and direct the release of Mr. Stevens and Thomas King, who have been so improperly detained on board the *Poictiers*.

I have the honor to be, &c.

CHARLES STEWART,

Commanding officer of the U. S. naval forces at Norfolk.

To His Excellency the Rt. Hon. SIR JOHN B. WARREN, *Admiral of the Blue, &c.*

HIS BRITANNIC MAJESTY'S SHIP *MARLBOROUGH,*
IN LYNNHAVEN BAY, *May 21, 1813.*

SIR:

In the absence of Sir John Warren, I have the honor to acknowledge the receipt of your letter under date of the 20th current, complaining of the conduct of Commodore Beresford towards some American prisoners of war returning to Philadelphia on parole, and of his having detained on board the *Poictiers* Mr. John Stevens and Thomas King.

No report of these circumstances has yet reached Sir John Warren or myself from Commodore Beresford, but I have no hesitation in assuring you, sir, that every inquiry would have been made into them, and every satisfaction and explanation thereon, which the case might have required, would have been offered to your Government and yourself, with the least possible delay, had it not been for the threat with which your representation on this subject is accompanied; the tenor of which being likely to produce an entire change in the aspect of our communications, and particularly in what relates to the individuals whom the fate of war has placed within the power of our respective nations, it totally precludes the possibility of my now entering further into the subject than to assure you your letter shall be transmitted to the right honorable the commander-in-chief by the earliest opportunity; and whenever his answer arrives, it shall be forwarded to you without delay.

I have the honor to be, &c.

G. COCKBURN.

CAPTAIN STEWART,

Commanding the naval forces of the United States at Norfolk.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *May 28, 1814.*

The President has ordered that four British subjects be designated as hostages for the safety of John Stevens, carpenter, and Thomas King, seaman, late of the United States' brig *Vixen*, prisoners of war, and returning on parole from Jamaica, violently detained, in the beginning of this month, when entering the Delaware, by Commodore Beresford, on the plea of their being British subjects.

You will, immediately on reception of this letter, select, by lot, from among the British prisoners of war in your custody, and belonging to King's ships, (taking special care to avoid the ten men of the *Guerriere's* crew lately released by you,) four men, two carpenters, or of the rank of carpenter as near as may be, and two seamen; place them in duress, and hold them in close confinement, subject, by future orders, to the same treatment, in all respects, that the said John Stevens and Thomas King may receive during their detention.

So soon as you have made the selection, you are required, by an early communication, to give me the names and description of the hostages, and of their place of confinement.

I have the honor to be, sir, your obedient servant,

J. MASON.

JAMES PRINCE, Esq., *Marshal of Massachusetts.*

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *June 10, 1813.*

I have the honor to transmit the copy of a letter from Captain Stewart, commanding the United States' naval forces at Norfolk, dated the 20th of May, to Admiral Warren, and that of a letter from Rear Admiral Cockburn, dated 21st of May, in reply, relative to a most unjustifiable act of Commodore Beresford, as to part of the officers and crew of the late United States' brig *Vixen*, at the mouth of the Delaware. Leaving the general question of the interference of Commodore Beresford with these prisoners of war returning on parole, and the exaction made by him in consequence of the irregular power thus assumed, on the ground on which Captain Stewart has very properly placed it, I will remark that Captain Stewart was certainly misapprehended by Admiral Cockburn, in attributing to him the intention of conveying a threat as to the final detention of two of the American prisoners. On the contrary, the expression used by Captain Stewart communicates, in very plain terms, the decision of this Government, then already made, that four of His Britannic Majesty's subjects should be immediately selected and held in duress, subject to the same treatment, in all respects, &c. And I have now to inform you, sir, that, in virtue of this decision, and by an order from this office, the marshal of Massachusetts has designated, and placed in close confinement, William Kitto, carpenter, and Henry Beddingfield, boatswain, of the late British packet *Swallow*, and John Squirrel and James Russell, seamen, of the *Dragon 74*, subjects of His Britannic Majesty, to be held responsible for the safety of John Stevens, carpenter, and Thomas King, seaman, part of the crew of the late United States' brig *Vixen*.

I flatter myself, sir, that this subject will command your early attention, and that you will cause the officer and seaman of the *Vixen* to be immediately released and returned to this country, according to their destination when taken from the cartel.

I have the honor to be, &c.

Colonel THOMAS BARCLAY, &c.

J. MASON.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

JUNE 15, 1813.

The subject of your letter of the 10th (the detention of King and Stevens by Commodore Beresford) is a matter not committed to me by my Government. It is of the first consequence, and on which the two nations have long entertained very different opinions. Although in ordinary cases of American prisoners of war arriving from British ports to these States, wherein either the whole or a part of them may have been detained by the commander of one of His Majesty's ships of war, it would be my duty to request information why the prisoners were detained, still, in the present instance, as your letter to me, and Captain Stewart's letter to his excellency Sir John Borlase Warren, whereof you have sent me a copy, develop the cause of detention, I cannot interfere without going into the merits; in doing which either Admiral Sir John B. Warren or Commodore Beresford might with propriety question my authority.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

AUGUST 25, 1813.

I have the honor to inform you that I yesterday directed the marshal of Massachusetts to restore to the ordinary state of prisoners John Squirrel and James Russell, seamen, late of the British 74 gun ship *Dragon*, held, as

I informed you in my letter of the 10th of June, to answer for the safety and proper treatment in the hands of the enemy of Thomas King, seaman, of the United States' late brig Vixen. King having lately made his escape from confinement in Bermuda, and, at the imminent risk of his life, arrived alone in an open boat on our coast, and reported himself to his officers, although he was not released, it has been determined, for the sake of humanity, not to regard the manner in which he has been restored to his country, and to relieve at once from anxiety and rigid confinement the two British seamen so held on his account.

E.

SIR:

NAVY YARD, CHARLESTOWN, *June 3, 1813.*

I have the honor to enclose to you a deposition respecting the inhuman treatment which Mr. Nichols, late commander of the private armed ship Decatur, belonging to Newburyport, has received from the British Government at Barbadoes. I have been credibly informed that Captain Nichols is a very respectable and correct man; therefore, a fair presumption that he has not committed himself in such a manner as ought to deprive him of the established rights of a prisoner of war. Any measure which the Government of our country may see proper to adopt in consequence of this communication, I shall readily attend to.

I have the honor to be, &c.

WM. BAINBRIDGE.

Hon. WILLIAM JONES, *Secretary of the Navy,*
City of Washington.

I, James Foot, of Newburyport, in the county of Essex and commonwealth of Massachusetts, mariner, testify and depose that I was a prize-master on board the private armed brigantine Decatur, of Newburyport, in her late cruise, William Nichols, commander; that, on the 18th day of January now last past, the said brigantine was captured by His Britannic Majesty's frigate Surprise, commanded by Captain Cochrane, and carried into Barbadoes. After our arrival in Barbadoes, Captain Nichols, with the other officers of the Decatur, were paroled. About two months after our arrival, His Britannic Majesty's frigate Vesta arrived in Barbadoes, and, through the influence of the commander of the Vesta, Captain Nichols, without any known or pretended cause, was arrested and held in close confinement, without liberty to speak to any of his officers, or any other American. The place where Captain Nichols was confined was about four feet in width, and seven feet in length, on board a prison ship, where he remained for thirty-four days, as nearly as I can recollect, and was then taken on board His Majesty's ship Tribune, and carried to England. What the cause of the unwarrantable and unjustifiable conduct of the enemy towards Captain Nichols was, I am unable to state. There were several reports in circulation; one was, that he was to be carried to England and held a prisoner until the release of certain men in France from whom Captain Nichols recaptured his vessel, which had been taken by the British before the commencement of the present war between the two countries. Another report was, that he was to be held until the close of the war, on account of his having been active against the enemy since the commencement of hostilities, and having been fortunate in a former cruise.

JAMES FOOT.

COMMONWEALTH OF MASSACHUSETTS, ESSEX, ss:

On this thirty-first day of May, in the year of our Lord one thousand eight hundred and thirteen, personally appeared James Foot, the subscriber to the foregoing deposition, and made solemn oath that the same is true.

JACOB GERRISH, *Justice of the Peace.*

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *June 21, 1813.*

Immediately on reception of this letter, you are requested and instructed, by command of the President, to designate two masters of private armed ships, or of merchantmen, British subjects, and prisoners of war, the first in preference, if you or the marshal of Maine have such in your charge, to place them in close confinement, and to hold them for further orders from this office, to answer for the safety and proper treatment of Captain William Nichols, late master of the private armed brigantine Decatur, of Newburyport, who was, when a prisoner, paroled at Barbadoes last spring, unjustifiably and inhumanly confined on board a prison-ship at that place for more than a month, and then sent to England, in similar confinement, aboard one of the enemy's armed ships.

I shall write to the marshal of Maine, and request him, if necessary, to act in conjunction with you on the subject.

You will be pleased to communicate this letter to Commodore Bainbridge, who has been good enough to interest himself in this matter of national feeling and justice, and to concert with him the proper measures; and, so soon as the order is executed, to give me the names, description, and places of confinement of the two persons designated. If there be more than two of the proper character from whom to designate, the designation should be made by lot.

I have the honor to be, &c.

J. MASON.

JAMES PRINCE, Esq., *Marshal of Massachusetts.*

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

JULY 3, 1813.

I beg leave to assure you that I shall at all times consider it my duty to give you the earliest information in my power of the detention or confinement of any of the officers of the United States' army or navy, private armed vessels or merchantmen, with the reasons, as far as comes to my knowledge. I hope to receive the same treatment from you in similar cases.

The New York Gazette of this day states, under the Portland head, that Joseph Barss, captain of the late British privateer schooner Liverpool Packet, had been ordered into close confinement in Portland, on the 28th ult-

mo, by order of your Government, and it is said as retaliatory for the treatment by the British of Captain Nichols, of the Decatur, of Newburyport.

I request you will communicate to me such facts as you can reveal consistent with your duty on this subject.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay.

JULY 8, 1813.

On the 21st of June I gave directions to the marshal of Massachusetts to execute a retaliatory order from this Government, (which, I presume, is the one to which you allude in your letter of the 3d instant,) with intention, as soon as his return was received, to give you information thereof, as was done on a late occasion of a similar kind. That return has not yet been received; as soon as it is, you may be assured that you shall hear from me on the subject.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners,

JULY 27, 1813.

On the 3d instant I informed you the New York Gazette stated that Captain Joseph Barss, of the Liverpool Packet privateer, a British prisoner of war on parole in Massachusetts, had been, by order of this Government, put in prison, retaliatory for treatment which Captain Nichols, of the American privateer Decatur, received in some part of His Majesty's dominions; and as I was totally ignorant of the cause, either of Captain Nichols's confinement, or of Captain Barss's imprisonment, save what the Gazette expressed, I requested you to communicate to me such facts as were consistent with your duty to reveal.

On the 8th of this month I received your answer, in the words following: "On the 21st of June I gave directions to the marshal of Massachusetts to execute a retaliatory order from this Government, (which, I presume, is the one to which you allude in your letter of the 3d instant,) with intention, as soon as his return was received, to give you information thereof. That return has not yet been received; as soon as it is, you may be assured that you shall hear from me on the subject."

I have not since heard further from you on this subject. On inquiry, I learn the following particulars respecting Captain Nichols: Previous to the present war between Great Britain and the United States, Captain Nichols commanded the American brig Alert, and, on his voyage to France, was detained by a British ship of war, and an officer and men put on board the Alert, with orders to carry her into a British port for adjudication; that, soon after, Captain Nichols and the men of the Alert rose on the British officer and seamen, regained the command of the Alert, and compelled the officer and British seamen to go into the small boat of the Alert, and turned them adrift at sea. Captain Nichols then pursued his voyage to France; before he made the land, he was, however, again met by the same British ship of war, and not being able or willing to give a correct account of the officer and men originally put on board his brig, he was sent to England as a prisoner for trial, under the suspicion of his having murdered, or otherwise made away with them; previous to his trial he effected his escape. A proclamation was issued for his being apprehended and lodged in any of His Majesty's jails. Captain Nichols, at the commencement of the present war, was commander of the Decatur, American privateer, captured and sent into Barbadoes, where he was paroled. His Majesty's ship Vesta, by which the Alert brig had been originally detained, arrived at Barbadoes some time in January last; the commander of which immediately recognised Captain Nichols, had him arrested, and sent to England, in the Tribune frigate, for trial. A partial account, I understand, has been published in the Newburyport newspaper, in June last, of Captain Nichols's arrest and imprisonment at Barbadoes, and being sent to England.

I have to request you will acquaint me whether the statement I have given you is correct; if not, that you will be pleased to furnish me with the facts you are possessed of. More than a sufficient period has elapsed for the marshal of Massachusetts to send you his return: if I suffer Captain Barss (and Captain Woodworth, who, I also learn, is confined on the same principle) to remain in jail, without attempting their release, I shall, with justice, stand charged with neglect of duty.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners.

HARLEM, August 7, 1813.

On the 27th day of July, nineteen days after the date of your letter to me, not having received the promised information, I again addressed you on the subject of Captain Barss and a Captain Woodworth, who, in the interval above mentioned, I discovered was also a close prisoner for the same cause; and, at the same time, gave you the merits of Captain Nichols's case, his arrest, and being sent to England for trial. The detail, I informed you, was the best I had been able to obtain, and requested you to acquaint me whether it was correct; if not, that you would be pleased to possess me with the facts in your possession. I have waited some time in the hope of receiving your answer. From your silence I am under the necessity of taking up the statement I transmitted to you as correct. If it is not, I feel it my duty to say you should long since have given me a true case. If, therefore, the subsequent remarks are founded on false premises, you will have the goodness to attribute them to your silence and delay.

I beg leave to submit the following remarks, which, as they are founded on general principles, I flatter myself will meet your and the President's concurrence:

Prisoners of war, guilty of crimes, are objects for trial and punishment by the nation to which they are prisoners; and the nation to which such prisoners belong has no right to object to the trial or punishments, provided they are agreeable to the laws of the land in which such prisoner may be, or consonant to the laws of nations.

When a citizen or subject of one nation is a prisoner, if the nation to which he is a prisoner treats him with unaccustomed severity, or in any other manner supposed to be illegal, it is the duty of the Government to whom he belongs to ascertain the facts, require an explanation, and, when possessed of all the circumstances, to acquiesce in the treatment, or remonstrate against it; and eventually, if justice is not done, or satisfaction made, to retaliate. One nation has not the right to retaliate on the subjects of the other, without first demanding the above explanation. War, of itself, even under the present control of civilization, is sufficiently barbarous, without going this last step, which I have reason to fear is the intention of this Government, to retaliate on British prisoners, whatever Americans may receive from the British Government, even in cases where the American prisoners have been guilty of

crimes. It appears, from the statement transmitted to you, that Captain Nichols, prior to the war, was committed to jail in England for some offence. Whether he was innocent or guilty is immaterial; at that time the same law would have been measured to him in common with His Majesty's subjects, and he was bound to have submitted thereto. Captain Nichols, however, thought proper to avoid a trial, and made his escape from prison. The British Government issued a proclamation for apprehending him; he, however, escaped, and returned to these States.

On the declaration of war he was appointed commander of the Decatur privateer, and, in January last, was captured by His Majesty's ship *Surprise*, and sent to Barbadoes, where he was paroled, and had the liberty to walk the streets. Soon after the *Vesta* frigate arrived at Barbadoes, the commander of which recognised Captain Nichols, knew the crime he had committed before the war, when captain of the *Alert*, merchant vessel, his escape, and the proclamation for apprehending him. He therefore had him arrested, and he has since been sent to England for his trial.

You will at once perceive that Captain Nichols was not arrested or sent to England for any act committed by him since, but for an offence prior to the war, when the two nations were at amity, and when he was as amenable to the laws of England as any of His Majesty's subjects.

His acquittal or punishment will be by a due course of law, and not by a naval or military tribunal; and I trust it is scarce necessary for me to add, that the judgment will be conformable to law and justice. Captain Nichols cannot acquire any rights from the war, or in consequence of being a prisoner, which will protect him for offences committed prior to the war.

I confidently hope the preceding relation and remarks will prove satisfactory, and that an order may be immediately forwarded for the release of Captains Barss and Woodworth. I pray your early answer.

With much more propriety might His Majesty retaliate for the detention and close confinement of Mr. Bowie in Massachusetts, who is accused of attempting to convey letters to Halifax during war, than this Government attempt to prevent, by retaliatory measures, the ordinary effects of British courts of law on Captain Nichols, charged with crimes committed during a state of profound peace.

I trust retaliatory measures will not in future be used by this Government, save on the fair principles expressed in this letter; if they are, the inevitable consequence will be, that similar measures must be adopted on the part of His Majesty.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay.

AUGUST 25, 1813.

I beg leave to assure you that it was not my intention to delay unnecessarily the replies to your inquiries relative to the confinement of Captain Barss and Captain Woodworth; I am ready to confess that this delay has arisen from an accident which I shall explain, and which retarded, longer than was desirable, my communication.

I should have more regretted this circumstance, but from the tenor of your letter of the 15th of June, in reply to mine of the 10th, on a similar subject, in which you consider yourself not the proper person to be addressed on occasions of this nature; yet it is proper to state, that retaliatory orders do not originate with me; they come from higher authority, and this office is only made the medium of their execution, with instructions, in each case, to give to you, when the order is executed, information of the fact. In the present case, the order from this office, as I informed you in mine of the 8th of July, was issued on the 21st of June to the marshal of Massachusetts, to designate two masters of private armed ships, or of merchantmen, British subjects, and prisoners of war, in charge of himself, or of either of the marshals of New Hampshire or Maine, and place them in close confinement, to be held to answer for the safety and proper treatment of Captain William Nichols, late master of the private armed brigantine *Decatur*, of Newburyport, who, while a prisoner of war on parole at Barbadoes, during last spring, had been seized and inhumanly confined in a small hole on board a prison-ship at that place, and barred from all communication for more than a month, and then sent to England, in close confinement, on board one of the enemy's ships, for no offence, alleged or known, other than that he was accused, by some of the British officers, of having recaptured an American vessel under his command, taken from him by a British armed vessel before the war; and the marshal was directed to make return.

It appears that the order was regularly executed, and the two captains (Barss and Woodworth) designated and confined. The marshal of Massachusetts, although an excellent and accurate officer, had omitted to make a regular return; probably the omission was owing to the designation having been made without his own district. I waited for his return, when I wrote you on the 8th of this month, as I then informed you; for certainly it was my intention to have communicated the facts and the causes as I have now done, without any inquiry on your part, as I had done in the case of the four men confined in retaliation for the two seized by Commodore Beresford, and notwithstanding the manner in which you received that communication.

In reply to your letters of the 27th July, and 7th of August, I will first beg leave to decline the discussion on which you are pleased to enter, as to the nature and rights of retaliation in time of war; and will only remark that, on this point, I have no authority to enter on that subject generally with you. On the merits of any particular case, where prisoners of war are concerned, I am authorized, and consider it my duty, to endeavor, by explanation and a statement of facts, to divert severity on either side as much as possible. It is difficult to reconcile the following passage in your letter of the 15th June: "It does not, therefore, appear to be the duties of my office to interfere, where it is suggested the officers of His Majesty's navy or army have acted either contrary to law, or even indiscreetly; such cases are to be arranged by the commander-in-chief of His Majesty's ships of war on the American station, or by the general commanding His Majesty's forces in America, or by His Majesty's ministers in London." With the wide field you have taken in your letter of the 7th of August, relative to the cases of Captains Nichols, Barss, and Woodworth, it is not easy to suppose that your Government should expect that you could exercise here the full power of requiring explanation from the American authorities, without offering to them the means of similar facility.

You have, however, given what you suppose, as you say, to be the circumstances of Captain Nichols's case. As you rest it on no authority, you must permit me to say, it is impossible for me to act in any way on your present statement. Without, however, implying any commitment on the part of this Government as to its future course, I will only remind you that you have more than once been mistaken on information collected from irregular sources. I will cite the cases of Mr. Oswald Lawson, &c. as evidences of the caution with which you ought to make official demands. All authentic information which you may be able to collect respecting the case of Captain Nichols shall be received with pleasure, and, I can assure you, will command the immediate attention of the proper authorities. In the mean time, it is proper to state, that his character has been inquired into, and is considered too respectable to be reached by the accusation of crimes you are pleased, on rumor only, to bring against him.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

August 29, 1813.

I am honored with your letter of the 25th instant, on the subject of Captains Barss and Woodworth, British prisoners of war, now in close confinement in these States, as a retaliatory measure for treatment stated to have been received by Captain Nichols, of the Decatur privateer, while a prisoner, and his having since been sent to England as a prisoner.

From the tenor of your letter, it is evident you suppose my letters to you on the above subject are in opposition to my letter of the 15th of June, in answer to yours of the 10th of that month, respecting two men of the Vixen, taken out of a cartel vessel in the Delaware, by Commodore Beresford. I am unable to discover any contradiction in them. In your letter of the 10th June, after stating the facts, you request me to "cause the officer and seaman of the Vixen to be immediately released and returned to this country." In answer, I informed you this was not in my power; that "the duties of my office were confined to the relief of British subjects detained in the United States of America, and for carrying on exchanges;" and I added, that which you notice in your letter of the 25th instant, "it does not, therefore, appertain to the duties of my office," &c. &c.; this was a natural and correct conclusion, after stating the nature and extent of my appointment. The case in which you called on me to interfere was of the first importance; it embraced the causes on which the United States have founded the necessity of going to war with Great Britain; it involved the right exercised by Great Britain over her subjects; and, on the other hand, the right the United States claim with respect to British born subjects, made citizens in these States. I therefore told you it was beyond the limits of my appointment, and could only be acted upon by the commander-in-chief of His Majesty's ships of war in America, or His Majesty's ministers in London; and I acquainted you I should transmit to his excellency Sir John B. Warren, and to my Government, copies of your communication on this subject, which was done. I cannot perceive in what manner this acknowledged want of power in me can lead you to imagine it deprives me of the right of respectfully inquiring of this Government the reasons which have induced it to deprive of the benefit of parole, and treat with increased severity, two British prisoners of war, not charged with having committed a crime or an offence. The words of my commission particularly embrace the case of Captains Barss and Woodworth, who are detained in these States.

I proceed to the second part of your letter—the reasons assigned by you for not having returned me an answer to my letters on this subject. This, you observe, was occasioned by the marshal's not having transmitted you a regular return. The return of the marshal was wholly irrelevant to the request contained in my letters of the 3d and 27th July. I made no inquiry respecting the conduct of the marshal in executing the order of the Government on Captains Barss and Woodworth. I was possessed of this fact. What I requested was, that you would be pleased to "communicate to me such facts as you can reveal consistent with your duty." This Government must have been possessed of them before the 3d of July, nay, even prior to the order to the marshal to apprehend two British prisoners; consequently, it was equally in your power on the 8th of July, as on the 25th of August, to have offered me the information requested.

My letter of the 27th of July contains simply the circumstances I had collected respecting Captain Nichols; the cause of his parole at Barbadoes being superseded, and he sent on board the prison-ship, and from thence to England; together with the request that you would acquaint me whether those facts were correct, and, if not, that you would be pleased to furnish me with the facts in your possession. It is true, on the 7th of August, in consequence of your continued silence, and withholding from me the information I had repeatedly requested, I entered upon the propriety of the treatment of Captains Barss and Woodworth, and argued upon it, taking the case sent you on the 27th of July, as comprising the whole of the facts relating to Captain Nichols, and Captains Barss and Woodworth. Prior, however, to my entering upon the subject, I recapitulated my repeated attempts to obtain information from you, and added that "from your silence I am compelled to take up the statement I transmitted to you as correct; if it is not, I feel it my duty to say you should long since have given me a true case."

I beg leave to assure you, sir, that the principles stated by me in my letter of the 7th of August, respecting retaliatory measures, were by no means intended as matter of discussion; I consider them as acknowledged principles, and, as such, applied them to the case. I will not presume to say they were opposite to the case under consideration; that is a question to be determined by others; but I aver the principles to be sound law.

The case of Captain Nichols, as represented by me, is generally, though not particularly, acknowledged by you, in your letter of the 25th instant, in which you suggest that Captains Barss and Woodworth were placed "in close confinement, to be held to answer for the safety and proper treatment of Captain William Nichols, late master of the private armed brig Decatur, of Newburyport, who, while a prisoner of war on parole at Barbadoes, during the last spring, had been seized and inhumanly confined in a small hole on board a prison-ship at that place, and barred from all communication for more than a month, and then sent to England in close confinement on board of one of the enemy's ships, for no offence alleged or known, other than that he was accused by some of the British officers of having recaptured an American vessel under his command, and taken from him by a British armed vessel before the war." In the preceding extract you acknowledge that Captain Nichols "was accused by some British officers of having recaptured an American vessel under his command before the war;" this forms a part of my statement to you on the 27th of July. In addition to which I mentioned what is omitted by you, but which will eventually come out in evidence, that Captain Nichols, on regaining the possession of the Alert brig, put the prize-master and seamen in a small boat, and committed them to the mercy of the winds and waves. It is for this act, principally, he is sent to England to be tried. In a case like the present, I presume that this Government would not have directed retaliatory orders to issue, without having the facts confirmed under an oath; and I had hoped you would have had the goodness to have sent me copies of the depositions taken. If you can with propriety do it, you will oblige me by sending them. In my letter of yesterday, I informed you I had the depositions of two of the men of the Decatur privateer, who were prisoners with Captain Nichols on board the prison-ship, who swear that he was not "inhumanly confined in a small hole on board the prison-ship," but that he had a state room in the ship, with the use of the cabin and quarter-deck, and that they never heard either Captain Nichols or any other person complain of the treatment Captain Nichols received. These depositions were taken before a notary public and justice of the peace.

I am greatly at a loss to account for your having introduced into your letter of the 25th instant Oswald Lawson's, and three other cases, in evidence of my having (as you are pleased to say) been mistaken in information collected from irregular sources; by this means hinting that my representation respecting Captain Nichols appertained to the same class. I have evidently shown that this is not so, and that you and myself agree in the leading point—that Captain Nichols is accused, by one or more of His Majesty's officers, of a criminal act before the war. But admitting that no one part of my statement was correct, had I not expressly remarked, I am compelled, by your withholding all information from me on the subject, to suppose from your silence it contained the truth.

SIR:

Boston, September 3, 1813.

In answer to your inquiries, respecting captain William Nichols, I have to state that, in the year eighteen hundred and eleven, and I think in the month of August, Captain Nichols was master of my brig *Alert*, belonging to Newburyport, engaged on a voyage to Bordeaux; that, two or three days after sailing from that port, on his return home, he was taken by the frigate having a cargo of wines, brandies, silks, and nothing which could possibly be construed as contraband of war; and his vessel was (after a prize-master and six men were put on board) ordered for England; he and his mate only, with two small boys, being permitted to remain. About three days after, he and the mate rose on the crew, tied their hands behind them, and hoisted out the long boat, being only about forty miles from the land, (and summer time,) rigged her, placed on the sails and oars, put in her two barrels of bread, plenty of beef, two casks of water, a keg of wine, keg of brandy, other small stores, all their clothes, and such conveniences as would be necessary; supplied them with a good compass and quadrant, and then put the six men in the boat, in which they proceeded to, and *safely landed in, France*. Captain Nichols and the mate then called on deck the two small boys, who had remained below during these transactions, and proceeded on his voyage; but six days after, he was again captured by the English frigate *Vesta*, to whom he related the foregoing circumstances, and the captain and officers of this frigate did not treat him as though they thought his conduct either criminal or reprehensible; he was carried with his vessel to Portsmouth, in England, and, after being on board the frigate in harbor a few days, he came on shore, went up to London, thence proceeded to Liverpool, and there took passage and returned to Newburyport.

A short time after I gave him the command of another of my vessels, namely, the brig *Dolphin*, a new vessel, then lying at Newburyport, and he proceeded on his voyage, laden with fish, for Bordeaux; but on his passage out, being at sea thirteen days, he was taken by a British frigate in company with a sloop of war. The captain of the frigate asked Captain Nichols if he was the person who retook the *Alert*? Captain Nichols replied in the affirmative; the British captain replied "it was a brave act, and he should treat him as a brave man deserved;" and after experiencing the best of treatment while at sea, this officer delivered, on his arrival, to Captain Nichols, all his private adventure, the proceeds of which passed through my hands from my correspondent in England; and Captain Nichols was not restrained on his arrival in England, but was suffered to be at large, and come home passenger in the ship *Aurora*, by the way of New York, about six weeks prior to the declaration of war between this country and England.

Directly on the declaration of war I purchased (with my friends) the brig *Decatur*, and Captain Nichols was selected as a suitable character to take the command; and he proceeded on a cruise against the British, took eleven prizes, and returned into port; the *Decatur* was refitted, proceeded on a second cruise, during which he was taken by the *Surprise* frigate, and carried into Barbadoes, and there paroled for nearly two months, when, the *Vesta* frigate arriving at that island, he was arrested, sent on board the prison ship, placed in close confinement in a room built purposely for him, of five feet broad and seven feet wide, and no person allowed but his keeper to speak to him. After remaining in this displeasing situation nearly six weeks, he was sent on board the British frigate *Tribune*, and ordered for England, since when we have not heard from him.

Touching the character of Captain Nichols as a citizen, a man, and a neighbor, he is modest and unassuming, yet brave and decided; warmly attached to the constitutions, federal and state, of his native country; eager to resist and cool to defend those rights for which the independence of his country was established, and which no unjust pretensions of the enemy will lead him to submit to, however great his personal sufferings. As a man, he is strictly moral and sincere; as a husband, parent, and neighbor, tender, indulgent, and affable. His connexions are highly respectable, and are among the first of our citizens. Universal assent among all classes and parties may be had that Captain Nichols is truly an honest, brave, and useful citizen.

I hope this information will be the means of restoring him to his family, his friends, and his country, and I can pledge myself for the correctness of the statement.

I am, sir, your obedient servant,

JAMES PRINCE, *Marshal of Massachusetts.*

BENJAMIN PIERCE.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

OCTOBER 5, 1813.

In your letters of the 26th and 29th of August, you request me to inform you of the determination of Government as to the British Captains Barss and Woodworth. You state that Captain Nichols, of the American privateer *Decatur*, was sent to England for an offence he stands charged with prior to the war, to wit, having recaptured his vessel, and put part of the prize crew in a boat at sea; request me to send you any affidavits or other evidence in the case; and inform me that you are in possession of the depositions of two of the seamen of the privateer *Decatur*, contradicting statements you have seen relative to the treatment of Captain Nichols. I send you, sir, as you request, although in the present stage of this business, and on your own declarations, I might be very well excused from further explanations on the subject, the copy of an affidavit, by Mr. James Foot, prize-master on board the *Decatur* at the time Captain Nichols was last taken, and present at Barbadoes with him when he was seized and confined; and of a letter from Commodore Bainbridge of 3d June, which communicated it; as also of the narrative of Benjamin Pierce, Esq. owner, not only of the privateer in which Captain Nichols was last captured, but of the vessel in which he was taken before the war, of all the circumstances of the whole case with which he must, from his relation with Captain Nichols, have been necessarily intimately acquainted. The character and standing of Mr. Pierce precludes all doubt as to the veracity of his account. By it, it will appear that Captain Nichols was never prosecuted in England before the war, as you have been pleased to state, for any act; on the contrary, that he was captured a second time and carried to that country without molestation; that the commanders of your frigates, who made a prize of him, brought no charge against him before the war; and that, as to his treatment of the English crew, from whom he so bravely recovered his vessel, he did all that could have been expected for them in the unjustifiable situation in which he had been placed; he supplied them abundantly in a good boat, on a smooth sea, in sight of the French coast, on which they safely landed. You lay much stress on the offence you are pleased to impute to Captain Nichols, committed, as you say, in time of peace, namely, the retaking his vessel. You compel me, unwillingly, sir, to remind you that the period to which you allude was a time of peace only on one side; it was, "on the side of Great Britain, a state of war against the United States; on the side of the United States, a state of peace towards Great Britain." Captain Nichols thus had war made on him while peaceably pursuing a lawful commerce; he was justified, by the laws of God and man, to retort the war, so far as to free himself and his property, as soon as he had it in his power to do so.

You will please to remark, sir, that the narrative of Mr. Pierce was received after the retaliatory measures were taken in this case, and is now used only to rebut the statements you have made, or alleged, of former prose-

cution and escape of Captain Nichols; it was not necessary to assure the Government of the facts on which it proceeded, nor were they rested only on the affidavit of Mr. Footé, respectable as it is; all that he has stated was previously confirmed to me by declarations, made in person, by several officers of American vessels, (who were on the spot, prisoners at the time in Barbadoes; and, the affidavits of the two sailors notwithstanding, (which you say you have become possessed of,) you will find them, in the result, prove correct. In reply to your inquiry as to the determination of the Government relative to Captains Barss and Woodworth, I have to inform you that it is firmly now, as it was originally, taken, to hold them as hostages, to answer in their persons for the safety and proper treatment of Captain Nichols in the hands of the enemy.

Extract of a letter from Colonel Thomas Barclay, General Agent for British Prisoners, to the Commissary General of Prisoners, dated at

HARLEM, January 24, 1814.

I have the honor to enclose you a copy of a letter received from the commissioners for conducting His Majesty's transport service, and for the care and custody of prisoners of war; from which you will perceive that Captain Nichols, of the Decatur privateer, is not detained in prison for any particular offence alleged against him, but that he is held at Chatham a prisoner, because the privateer which he commanded was not of a sufficient size to entitle him to parole. The commissioners further state that they had communicated this circumstance to Mr. Beasley, your agent in London, who, I take for granted, has acquainted you with the nature of the confinement in which Captain Nichols is in at Chatham. I request that you will order the marshal, under whose custody Captain Barss is at present, to release him from the strict confinement in which he is at present, and that he may be placed in a situation similar to that in which Captain Nichols now is; also, that you will be pleased to release Captain Woodworth on parole, as he was prior to his being put into close confinement. I have named the two British captains, not by way of selection on my part, because, had their situations been the same, I should have left it to you to release which of the two you thought proper; but under an impression that Woodworth, who is, I believe, a quaker, was master of an unarmed merchant vessel, and, therefore, entitled to his parole, from masters of merchant vessels being paroled throughout His Majesty's dominions.

If Captain Barss was captured in a privateer of fourteen guns, he also should be paroled. I am, however, apprehensive that the vessel he commanded did not carry so many guns. I will inquire into the fact.

[Enclosed in the above.]

SIR:

TRANSPORT OFFICE, November 5, 1813.

Admiral Griffith having communicated to us your letters of the 14th July, addressed to Admiral Sir J. B. Warren, with its enclosures, relative to the severities practised by the American Government towards British prisoners of war, in consequence of the confinement of Captain Nichols, of the American privateer Decatur, we acquaint you that Mr. Nichols, who is now at Chatham, is not confined because he put the boat adrift, but simply because the privateer which he commanded was not of a sufficient size to entitle him to parole, of which circumstance Mr. Beasley has been informed in answer to an application made by him for Mr. Nichols to be admitted to parole.

We are, sir, your humble servants,
 RUPERT GEORGE,
 J. BOWEN,
 JOHN FORBES.

THOMAS BARCLAY, Esq.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, February 14, 1814.

SIR:

I have had the honor to receive your letter of 24th January, transmitting one addressed to you on the 5th November, by the Commissioners of the British Transport Board, by which I am informed that Captain Nichols, of the American privateer Decatur, is not detained now in prison for any particular offence alleged against him, but that he is confined simply because the privateer he commanded was not of sufficient force to entitle him to parole. This is, to be sure, taking a very different ground from that on which you strenuously, in July and August, insisted. Captain Nichols was to be tried for his life for crimes committed in times of profound peace; yet if Captain Nichols is refused his parole, and held in close confinement, on the mere pretext that he did not command a privateer of as many as fourteen guns, it ought to have been explained why he was treated like a criminal at Barbadoes, separated from his fellow prisoners, with whom he would have been long since released, and transported to England in so ignominious a manner; and it would have been but small atonement, on the part of your Government to this injured man, for the extreme severity used towards him by its officers, so soon as they had ascertained, which is now admitted, that he had been unjustly accused, to have released him on parole.

As, however, it is now declared that there is no intention of bringing him to trial, orders have been given to restore, to the ordinary state of prisoners of war, the British Captains Woodworth and Barss who had been designated as hostages to be held for his safety: the first to be restored to his parole, and the last to remain in confinement, where he will be retained for special exchange against Captain Nichols.

I have the honor to be, &c.

J. MASON.

Col. THOMAS BARCLAY, &c. &c.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

SIR:

BLADENSBURG, March 13, 1814.

I consider it a circumstance to be lamented that Captains Barss and Nichols should remain prisoners in close confinement, both being respectable characters; if, therefore, it meets your wishes, I am ready to write to the commissioners in London to exchange Captain Nichols for Captain Barss without delay, and request them to restore him, on the receipt of my letter, to liberty, and allow him to return in the first conveyance; public or private, to America. In return, I shall expect Captain Barss to be admitted to his parole, and, on the arrival of Captain Nichols in these States, to be immediately exchanged; or, on receiving a letter from the commissioners expressive of their assent to these exchanges, that Captain Barss shall be permitted to return to Nova Scotia on parole in the first conveyance.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *March 22, 1814.*

In reply to your letter of the 13th instant, I readily consent to your proposition that the exchange of Captain Barss against Captain Nichols take place; Captain Barss being specially held for that purpose, as I had the honor to inform you in my letter of the 14th ultimo.

So soon as you shall announce to me that Captain Nichols is paroled, a similar indulgence shall be extended to Captain Barss; and whenever you may have it in your power to inform me that Captain Nichols is embarked, with permission to return to the United States for the purpose of his exchange, Captain Barss shall be immediately permitted to go on parole to Nova Scotia.

I have the honor to be, sir, your most obedient servant,

J. MASON.

Colonel THOMAS BARCLAY, &c.

SIR:

BLADENSBURG, *March 24, 1814.*

I have, by this morning's mail, received your letter of the 22d instant, in answer to mine of the 13th, respecting Captains Barss and Nichols, and agreeing to my propositions. Anxious for their release and exchange, I delayed not a moment to write to the commissioners on the subject, and enclosed them a copy of your letter, and requested their immediate answer.

I have the honor to enclose my letter to them to you, and request you will forward it by to-morrow's mail to the marshal of New York, to be put in the letter bag of the vessel for Gottenburg.

I have the honor to be, &c.

General MASON.

THOMAS BARCLAY.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *March 30, 1814.*

The letter for the commissioners of your Transport Board, enclosed on the 24th instant, was, immediately on its reception, sent to the marshal of New York, to go by the cartel to Gottenburg.

To obviate any further misunderstanding on the subject of Captains Nichols and Barss, it may be proper to remind you that I did not agree to all the propositions made in your letter of the 13th of March relative to them, as you seem to convey in yours of the 24th instant. This will be seen by a reference to my letter of the 22d instant.

I have the honor to be, &c.

Colonel THOMAS BARCLAY, &c.

J. MASON.

SIR:

BLADENSBURG, *April 1, 1814.*

Your letter of the [30th] of March I received by this day's post, and I have the satisfaction to acquaint you there is [no] probability of a misunderstanding between you and me respecting the release on parole in these States, or eventual return of Captain Barss to Nova Scotia, as you apprehend might occur in consequence of your letter to me of the 22d ultimo, not precisely conforming to the proposals contained in my letter of the 13th of that month, and to which it was an answer.

In my letter to the commissioners, I not only enclosed them a copy of your letter of the 22d of March, but concluded it in the words following: "Permit me to request an early answer, so that Captain Barss may be permitted to return to Nova Scotia, in the event of your agreeing to parole or exchange Captain Nichols for him; and I beg leave to call your particular attention to the condition expressed in the commissary general's letter, a copy whereof, marked A, is enclosed."

I have the honor to be, sir, your obedient servant,

General MASON, &c.

THOMAS BARCLAY.

F.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

SEPTEMBER 17, 1813.

I have the honor to enclose to you copies of letters received by the special cartel Roxana, at Boston, from Rear Admiral Griffith, port admiral at Halifax, Nova Scotia, and Lieutenant Miller, agent for transports and prisoners of war. I assure you it is with extreme pain I learn from these letters that it has been found necessary, on the part of His Majesty, to resort to such unpleasant measures, in consequence of the treatment of British prisoners in these States. Several of my former letters to you have conveyed my opinion that ultimately these measures would be adopted. It is not, at present, my intention to call in question either the justice or policy of this Government in confining British subjects, by way of retaliation, for persons taken on board American ships of war and private armed vessels, claimed and proved to be native born subjects of His Majesty, with the single exception of Captain Nichols, of the Decatur privateer, sent to England to be tried, charged with an offence committed prior to the war, cognizable in His Majesty's ordinary courts of justice. I shall only remark, for your consideration, that there are at least six times as many American prisoners to His Majesty as there are British prisoners in these States; and that, if the system is maintained, the inevitable consequence must be, that all the prisoners on both sides must suffer.

You will perceive from Lieutenant Miller's letter, and the abstract of prisoners now enclosed, that his excellency Sir George Prevost has sent a number of American prisoners to Halifax, Nova Scotia, from Quebec; the greater proportion of these are land forces, three hundred and seventy-seven non-commissioned officers and privates, and forty-four commissioned officers, including a few naval characters.

[Enclosed in the preceding.]

SIR:

I avail myself of the opportunity which a vessel, likely to touch at a port in the United States, offers, to inform you that your despatch to Sir J. Warren, by the Agnes, containing one letter, dated the 27th of July, together with the copy of a letter to General Mason, was delivered to me; and that, in the absence of Sir John, I thought it necessary to open it.

Understanding from the master of the cartel, as well as from the prisoners that came in her, that the British prisoners put in jail, on a retaliatory order of the American Government, continue in confinement, I have taken upon myself to order the agent here, Lieutenant Miller, to follow the example of the American Government, and immediately to shut up in the jail of this town two American prisoners of war for every British subject he may in future learn, on *satisfactory information*, are confined in the jails of the United States.

I have the honor to be your obedient, humble servant,

EDWARD GRIFFITH, *Rear Admiral.*

Extract of a letter from Lieutenant William Miller, British agent for prisoners of war, to Colonel Thomas Barclay, general agent for British prisoners in the United States, dated

HALIFAX, August 28, 1813.

I have the honor to acknowledge the receipt of your letters of the 3d ultimo and 2d instant, and herewith beg leave to enclose progressive returns of American and French prisoners of war in my custody to date, and have received since my last return, (17th instant,) four hundred and ninety American prisoners of war from Quebec, per His Majesty's ships *Regulus* and *Melpomene*, a list of which I cannot transmit, in consequence of my not having been furnished with any from the *Melpomene*, but trust, by the next conveyance, I will be enabled to forward you the same.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *September 22, 1813.*

I received yesterday the letter you did me the honor to address me on the 17th instant, enclosing copies of a communication to you from Mr. Miller, your agent for prisoners at Halifax, dated the 28th of August, and of one from Admiral Griffith, without date; by these I learn, in general terms only, that the officers of your Government at Halifax have thought proper to designate a certain number of American prisoners of war at that place to be imprisoned, on the plea of counter-retaliation for British prisoners of war held in confinement, as you have been from time to time informed, as hostages, to answer for the safety and proper treatment of American prisoners heretofore named to you, unwarrantably detained and transported to England or elsewhere for trial.

On that day I received, also, letters from our agent for prisoners at Halifax, Mr. Mitchell, which came by the same vessel, the cartel *Roxana*, and which supply that part of the system adopted at Halifax, not disclosed by your despatches. Sixteen American citizens we now know, sir, have been cast into dungeons; six officers of privateers, to wit, two captains, three lieutenants, and a sailing-master, have been thrust into one noisome hole of the area of nine feet by seven, where they are only permitted to receive the means of respiration and the light of heaven through an iron-barred aperture of twenty-four by ten inches. Ten of the brave crew of the *Chesapeake* frigate, a carpenter, a boatswain, and eight seamen, have been crammed into two similar dark and impure receptacles of wretchedness. One hundred and fifty-nine American soldiers and seamen have been picked out from their comrades, and sent to England for trial. I shall for the present, sir, make no comment on the character of these transactions. You must be sensible that the spirit and justice of this nation will not permit such wrongs to go unredressed.

When the measures of the Government are taken you shall be informed. In the mean time, however, it becomes proper to apprise you that these will not, in the smallest degree, be influenced by the consideration which you are pleased to hold up to our view of the present balance of prisoners in your possession. The fortune of war may change this state of things, or the Government may resort to other means of redress against outrages on humanity, if unfortunately they should not be discontinued; but, whatever may at any time be its advantage on this score, you may be assured, sir, that it will never avail itself of the power it may happen to have to violate a solitary principle of right, or cause a single individual to suffer unnecessarily. On all occasions where rigid treatment has been used by us towards any of your prisoners of war, it has been forced on us by some previous act of your officers. Our system has been purely retaliatory, and of the mildest nature, since the manner of the confinement has never as yet been used by us to inflict punishment, or made more close than was requisite to hold secure against escape the persons of the individuals designated, ultimately, to answer for consequences; and we have never failed to release instantly, on being informed that the cause for retaliation had ceased.

I have not made these observations, sir, to divert you from your purpose. If it is taken, as seems to be indicated by the course pursued at Halifax, we are ready to meet, by corresponding measures, every treatment of prisoners taken in war, unauthorized by the practice of nations, as well as that of other of our citizens, held in confinement by the authorities of your Government, much, perhaps too much, of which has not heretofore been brought into account, in the constant hope that a relaxation on your part might prevent the opening of wounds additional to those necessarily inflicted by the ordinary course of civilized warfare. On the other hand, I have more than once had occasion to assure you, and now with the greater sincerity repeat, that I have been constantly instructed, and that it is most ardently my own wish, so to conduct the treatment of prisoners of war, as that the only emulation between us will be who shall most frequently and most effectually alleviate the sufferings of the unfortunate individuals whom the fortune of war may, from time to time, place in the respective power of the two Governments.

I earnestly invite your attention, sir, to the alternative, and shall, I pray you to believe, much rejoice if you adopt the latter.

I have the honor to be, &c.

Colonel THOMAS BARCLAY, &c.

J. MASON.

SIR:

HALIFAX, *September 3, 1813.*

I have written you much, under different dates, to go by this vessel, the *Roxana*. I have yet much to write, and, if possible, of a more unpleasant nature than what I have had occasion to mention since my coming here.

I mention being informed of our prisoners being sent to the jail here. Last night brought me a letter from Mr. James Trask, Captain Lane, and four others, informing me of their having been brought from Melville island, and were then confined in the dungeon of the common jail.

This morning, at eight o'clock, I sent a letter to Mr. Miller, of which you have herewith a copy. About three, P. M. he called on and accompanied me to the jail; there I found the persons mentioned on the list herewith. The six officers of privateers are in one dungeon, having a light of about twenty-four by ten inches, grated. The dungeon is nine feet by seven feet. In two similar holes are ten men belonging to the crew of the *Chesapeake*,

five in each. I have already informed you eleven of this crew have been sent on board different of His Britannic Majesty's ships of war. In addition to this, I lament to have occasion to inform you that, besides the fifty-nine men belonging to our troops sent here from Canada, they have picked one hundred seamen from the prison at Melville island, chiefly from crews of privateers. They are embarked, and ready to sail for England. I have asked for the list, which the agent has promised me. A copy shall be sent you as early as possible. I could not describe, even if time would admit, how painful this unwarrantable conduct renders my situation. As Mr. Miller did not answer my last letters, he proposed to me to see the admiral, informing me Admiral Griffith had said to him he would see me at any time; but I declined the invitation, satisfied no good could result from it. He had taken his measures, and before I could see him to-morrow our men will be out of the harbor, and no supplication on my part would relieve one of the sixteen from their horrid dungeon. It is their country that must redress them. They are all in spirits, confident it will do so. Be assured, sir, that this, nor harsher treatment, will intimidate a man who is here in confinement, and I hope it will rouse every man who is at home.

I must here observe to you, that on Mr. Miller's calling on me, and not having written to me, I complained of his stating the men as having entered or given themselves up as British subjects. His reply was, it was in consequence of the report made from the ships to him, though it was evident he did not believe a man had given himself up as a British subject. I complained of it as an unmanly subterfuge, and a breach of the cartel. Besides the list he gave me, he mentioned three had been sent to England in the Spartan, Captain Brenton; she sailed a few days since. I shall receive their names and forward them to you.

As the men ordered for England from the prison were badly off for clothes, and I could not procure any ready made, I requested Mr. Miller to supply them with shirts, shoes, &c. from his stores, which he has promised me to do. This I hope will meet your approbation.

I am sir, your most obedient servant,

JOHN MITCHELL.

JOHN MASON, Esq., *Commissary General of Prisoners, Washington.*

SIR:

HALIFAX, *September 3, 1813.*

It was with much concern that I yesterday learned several American prisoners of war, one of them Mr. James Trask, were in the dungeon of the common prison in this town. Will you, sir, be pleased to inform me the particular offence of each person who has been moved from Melville island to the jail here, or why it has been done, and whether I can visit them alone to-day? if not, if you will do me the honor to accompany me, and at what hour?

As regards Mr. Trask, I beg to remind you of a conversation that took place in my office, in which I informed you, that it had been reported Mr. Trask was likely to receive severe treatment for having broken his parole, and going to sea previous to his exchange; that the marshal finding Mr. Lightbody, of the Maidstone British frigate, in like situation, he would detain him, subject to similar treatment as Mr. Trask. On your assuring me Mr. Trask should be treated and exchanged like the other prisoners, and exchanged with them, I wrote Mr. Prince, the marshal at Boston; in consequence of which Mr. Lightbody was permitted to return here in the Agnes. He, I presume, is now here, and can explain the treatment he received at Boston. Further remarks I shall not make on this business, until I have the honor to hear from you.

I am, sir, your most obedient servant,

JOHN MITCHELL,
Agent U. S. for exchange of prisoners of war.

Lieutenant Wm. MILLER, *Agent for prisoners of war.*

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners.

SEPTEMBER 27, 1813.

Your letter of the 22d current, in answer to a part of my letter of the 17th instant, I have had the honor to receive. The copies of letters then enclosed to you contained all the information I had received from Halifax on the subject of American prisoners put into confinement in retaliation for British prisoners confined in the United States. It is not in my power to contradict Mr. Mitchell's statement, either with respect to the places in which these prisoners have been confined, or that "one hundred and fifty-nine other prisoners, soldiers, and seamen, have been picked out from the American prisoners, and sent to England for trial." I am, however, led to doubt the correctness of his information with regard to the former, from the expressions in Rear Admiral Griffith's letter, that he had taken upon himself to order the agent, Lieutenant Miller, to follow the example of the American Government, and immediately to shut up in the jail of this town (Halifax) two American prisoners for every British subject he may in future learn, on satisfactory information, are confined in the jails of the United States; the words "in the jail of this town" not comporting either with dungeons or noisome holes, &c. represented by Mr. Mitchell. Not any of my letters notice prisoners being sent to England for trial. Had this been the case, I feel assured Lieutenant Miller would have mentioned it; because, in accounting for the number of prisoners, he is very particular, and in his last return he gives the names of (I think ten) prisoners, who had acknowledged themselves British subjects, and had been turned over to His Majesty's ships of war. If he, therefore, noticed ten, I think it more than probable he would one hundred and fifty-nine. This, however, is simply a deduction from analogy, and I beg leave to repeat, I do not contradict Mr. Mitchell's assertion.

Whatever may be the situation of the American prisoners thus confined in the jail at Halifax, it is evidently the consequence of His Majesty's subjects having been confined in the United States of America, by way of retaliation for British subjects (with the exception of Captain Nichols, of the Decatur privateer,) taken in arms against their King, and sent to England for trial.

It rests with this Government to determine whether it will continue its claims to protect His Majesty's subjects found on the high seas, or in His Majesty's dominions, in arms against their sovereign, at the expense of the ease, comfort, and perhaps lives, of its native citizens, or restore them to freedom, by abandoning a doctrine not acknowledged by any European Power.

I pass over, without remark, the remainder of your letter, on the unpleasant part of this subject, as the propriety of these measures must be considered, and eventually corrected, by our respective Governments; and hasten to assure you, that it is His Majesty's earnest desire that the subjects and citizens of both nations, made prisoners during the war, may receive every comfort and indulgence that humanity dictates.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, September 28, 1813.

SIR:

By late advices from our agent at Halifax for prisoners, we are informed that the enemy have dealt out to a number of our prisoners of war in their possession at that place a most inhuman and violent degree of punishment, in retaliation, as they allege, for the confinement of certain prisoners of theirs held by us as hostages to answer for the safety and proper treatment of several of our officers and seamen, made prisoners of war by them, unjustifiably held and sent off to England, or other places, for trial. They have actually thrown sixteen of our citizens (a descriptive list of whom is annexed) into dungeons, the dimensions of which are nine feet by seven, having each a single grated light of about twenty-four by ten inches; the six officers of privateers lie together, tortured in one of these wretched holes, and five of the Chesapeake's crew in each of two others.

The British authorities at Halifax have, moreover, selected from the mass of our prisoners in their possession, and sent to England, on the plea of their being British subjects, one hundred seamen and fifty-nine soldiers.

These proceedings call loudly on the Government for redress; it is to be lamented that this can be only had by causing the cruelty of the enemy to be felt also by their own subjects, individually innocent. I am commanded by the President to direct that you will, with as little delay as possible, after the reception of this order, designate and confine in dungeons, similar, as nearly as possible, to those I have described as used by the enemy, sixteen prisoners of war, British subjects, now in your charge, or who will very soon be so placed by the late arrangement made, as you are advised, of marching all the prisoners on the maritime frontier, east of you, to Salem; that is to say, six officers of privateers, of as nearly equal rank, as can be done, with those enumerated in the annexed list, now so confined at Halifax, and ten of the crew of the late British sloop of war Boxer, that is, one boatswain and one carpenter, or two petty officers of equal rank, and eight seamen; there to be held in retaliation for the cruelty exercised by the enemy at Halifax on a like number of our prisoners, as before stated; and further, that you will immediately designate one hundred other seamen, British subjects, prisoners of war, belonging to men of war, privateers, and merchantmen, separate them from the ordinary prisoners of war, place them in close confinement, so as to prevent effectually the means of escape, but not to inflict punishment, and there hold them as hostages to answer for the safety and proper treatment of the one hundred American seamen sent from Halifax to England, in the manner I have already described. You will inform all those unfortunate persons so designated and confined of the causes by which such a measure has been forced on us, and you will be pleased to make a speedy and regular return. For the treatment of the fifty-nine soldiers I will give the requisite orders in another quarter.

I have the honor to be, &c.

J. MASON.

JAMES PRINCE, Esq., *Marshal of Massachusetts.**List of American prisoners of war confined by the enemy in dungeons at Halifax.*

No.	Names.	Quality.	Ship belonging to.	Man of war or privateer.
1	Thomas Carpenter,	Seaman,	United States' frigate Chesapeake,	Man of war.
2	John Pussy,	Seaman,	United States' frigate Chesapeake,	Man of war.
3	Stephen Ball,	Seaman,	United States' frigate Chesapeake,	Man of war.
4	Sylvester Stacy,	Seaman,	United States' frigate Chesapeake,	Man of war.
5	Joseph Goodall,	Seaman,	United States' frigate Chesapeake,	Man of war.
6	John Chappal,	Seaman,	United States' frigate Chesapeake,	Man of war.
7	James Peterson,	Seaman,	United States' frigate Chesapeake,	Man of war.
8	Isaac Porter,	Seaman,	United States' frigate Chesapeake,	Man of war.
9	George Miller,	Carpenter,	United States' frigate Chesapeake,	Man of war.
10	Matthew Rogers,	Boatswain,	United States' frigate Chesapeake,	Man of war.
11	James Trask,	Sailingmaster,	Revenge,	Privateer.
12	John Light,	Lieutenant,	Juliana Smith,	Privateer.
13	J. R. Morgan,	Commander,	Enterprise,	Privateer.
14	William Lane,	Commander,	Wiley Reynard,	Privateer.
15	David Perry,	Lieutenant,	Wiley Reynard,	Privateer.
16	Thomas Swain,	Lieutenant,	Wiley Reynard,	Privateer.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

SEPTEMBER 29, 1813.

In your late letter of the 17th instant, I am informed that Sir George Prevost had sent a number of American prisoners, amounting to three hundred and seventy-seven non-commissioned officers and privates, and forty-four commissioned officers, principally land forces, from the station for exchange at Quebec to that of Halifax. Desirous of confining my observations at that time to a distinct subject, I did not, in my reply to part of your letter of that date, make any remarks on this most unexpected proceeding. I have now, sir, to demand the reasons for that unjustifiable step, which can but be considered as in direct hostility with the provisions of the cartel, and as a measure replete with harshness and severity towards our officers and men so removed; since they have been thus subjected to an inconvenient and dangerous sea voyage, (by which many, as I am informed by Mr. Mitchell, have suffered much,) and placed in a situation more remote and difficult as to communication for exchange, without any plea of necessity or safety. What was intended by this removal, or what other measures of a similar nature may be in contemplation by your officers, is not for me to anticipate; but it is proper to inform you that letters have been received from some of our officers of rank, prisoners in Canada, communicating that it has been intimated by the commander of the British forces that he intended sending a considerable part of our land forces to England, and among them some, if not all, of the general officers. I find in your letter of the 23d instant the following passage: "You will perceive, from my letter to you of the 17th instant, that his excellency Sir George Prevost has found it necessary to send a number of American officers, non-commissioned officers, and privates, from Quebec to Halifax. I regret this circumstance, as we were, as you say, on the eve of exchanging them by a land route; that is now out of our power. I request your answer for the proposal contained in my letter of the 17th instant."

Am I to understand from this, that all the American prisoners are already, or will be, removed from Quebec? My impressions were that you hold there about double the number of those reported to have been sent to Halifax. Be pleased to inform me on this subject.

If the remaining part of the troops be not removed, I must remonstrate, in the most positive terms, as well against what has been done, as against any future removal of our officers or men from the station in Canada appointed for exchanges to other and distant stations, by useless and harassing voyages by sea.

Sir:

HARLEM, October 1, 1813.

In my letter to you of the 27th of September, in answer to yours of the 22d of that month, I acquainted you that Lieutenant Miller, His Majesty's agent for transports and prisoners of war at Halifax, had not, in his communications to me, made mention of any American prisoners having been sent to England; and that Rear Admiral Griffith had also been silent on that subject. I at the same time gave you my reasons for doubting the fact.

I yesterday, however, received a letter from Lieutenant Miller, dated the 17th of September, in which were enclosed copies of the names of one hundred and one naval and fifty-nine military prisoners sent to England in His Majesty's ships *Melpomene* and *Regulus*. Copies of these lists I have the honor to enclose you. You will perceive that the fifty-nine soldiers sent to England are deserters from His Majesty's service, and the name of the regiment to which each of them belonged placed opposite their names. With respect to the one hundred and one seamen, you will observe that Lieutenant Miller notices three who were sent, "supposed to be British subjects," opposite to whose names he has made this notitia (†). He has also placed a mark (*) opposite to the names of fifteen other seamen, who he says are "men who have been twice found in arms before they were exchanged." Eighty-three of the seamen sent to England have no mark opposite to their names. I regret this circumstance, as it is my anxious wish to give every possible information on the subject. I apprehend they are men who have acknowledged themselves to be British subjects. I shall, however, avail myself of the earliest conveyance to request Lieutenant Miller to give me the reasons respecting the eighty-three seamen thus sent to England, and shall communicate it to you when received.

A copy of the return of sixteen American prisoners confined in the town jail at Halifax, as a retaliatory measure for eight British prisoners imprisoned in the United States, I transmit herewith. Four of these are confined for Squirrell and Russell, of His Majesty's ship *Dragon*; but, as you have since released Squirrell and Russell, and I have sent Admiral Sir John B. Warren notice of it, the four men now in confinement will be released the instant my letter is received. I shall forward a duplicate, and also write Lieutenant Miller to release the four American prisoners confined for Squirrell and Russell.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General JOHN MASON, &c.

List of one hundred American prisoners of war discharged from the custody of Lieutenant William Miller, agent for prisoners of war at Halifax, Nova Scotia, per order of Edward Griffith, Esq., Rear Admiral of the Blue, commanding in port, &c.

No.	Name of prize.	Whether man of war, privateer, or merchant vessel.	Prisoners' names.	Quality.	Time when discharged.	Whither, and by what order, and the date thereof.
1	Wiley Reynard,	Privateer,	Thomas Costen,	Gunner,	Sept. 1813.	His Majesty's ship <i>Regulus</i> , for England, per order of Rear Admiral Griffith, commanding his Majesty's ships, Halifax harbor.
2	-	-	John Jones,	Boatswain,	Sept. 1813.	
3	-	-	John Jackson,	Cook,	Sept. 1813.	
4	-	-	Henry Butler,	Steward,	Sept. 1813.	
5	-	-	John Carles,	Seaman,	Sept. 1813.	
6	-	-	John Brisk,	Seaman,	Sept. 1813.	
7	-	-	John Machahan,	Seaman,	Sept. 1813.	
8	-	-	John Boyer,	Seaman,	Sept. 1813.	
9	-	-	William Kirkpatrick,	Seaman,	Sept. 1813.	
10	-	-	Perry Hall,	Seaman,	Sept. 1813.	
11	-	-	William Lindsey,	Seaman,	Sept. 1813.	
12	-	-	†Hezekiah Wilson,	Seaman,	Sept. 1813.	
13	-	-	Manuel Tois,	Seaman,	Sept. 1813.	
14	-	-	Joseph Wood,	Seaman,	Sept. 1813.	
15	-	-	Joseph Brown,	Seaman,	Sept. 1813.	
16	-	-	N. Holden,	Seaman,	Sept. 1813.	
17	-	-	Charles Kingman,	Seaman,	Sept. 1813.	
18	Thorn,	Privateer,	†Robert Parker,	Seaman,	Sept. 1813.	
19	-	-	Joseph Forrester,	Seaman,	Sept. 1813.	
20	Hunter,	Privateer,	Zachariah Owen,	Seaman,	Sept. 1813.	
21	Cossack,	Privateer,	George Pider,	Seaman,	Sept. 1813.	
22	-	-	Nathaniel Weston,	Seaman,	Sept. 1813.	
23	-	-	Charles Greene,	Seaman,	Sept. 1813.	
24	-	-	Benjamin Ward,	Seaman,	Sept. 1813.	
25	-	-	Benjamin Hill,	Seaman,	Sept. 1813.	
26	Montgomery,	Privateer.	Daniel Ropes,	Seaman,	Sept. 1813.	
27	-	-	Es. Henfield,	Seaman,	Sept. 1813.	
28	-	-	William Clark,	Seaman,	Sept. 1813.	
29	-	-	William Wanton,	Seaman,	Sept. 1813.	
30	-	-	John Forbes,	Seaman,	Sept. 1813.	
31	-	-	Thomas Sparks,	Seaman,	Sept. 1813.	
32	Julian Smith,	Privateer,	John Phinney,	Seaman,	Sept. 1813.	
33	-	-	Asa Higgins,	Seaman,	Sept. 1813.	
34	-	-	George Lawrence,	Seaman,	Sept. 1813.	
35	-	-	Nich. Verplust,	Seaman,	Sept. 1813.	
36	-	-	Thomas Snow,	Seaman,	Sept. 1813.	
37	Enterprise,	Privateer,	Joseph Cloutman,	Seaman,	Sept. 1813.	
38	-	-	John Widger,	Seaman,	Sept. 1813.	

LIST—Continued.

No.	Name of prize.	Whether man of war, privateer, or merchant vessel.	Prisoners' names.	Quality.	Time when discharged.	Whither, and by what order, and the date thereof.
39	-	-	Peter Melzard,	Seaman,	Sept. 1813.	His Majesty's ship <i>Regulus</i> , for England, per order of Rear Admiral Griffith, commanding His Majesty's ships, Halifax harbor.
40	-	-	Nathan Fuller,	Seaman,	Sept. 1813.	
41	-	-	John Clothy,	Seaman,	Sept. 1813.	
42	-	-	Henry Torry,	Seaman,	Sept. 1813.	
43	-	-	Robert Russell,	Seaman,	Sept. 1813.	
44	-	-	Frederick Williams,	Seaman,	Sept. 1813.	
45	-	-	*Jesse Goss,	Seaman,	Sept. 1813.	
46	-	-	*William Clothy,	Seaman,	Sept. 1813.	
47	-	-	*Isaiah Pettigal,	Seaman,	Sept. 1813.	
48	Gov. Plumer,	Privateer,	John Tarlton,	Seaman,	Sept. 1813.	
49	-	-	Isaac McKenny,	Seaman,	Sept. 1813.	
50	-	-	John Varney,	Seaman,	Sept. 1813.	
51	-	-	Samuel Moore,	Seaman,	Sept. 1813.	
52	Teaser,	Privateer,	*M. Waterhouse,	Seaman,	Sept. 1813.	
53	Porcupine,	Letter of Marque,	*Abraham Francis,	Seaman,	Sept. 1813.	
54	-	-	*Daniel Lucas,	Seaman,	Sept. 1813.	
55	-	-	*Jacob Johnson,	Seaman,	Sept. 1813.	
56	-	-	*James Andrews,	Seaman,	Sept. 1813.	
57	Thomas,	Privateer,	John Thompson,	Seaman,	Sept. 1813.	
58	-	-	John Card,	Seaman,	Sept. 1813.	
59	-	-	Robert Hillsbrook,	Seaman,	Sept. 1813.	
60	-	-	Henry Pitman,	Seaman,	Sept. 1813.	
61	-	-	John Marshal,	Seaman,	Sept. 1813.	
62	-	-	Pellere McIntire,	Seaman,	Sept. 1813.	
63	-	-	*Jeremiah Drisco,	Seaman,	Sept. 1813.	
64	-	-	*Ephraim Crass,	Seaman,	Sept. 1813.	
65	Rolla,	Privateer,	Robert Brown,	Seaman,	Sept. 1813.	
66	-	-	Thomas Ferguson,	Seaman,	Sept. 1813.	
67	-	-	James Hunter,	Seaman,	Sept. 1813.	
68	-	-	Robert Forsyth,	Seaman,	Sept. 1813.	
69	Wasp,	Privateer,	Edward Cooper,	Seaman,	Sept. 1813.	
70	-	-	James Richardson,	Seaman,	Sept. 1813.	
71	-	-	Elisha Smith,	Seaman,	Sept. 1813.	
72	-	-	Asa Tufties,	Seaman,	Sept. 1813.	
73	-	-	Joseph Spaulding,	Seaman,	Sept. 1813.	
74	-	-	Robert Stoddard,	Seaman,	Sept. 1813.	
75	Yorktown,	Privateer,	G. W. Hamilton,	Seaman,	Sept. 1813.	
76	-	-	Goodman Anderson,	Seaman,	Sept. 1813.	
77	-	-	John Jessamine,	Seaman,	Sept. 1813.	
78	-	-	†John Davis,	Seaman,	Sept. 1813.	
79	-	-	Charles Blake,	Seaman,	Sept. 1813.	
80	-	-	*Elisha Punal,	Seaman,	Sept. 1813.	
81	-	-	*Henry Bump,	Seaman,	Sept. 1813.	
82	-	-	*Charles Johnson,	Seaman,	Sept. 1813.	
83	-	-	Samuel Golding,	Seaman,	Sept. 1813.	
84	-	-	Isaac Gilbert,	Seaman,	Sept. 1813.	
85	-	-	James Wilson,	Seaman,	Sept. 1813.	
86	-	-	*W. Rodgers,	Seaman,	Sept. 1813.	
87	-	-	Richard Eddy,	Seaman,	Sept. 1813.	
88	-	-	John McKay,	Seaman,	Sept. 1813.	
89	-	-	Hans Selby,	Seaman,	Sept. 1813.	
90	-	-	Charles Brown,	Seaman,	Sept. 1813.	
91	-	-	Daniel Stroms,	Seaman,	Sept. 1813.	
92	Lavinia, R. C., from Yorktown.	Privateer,	Edward Phillips,	Paymaster,	Sept. 1813.	
93	Snap Dragon,	Privateer,	John Burne,	Seaman,	Sept. 1813.	
94	Polly,	Privateer,	William Brown,	Seaman,	Sept. 1813.	
95	-	-	John Cook,	Seaman,	Sept. 1813.	
96	Columbia,	Privateer,	*Isaac Hawkins,	Seaman,	Sept. 1813.	
97	Ulysses,	Letter of Marque,	James Birmingham,	Seaman,	Sept. 1813.	
98	Fox,	Privateer,	Thomas Browne,	Seaman,	Sept. 1813.	
99	Thomas,	Privateer,	Thomas Hutt,	Seaman,	Sept. 1813.	
100	Yorktown,	Privateer,	James Evert,	Seaman,	Sept. 1813.	
101	-	-	James Walling,	Seaman,	Sept. 1813.	

The foregoing American prisoners of war victualled at Melville island the day discharged.

W. MILLER, *Agent for Prisoners of War.*

* Men who have been twice found in arms before they were exchanged.

† Supposed to be British subjects.

List of American prisoners, being British subjects, received into the custody of William Miller, and sent to England on board the Melpomene.

No.	Prisoners' names.	Time when taken.	Name of British regiment to which they belonged.	Whither and by what order discharged.
1	John Doud,	24th June, 1813,	14th regiment of foot.	Sent to England in His Majesty's ship Melpomene, per order of Rear Admiral Griffith.
2	John McGowan,	24th June, 1813,	14th regiment of foot.	
3	John Brown,	24th June, 1813,	14th regiment of foot.	
4	James Henry,	24th June, 1813,	14th regiment of foot.	
5	Darby Cannody,	24th June, 1813,	14th regiment of foot.	
6	Patrick McDennis,	24th June, 1813,	14th regiment of foot.	
7	James Carey,	24th June, 1813,	14th regiment of foot.	
8	James Given,	24th June, 1813,	14th regiment of foot.	
9	Hindren Anderson,	24th June, 1813,	14th regiment of foot.	
10	John Mackey,	24th June, 1813,	14th regiment of foot.	
11	Thomas Stewart,	24th June, 1813,	14th regiment of foot.	
12	Robert Maxwell,	24th June, 1813,	14th regiment of foot.	
13	Matthew Flagherly,	24th June, 1813,	14th regiment of foot.	
14	James Miller,	24th June, 1813,	14th regiment of foot.	
15	James Scott,	24th June, 1813,	14th regiment of foot.	
16	Hugh McGuire,	24th June, 1813,	14th regiment of foot.	
17	Edward Cranney,	24th June, 1813,	6th regiment of foot.	
18	Andrew Coke,	24th June, 1813,	6th regiment of foot.	
19	G. McHendrick,	24th June, 1813,	1st light artillery.	
20	Thomas Taggart,	24th June, 1813,	14th regiment of foot.	
21	Thomas S. Newland,	24th June, 1813,	14th regiment of foot.	
22	J. Fitzpatrick,	24th June, 1813,	14th regiment of foot.	
23	James Loury,	24th June, 1813,	14th regiment of foot.	
24	Michael Wayne,	24th June, 1813,	14th regiment of foot.	
25	John Lynch,	24th June, 1813,	14th regiment of foot.	
26	Thomas Clayton,	24th June, 1813,	14th regiment of foot.	
27	James Evans,	24th June, 1813,	14th regiment of foot.	
28	Barney Hoy,	24th June, 1813,	14th regiment of foot.	
29	Major Watson,	24th June, 1813,	14th regiment of foot.	
30	Matthew Campbell,	24th June, 1813,	14th regiment of foot.	
31	John Napernay,	24th June, 1813,	14th regiment of foot.	
32	William Melvin,	24th June, 1813,	14th regiment of foot.	
33	William McRoy,	24th June, 1813,	14th regiment of foot.	
34	Edward Evans,	24th June, 1813,	14th regiment of foot.	
35	Charles McKeever,	24th June, 1813,	14th regiment of foot.	
36	Charles Dencon,	24th June, 1813,	14th regiment of foot.	
37	Edward Denmade,	24th June, 1813,	14th regiment of foot.	
38	George Courtney,	24th June, 1813,	14th regiment of foot.	
39	William Sloin,	24th June, 1813,	14th regiment of foot.	
40	Archibald Patterson,	24th June, 1813,	14th regiment of foot.	
41	Robert Norton,	24th June, 1813,	6th regiment of foot.	
42	Edward Gorman,	24th June, 1813,	6th regiment of foot.	
43	Dominick Cannon,	24th June, 1813,	14th regiment of foot.	
44	James Hunter,	24th June, 1813,	6th regiment of foot.	
45	James Brown,	24th June, 1813,	14th regiment of foot.	
46	John Barlow,	24th June, 1813,	5th regiment of foot.	
47	William Kelly,	24th June, 1813,	14th regiment of foot.	
48	Patrick Cahoe,	24th June, 1813,	14th regiment of foot.	
49	John Eagan,	24th June, 1813,	1st regiment of foot.	
50	Samuel Gray,	24th June, 1813,	14th regiment of foot.	
51	William McEver,	24th June, 1813,	14th regiment of foot.	
52	John Smith,	24th June, 1813,	14th regiment of foot.	
53	John Todd,	24th June, 1813,	14th regiment of foot.	
54	George McMullen,	24th June, 1813,	14th regiment of foot.	
55	Charles Kelley,	24th June, 1813,	14th regiment of foot.	
56	John Smiely,	24th June, 1813,	14th regiment of foot.	
57	Benj. McConagehy,	24th June, 1813,	14th regiment of foot.	
58	Con. O'Neil,	24th June, 1813,	14th regiment of foot.	
59	John Fenney,	24th June, 1813,	14th regiment of foot.	

W. MILLER, *Agent for Prisoners of War.*

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

OCTOBER 3, 1813.

I have prepared an extract of that letter [from the commissary general of prisoners, of 22d September] to be sent with one from me to Lieutenant Miller, His Majesty's agent for prisoners at Halifax, requesting him to inform me whether the American prisoners confined in the town jail at that place are treated in the manner it has been reported to you, and stating the nature of the confinement and treatment the British prisoners experience who are held under retaliatory orders from this Government. I cannot persuade myself they are put in such places as those you describe, because Mr. Miller writes me they are confined in the town jail. If they were immured in cells under ground, I think he would have so expressed himself.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

OCTOBER 4, 1813.

I assure you that I had no information of the sending, or the intention of sending, the American prisoners from Quebec to Halifax until I received Lieutenant Miller's letter on the subject, and I did not delay a moment to communicate to you an event equally opposed to my inclination and yours. I, however, am convinced Sir George had good reasons for the measures. I do not know of any other prisoners having been sent to England than those specified in the two lists enclosed to you on the 1st instant. These were, or at least are stated to be, native subjects of His Majesty. It is not to be credited that *bona fide* American citizens, prisoners of war, unless under very special circumstances, will be sent to England.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

OCTOBER 9, 1813.

Your several letters of the 1st, 3d, and 4th of this month have been received. With respect to the seamen and soldiers (American) sent from Halifax to England, whose case I stated in my letter of the 22d September, and lists of whom you have sent me, I will at present only remark, that, as to the fifty-nine soldiers, I am by no means prepared to admit that they were deserters from the British service when they enlisted in ours. The list even which you send does not so state it, but as to part; and, in the next place, when the prisoners of either party are taken from the ordinary state of prisoners, are sent off, or are confined, or rigidly treated, under any plea, the other has a right to expect more full and satisfactory evidence than such as you exhibit. Mr. Mitchell, our agent at Halifax, applied in vain to have these men examined, or some evidence adduced respecting them. Again, what has been furnished by your agents is contradictory in itself. The list furnished Mr. Mitchell at Halifax is headed, "Return of soldiers taken in arms in Upper Canada, belonging to the United States' army, who have delivered themselves up as British subjects." In the list you have furnished that plea is abandoned, and they are called, in part at least, deserters. I beg leave to refer you (as you have the correspondence) to the letter of Mr. Mitchell to Mr. Miller of the 1st of September, where he remonstrates on this subject, and states that one of the soldiers he had conversed with, and the only one he had seen, claimed to be an American, named the State and county in which he was born, and entreated his interference. On the list of the one hundred and one seamen, American prisoners, sent off to England, you admit that against eighty-three you know of no charge; you apprehend they have given themselves up as British subjects. You state that three are supposed to be British subjects, and that fifteen have been twice taken in arms.

You cannot certainly apprehend that American citizens, native or naturalized, would give themselves up as British subjects; and it is almost as difficult to suppose that a British subject, if there were such taken in arms against his country, would voluntarily discover himself. These are self-evident propositions, about which no argument is necessary.

If there were any taken twice in arms, a treatment different from that to ordinary prisoners was to have been expected; but we claim, and shall insist on being furnished with, the circumstances attending each case, as I furnished you, in the case of Midshipman Lightbody, in my letter of the 13th of June, that an opportunity may be afforded of examining into the facts; and, until such information is given, it must be considered that these men so detained are unjustly treated by your officers.

I shall probably soon have some cases of a similar kind to bring to your notice, and I solicit your attention to the course to be adopted, as well as to proofs as to treatment.

Extract of a letter from the Commissary General of Prisoners to the Marshal of Massachusetts, dated

SIR:

WASHINGTON, October 11, 1813.

Since the date of my letter of the 28th September, directing the confinement, and its particular manner in each case, of six officers and one hundred seamen, I have received letters from our agent, Mr. Mitchell, at Halifax, dated the 12th of September, by which I find the nature of the confinement of the six officers and ten of the Chesapeake's crew, which I then described to you, although yet inhumanly rigid, is somewhat changed. The following is the passage of his letter on that subject: "I visited to-day the jail and prison at Melville island. I found the six officers removed to the upper part of the jail; the room is tolerable, though small for six persons, who are allowed no exercise out of it. The ten of the Chesapeake's crew are still in the cells, but are allowed to walk in the yard in the day, while centinels attend. The allowance of the whole is the same as at Melville island." I understand by this that the six American officers of privateers and merchantmen have been taken out of the dungeon and put into a small upper room, and there constantly kept; and that the two under officers and eight men of the Chesapeake are still confined in the same dungeons before described to you, but are allowed to walk occasionally in the day, under guard. You are, therefore, now requested, sir, to make the mode of confinement, as nearly as possible, of the six officers and ten under officers and crew of the *Boxer*, directed, in my order of the 28th, to be as nearly as possible similar, for each class, to that described in the foregoing extract from Mr. Mitchell.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, October 12, 1813.

This will instruct you, by order of the President, to designate, immediately on reception of this letter, fifty-nine prisoners, British subjects, in your custody, soldiers or marines, not of the militia, and the first in preference, if you have as many, whom you will separate from the ordinary prisoners, place in close confinement, so as to prevent certainly the means of escape; and you will so hold them, subject to further orders from this office, as hostages, to answer for the safety and proper treatment of fifty-nine of our prisoners, soldiers, unjustifiably lately sent, in confinement, from Halifax to England. In making your designation for this purpose, if you hold more than the requisite number of soldiers, (many of whom, I understand, served as marines on board the fleet lately captured on the lake,) you will designate by lot; and so, too, with the marines, if you have recourse to them next in order. When you have completed your designation, you will make an immediate return to this office, descriptive of names, corps to which belonging, where captured, &c.

You will inform the unfortunate men so selected and confined fully of the cause of this measure. You will issue to them the same rations, &c. allowed to other prisoners, and you will in no way make their treatment more rigid at this time than may be necessary to prevent escape.

I have the honor to be, &c.

J. MASON.

THOMAS STEELE, Esq., *Deputy Marshal of Ohio.*

Extract of a letter from John Mitchell, Esq., United States' agent for prisoners of war in Nova Scotia, to the Commissary General of Prisoners.

SHERWOOD, NEAR HALIFAX, October 18, 1813.

I send you herewith a copy of a letter I received yesterday from Lieutenant Miller, agent for prisoners here, dated the 17th.

You will perceive he reverts back to my letter and inquiry, dated the 4th, in order to communicate the intention of the commander-in-chief to send to England the major part of the prisoners at this station; here, then, we have, without disguise, the intentions of the commander-in-chief, and we, I presume, will take measures accordingly, and efficient ones.

Our people are at present very sickly at Melville island; there are daily deaths; the climate is very inimical to our people, especially such as are anywise inclined to complaints in the breast; and the troops from Canada have suffered much from diarrhoea here; there are of them from fifteen to twenty constantly in the hospital. We have lost above thirty persons within a month past; and there are fifty-six persons now in the hospitals, and, from appearances, [the 15th] most of them dangerously ill. In general they are in good spirits, and all preferring to suffer, rather than our Government to suffer itself to be dictated to, or to sacrifice any right.

Extract of a letter from Lieutenant Miller, agent for British prisoners, to John Mitchell, Esq., agent for American prisoners at Halifax.

OCTOBER 17, 1813.

I have also communed with the commander-in-chief on that part of your letter of the 4th instant, wherein you request to be informed whether there is any prospect of a cartel being sent from hence to the United States with prisoners of war, and what number will probably be sent before winter sets in.

I am directed to state, that, in consequence of the present measures adopted by the American Government towards British prisoners of war, and their detention in various parts of the United States, contrary to the stipulated agreement in the cartel, he is determined to send the major part of those now in my custody to England, as soon as the transports arrive from Quebec.

Mr. Mason to Colonel Barclay.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,
WASHINGTON, November 23, 1813.

SIR:

When you were lately at the seat of Government, I communicated to you, personally, that retaliatory measures had been resorted to by this Government for certain highly unjustifiable acts of your officers at Halifax, stated at large in my letter to you of the 23d of September.

I now transmit you two returns from the marshal of Massachusetts; one of *one hundred and one* British maritime prisoners of war, designated and confined to answer in their persons for the proper treatment and safety of *one hundred and one* American maritime prisoners of war, enumerated in the same return, taken from the ordinary state of prisoners at Halifax, and sent to England for trial; and one of sixteen British maritime prisoners of war, confined, six in close custody, and ten in dungeons, as hostages in like manner, and in retaliation for similar severity inflicted on sixteen American maritime prisoners, also there described. Orders have been given to designate and confine, separately from the other non-paroled prisoners, *fifty-nine* British soldiers, prisoners of war at Chillicothe, in the State of Ohio, to be held to answer for the safety and proper treatment of *fifty-nine* American soldiers sent to England from Halifax in August last, in the manner before mentioned. As to our maritime prisoners, relative to whom returns have not yet been received, as soon as they come in a copy shall be furnished to you.

As the settled determination of this Government, on subjects of this nature, has been already more than once made known to you, I shall, on this occasion, make but few remarks. In my letter of the 9th of October, I adverted to the singular heading used by your officers, and then for the first time resorted to, which was placed over the returns of our prisoners, designated for the purposes before mentioned, declaring that they had given themselves up as British subjects. This I then insisted, from the very nature of the case, carried with it its own contradiction.

First, protesting against any construction which may be used, in the most remote degree, to throw the proofs, in such cases, on this Government, and against all commitment as to the description of persons captured in our service, whom it may deem proper to claim and defend, I have now to inform you, sir, that I have in my possession the means of showing the falsity of that declaration, by documents of the most minute and unquestionable kind, establishing the birth, within the United States, of very many of our prisoners so designated and described. (a)

But, sir, these are not the only cases in which it is plainly shown how the conduct of your officers, in seizing and separating our captured men from the ordinary state of prisoners, and subjecting them to long and painful confinement, has stood self-condemned on their own assumed ground. I will instance, among many that might be cited, the cases of five at least of the six men from the crew of the *Nautilus*; the six men of the crew of the privateer *Sarah Ann*, thus taken, long held, and finally discharged; and the twelve men of the crew of the *Wasp*, taken and held in like manner, three of whom have fallen a sacrifice to, and died during, severe confinement, and the remaining nine, as you have informed me, are at length restored to the ordinary state of prisoners in Halifax for exchange. In this last instance I refer you, sir, to the letter from Commodore Beresford to Admiral Warren, of which I furnished you a copy, and in which he states, explicitly, that he had designated and detained them merely on suspicion, and because our officers could not, of their own knowledge, declare that they were native born Americans.

I have the honor to be, &c.

Colonel THOMAS BARCLAY, &c.

J. MASON.

(a) *Note by the Commissary General of Prisoners.*

Documents have been already lodged in this office which prove that, of the one hundred and one seamen, shown in the list furnished the American agent at Halifax, by Lieutenant Miller, the British agent for prisoners, in his letter of the 1st September, to be sent to England as British subjects, forty were born in the United States, as enumerated below. Respecting the name to which this (†) mark is affixed, see Colonel Barclay's letter of the 1st October.

No.	Names.	Where born.
1	Thomas Coston, -	Northampton, Virginia.
5	John Carles, -	Hillsborough, New Hampshire.
7	John Machahan, -	New Jersey.
14	Joseph Wood, -	Norfolk, Virginia.
16	Nathaniel Holden, -	Gloucester, Massachusetts.
17	Charles Kingman, -	Boston, Massachusetts, 12th February, 1797.
†18	Robert Barker, alias Parker, -	Danvers, Massachusetts, certificate of citizenship dated 16th Aug. 1797.
22	Nathaniel Weston, -	Salem, Massachusetts, 2d February, 1793.
23	Charles Greene, -	Newburyport, Massachusetts, 17th September, 1792.
25	Benjamin Hill, -	Salem, Massachusetts, 11th December, 1791.
28	William Clarke, -	Marblehead, Massachusetts, 30th September, 1789, baptized.
26	Daniel Ropes, -	Salem, Massachusetts.
30	John Forbes, -	Salem, Massachusetts, 3d October, 1784, baptized.
34	George Lawrence, -	Salem, Massachusetts.
37	Joseph Cloutman, -	Marblehead, Massachusetts, 24th March, 1793, baptized.
38	John Widge, -	Marblehead, Massachusetts, baptized 8th May, 1783.
39	Peter Melzard, -	Marblehead, Massachusetts, baptized 29th September, 1793.
11	John A. Clothy, -	Marblehead, Massachusetts.
13	Robert M. Russell, -	Marblehead, Massachusetts.
45	Jesse Goss, -	Marblehead, Massachusetts, baptized 3d April, 1796.
46	William Clothy, -	Marblehead, Massachusetts, certificate of citizenship 13th April, 1799.
47	Josiah Pettinghall, -	Danvers, Massachusetts, 21st January, 1796.
48	John Tarlton, -	Newcastle, Maine, certificate of citizenship 5th February, 1806.
49	Isaac McKenny, -	Scarborough, Maine, certificate of citizenship 11th November, 1811.
50	John Varney, -	Wells, Maine, 13th October, 1792.
51	Samuel Moore, -	Camden, Maine.
53	Abraham Francis, -	Marblehead, Massachusetts, 12th June, 1799.
56	James Andrews, -	Boston, Massachusetts, 30th January, 1792.
58	John Card, -	Newcastle, Maine, certificate of citizenship 28th April, 1812.
59	Robert Holbrook, -	Portsmouth, New Hampshire, certificate of citizenship 6th August, 1812.
60	Henry Pitman, -	Portsmouth, New Hampshire, 1790.
61	John Marshall, -	Portsmouth, New Hampshire, certificate of citizenship 12th March, 1811.
62	Pelere McIntire, -	Alfred, Maine, certificate of citizenship 16th August, 1797.
63	Jeremiah Drisco, -	Portsmouth, New Hampshire, certificate of citizenship 22d March, 1809.
64	Ephraim Cross, -	Andover, Massachusetts, certificate of citizenship 11th July, 1801.
67	James Hunter, -	Boston, Massachusetts, certificate of citizenship 5th October, 1801.
70	James Richardson, -	Woburn, Massachusetts, certificate of citizenship 9th August, 1805.
71	Elisha Smith, -	Beverly, Massachusetts, baptized 25th May, 1777.
94	William F. Brown, -	Salem, Massachusetts; baptized 7th Oct. 1792; certificate 1st Oct. 1812.
95	John Cook, -	Salem, Massachusetts, certificate of citizenship 30th May, 1806.

Colonel Barclay to Mr. Mason.

SIR:

HARLEM, November 30, 1813.

I have received your letter of the 24th instant, with copies of two lists from the marshal of Massachusetts; the first exhibiting the names of one hundred and one British maritime prisoners of war, designated and confined, as you inform me, to answer in their persons for the proper treatment and safety of one hundred and one American maritime prisoners, enumerated in the same list, taken from the ordinary state of prisoners at Halifax, and sent to England for trial; the second list details the names of sixteen other British seamen, prisoners, confined, six of them in close custody, and ten in dungeons, as hostages, in like manner, and in retaliation for similar severity inflicted on sixteen American seamen, prisoners, therein described.

You acquaint me, at the same time, that orders have been given to designate and confine, separately from the non-paroled other prisoners, fifty-nine British soldiers, prisoners at Chillicothe, in the State of Ohio, to be held to answer for the safety and proper treatment of a similar number of American soldiers sent to England from Halifax, relative to whom returns had not yet been received, but that when they came in a copy should be sent me.

I am much obliged to you for the list sent, and will thank you for a copy of the third list when you receive the original.

I have more than once stated to you, sir, that I had been directed by my Government to abstain from intermeddling on these unpleasant national points, but to leave them to be discussed and arranged by the two Governments.

If your Government, as you hint, is in possession of any documents that may tend to the release of any Americans confined in a special manner, and feels inclined to communicate them to His Majesty's ministers, or to Admiral Sir John Warren, I will with pleasure transmit them.

I refrain making any remarks on several expressions you have used in your letter; it is probable, had you re-examined the letter, you would either have omitted or softened them. Harsh expressions tend to irritate, not to convince.

Were I authorized to enter upon the subject of your remarks, I should state, as known and acknowledged principles, that a sovereign has a right to inquire, by the ordinary process of law, whether any of the persons made prisoners during war, by his forces, naval or military, are his subjects, and, on conviction, to punish them accordingly; that reasonable suspicion was sufficient ground to direct an inquiry; that it was the duty of His Majesty's officers to apprehend and send to England for trial all such prisoners as there were strong reasons to believe were native subjects of His Majesty. I should, at the same time, acquaint you that on such trials the *onus probandi* lay

on the part of the prosecution, and that evidence on the part of the prisoner could only be necessary to rebut other testimony.

I shall avail myself of the earliest conveyances to transmit to His Majesty's commissioners, and to the admiral-in-chief, copies of your letter, and of the list above mentioned.

I have the honor to be, &c.

General MASON.

THOMAS BARCLAY.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners.

DECEMBER 9, 1813.

On the receipt of your letter to me of the 22d of September, in which you communicate the information Mr. Mitchell, the American agent for prisoners of war at Halifax, had detailed to you, respecting the treatment of sixteen American prisoners, placed in close confinement at Halifax, on principles of retaliation, I remarked in my reply, that although I would not hazard, from want of information, to contradict Mr. Mitchell's assertions, still that I could not give credit to them, as they differed so materially from Rear Admiral Griffith's and Lieutenant Miller's representation.

Anxious to obtain satisfactory information on this point, I availed myself of the earliest information to request of Lieutenant Miller a correct and particular description of the places in which these sixteen Americans were confined in the town jail of Halifax, and the treatment they receive, together with a general description of the prison-ship and hospital at Melville island, where ordinary prisoners of war are confined. By the same conveyance, I requested a mercantile friend of mine to visit the jail where the sixteen American prisoners were confined, examine their apartments, and minutely to inspect the prison-ship and hospital at Melville island.

I yesterday received Lieutenant Miller's official answer, also a private letter from my friend, extracts of which I have the honor to enclose to you. I also enclose an extract of that part of your letter to me of the 22d September, in which you communicate the statement which Mr. Mitchell had transmitted to you of the dungeons, dark and impure receptacles of wretchedness, &c. into which sixteen prisoners were confined. You will be pleased to contrast the whole together, and draw such conclusions therefrom as the respective documents merit.

I beg you will notice particularly the enclosed copy of a letter from the sheriff of Halifax to Lieutenant Miller, on the subject of the rooms in which the prisoners were confined, and a copy of Mr. Mitchell's letter to Lieutenant Miller, in which he acknowledges that the removal of the prisoners from the rooms in which they were confined in the jail to the common prison on Melville island, "was a change not for the better." With respect to the prison on Melville island, or the treatment the prisoners received there, I do not recollect your having at any time made complaint. I have personally examined several American prisoners on the subject, who expressed their satisfaction as to the place and treatment, and observed that confinement and a scanty allowance were all they complained of. The prisoners, from Mr. Mitchell's account, appear to regret the "dark and impure receptacles of wretchedness," they have left, which they prefer to the pleasant, healthy, and comfortable island on which they are now confined. For this exchange they are wholly indebted to Mr. Mitchell.

Copy of a letter from Mr. Mitchell to Lieutenant Miller, dated

SIR:

SHERWOOD, November 3, 1813.

I was honored with your letter of the 25th ultimo, informing me of the removal of the American prisoners from the town jail to the prison-ship at Melville island, and that removal I presumed would have been an amelioration of their situation; but on visiting them yesterday, I learned from them that their situation is worse than the town jail, except the indulgence of the prison yard and of seeing their fellow prisoners; on the whole, the change for them is not a change for the better.

I have the honor to be, &c.

JOHN MITCHELL.

MY DEAR SIR:

HALIFAX, November 8, 1813.

Agreeably to your request, I, on the 6th instant, went through the jail, and every part of the prison-ship, other jails, and hospitals for the prisoners. I found that every part of the jail was perfectly dry and comfortable; there are no dungeons; the rooms where the Americans were confined are about twelve feet by seven, a window opening to fresh air, and another in the door, which communicates with a large hall. The jail is in a high part of the town, and these rooms are about two-thirds below the surface of the ground. The room the officers were confined in is in the second story, twenty feet by twelve, two windows, with fine prospects. From nine in the morning till four in the afternoon, the prisoners were permitted the free use of a large yard; rather, indeed, a field. In consequence of the false statements in the American newspapers, I am informed those prisoners who were in the jail are now on board the prison-ship. From the jail I went to Melville island, where the prison-ship lies, and on which the prisons, &c. are erected; it is a beautiful little island, surrounded by salt water, which supplies an abundance and variety of fish; the situation must be as healthy as any in the world. I first went through the prison-ship, which is very large, and kept in much better order than I could have anticipated. She is completely housed over, by which means they have tiers of apartments above water, and she is upwards of six feet clear between the beams. No prisoners are kept in that part of the ship below water, and a great part of the day the prisoners are on shore in the open air, when the weather permits. I then went to the hospital room, which is in the upper part of a high building, where they have as much air as they please.

I am, with respect, sir, your obedient servant.

Colonel THOMAS BARCLAY, &c.

SIR:

HALIFAX, November 24, 1813.

In reply to your letter of this day, requesting to be informed of the state and condition of the apartment assigned for the safe keeping of several prisoners of war, ordered to be held in the county jail in September last, I beg leave to observe, that the apartments allotted to them were in every respect suitable, and sufficiently large and well ventilated, and every possible indulgence granted to them during their confinement, which was consistent with their situation. And I must beg leave to observe, when they understood that they were to return to Melville island, they expressed their sorrow at being removed, and acknowledged, in my presence, the indulgence which they had received from the jailer and his family. The first two or three days after they came to the jail, we were

obliged to keep them rather more closely confined than they were afterwards, when three apartments were allotted to them, and the use of the entry for those below; and the privateersmen were put into a room by themselves, up stairs, sufficiently large for their accommodation.

I have the honor to be, &c.

JONES FAWSON, *Sheriff of the County of Halifax.*

Lieutenant MILLER, *Agent for prisoners, &c.*

Extract of a letter from Lieutenant Miller, agent for British prisoners at Halifax, to Colonel Thomas Barclay, dated

NOVEMBER 24, 1813.

I have the honor to acknowledge the receipt of your letter of the 5th ultimo, enclosing me an extract taken from General Mason's, dated Washington, 22d September, 1813, and beg leave to transmit herewith, for your better information, the following particulars, which will evidently confute the authenticity of said extract:

Description of the town jail, viz: dimensions of each cell, eleven by seven feet eight inches; seven feet four inches high; windows, twenty-four by seventeen inches; another in the door nine inches square, together with being allowed a free intercourse during the night, with a passage of thirty by five feet, and eight feet high, at the end of which is a window of twenty-four by seventeen inches, with the use of other cells of the above dimensions, and windows as before described, were the places where ten prisoners were confined from four in the afternoon until nine o'clock in the morning.

The six officers were confined in an upper room, of twenty by twelve feet, and eight feet high, with two windows of four by three feet each, commanding a pleasant prospect of the surrounding country and harbor, with permission to take the air occasionally in a yard of eighty-four feet square (accompanied by the seamen.)

When confined on board the ship, they had the following accommodation: Between decks twenty by fourteen feet, with two scuttles; also a similar space in the lower deck of the same dimensions and accommodations, with scuttles also, and permission to visit the prison yard from nine to four, P. M. With respect to the prisoners sent to England in the *Regulus*, was, in consequence of a number of prisoners being daily expected from Quebec, together with the crowded state of the prison, the season very hot, and the small-pox being very prevalent, the ultimate cause of Admiral Griffith's directing me to send them away. I also selected some who had endeavored to effect their escape, with others who had shown a mutinous disposition; and those marked thus (†) were supposed to be British subjects.

Having enclosed Captain Kemp's letter (at Quebec) respecting the soldiers suspected to be also British subjects, I have all the information respecting them I have in my possession, in consequence of their never being in my custody, only inserted on my books, for the purpose of supplying them with a suit of clothes each.

Extract of a letter from Lieutenant William Miller, British agent for prisoners of war, to the right honorable Sir J. B. Warren, Bart. K. B. Admiral of the Blue and Commander-in-chief, dated

HALIFAX, N. S. November 25, 1813.

The following are the dimensions of the cells in the jail of Halifax: *cells*, about six feet beneath the surface, *lined with plank all around.*

Length, eleven feet to the door; breadth, seven feet eight inches; height, seven feet four inches.

Grate at the end for the admission of light and air.

Height, one foot eight inches; breadth, one foot five inches; small grate at each door.

Passage between the cells:

Length, thirty feet; breadth, five feet; height, eight feet.

A grate at the end of the passage to cell doors.

A commodious room up stairs.

Length, twenty feet three inches; breadth, twelve feet; height, eight feet.

Two windows fronting the road, four feet by three, with a chimney.

This room fronts the main road, and the prisoners have a complete view of the harbor and surrounding country.

Area of the yard eighty-four feet, where the prisoners were permitted to remain from nine to four o'clock.

W. MILLER, *Agent for prisoners of war.*

SIR:

HARLEM, December 9, 1813.

Your letter of the 9th of October was on its way to this place at the moment I was on the road to Washington, and was afterwards transmitted to me thither. Both your time and mine were so wholly engaged during the period I remained at Washington, that I had not a moment in which to reply; and on my return home I was induced to delay the answer, in the hope of receiving full and satisfactory information from Lieutenant Miller, His Majesty's agent for prisoners. I yesterday received letters and documents from him, which I trust will remove many of the objections you have stated to me, respecting the conduct of His Majesty's servants towards American prisoners.

In your letter above mentioned, you remark that "as to the fifty-nine soldiers, (alluding to those sent to England in His Majesty's ship *Melpomene*.) you are by no means prepared to admit that they were deserters from the British service when they enlisted into the United States' service; and that the list which I had forwarded to you did not so state it, but as to part." You further remark, that when the prisoners of either party are taken from the ordinary state of prisoners, and sent off, or are confined or rigidly treated, under any plea, the other has a right to expect more full and satisfactory evidence than that which I had exhibited to you; (alluding to the copies of papers from Lieutenant Miller on the subject of the fifty-nine men, and other papers;) that Mr. Mitchell, the American agent at Halifax, had applied in vain to have these men examined, or some evidence adduced respecting them; and that the papers transmitted to me by Lieutenant Miller were in contradiction to one delivered to Mr. Mitchell. That being called "return of soldiers taken in arms in Upper Canada belonging to the United States' army, who have delivered themselves up as British deserters;" whereas, in the list sent me, that description was abandoned and the prisoners were called, in part at least, deserters.

It would ill comport with your private character as a citizen of the United States, or in your official capacity, to admit a fact unsolicited by His Majesty, and which would manifestly tend to the injury of individuals serving in the American army. Whether these men are native subjects of His Majesty, and whether they are deserters from British regiments, are facts to be instituted by the proper tribunals ascertained in Great Britain. The men will have a fair trial, and, unless the facts are fully proved, they will be acquitted and placed with the American prison-

ers. I agree with you, sir, that very satisfactory information is due, in the cases referred to in the extract of your letter, from one nation to another; and I should imagine that the official returns of His Majesty's officers would, in the first instance, prove satisfactory so far as to induce your Government to consider there was sufficient cause for sending the fifty-nine prisoners to England for trial. I cannot believe Mr. Mitchell has been refused any reasonable request for satisfactory information respecting the fifty-nine men; at the same time permit me to add, that if such is the fact, it precisely accords with the treatment I received on my application respecting Dennis and Morrison, seamen belonging to His Majesty's ship *Victorious*, claimed by the French agent, respecting whom, in my letter to you of the 11th of June, I made a reasonable and respectful request, which was neither attended to nor granted; on the contrary, these men were either delivered to the French agent or liberated, without affording me an opportunity of proving they were not Frenchmen, by their own confession, in opposition to the depositions on which I take it for granted their release was founded.

It is not difficult to explain what appears to you contradictory, from the caption of the papers respectively sent by Lieutenant Miller to Mr. Mitchell and myself.

The first, from the description you give me, and which, from being marked with inverted commas, appears a quotation from the documents sent from Mr. Miller, is styled "A return of soldiers taken in arms in Upper Canada, belonging to the United States' army, who have delivered themselves up as British deserters." The second, to wit, the documents sent by Lieutenant Miller to me, and of which I transmitted you a just copy, is styled "A list of American prisoners of war received into the custody of Lieutenant Miller, and sent to England on board the *Melpomene*." On the top of this was written, in Lieutenant Miller's own hand, by way of memorandum, "sent to England, supposed to be British subjects." The list sent to me by Lieutenant Miller, was an ordinary list to account for alterations since his last return of prisoners, and not to designate the cause of these men being sent. He was, therefore, under no obligation to be particular in describing the cause; indeed, it would have been incorrect in him to have stated the particulars in a common monthly list, intended merely to account for alterations during the month. Lieutenant Miller, however, in his official return to me of the 30th of September, heads that part of his list of American prisoners, "Lists of British subjects found in arms in Upper Canada, and delivered themselves up, and sent to England." A copy of this part of his return I have the honor to enclose, which at once reconciles all the contradiction you originally supposed; and you will perceive that these British subjects are not "called in part," but each of them specified as belonging to a particular regiment. I confess, however, I am not fully satisfied whether the figures and words 14th regiment, 6th regiment, 1st light infantry, 14th foot, and 1st, are intended as descriptive of the American regiments to which they belonged at the time they were made prisoners, or the British regiment from which it is said they originally deserted. On this point Lieutenant Miller informs me it is not in his power to afford any information; I shall, therefore, request an explanation from his excellency Lieutenant General Sir George Prevost, and, on receiving his answer, communicate it to you.

With respect to the one hundred and one seamen sent to England in His Majesty's ship *Regulus*, what I originally stated to you, to wit, that three of them were considered British subjects, fifteen had been twice taken in arms prior to their exchange, and the other remaining eighty-three sent home under the character of American prisoners of war, without any allegation against them, appears to be correct. The motives for sending these eighty-three seamen to Great Britain are fully stated to me in Lieutenant Miller's letter of the 24th of November, an extract of which is enclosed in my letter of this date. The cause therein stated I confidently hope will be satisfactory to you, especially as the health, comfort, and convenience of the prisoners are the primary objects. To the same causes, I beg leave to add, you are to attribute the subsequent transmission of American prisoners.

The preceding statement of facts I trust will prove satisfactory to you with respect to ninety-eight of the one hundred and one seamen sent to England, and induce your Government to order the release of a similar number of British maritime prisoners, now confined under retaliatory orders, for them. As to the fifty-nine soldiers and three seamen, American prisoners, sent to Great Britain as subjects of His Majesty, and the corresponding number of British soldiers and seamen held in close confinement for them, I shall make no other remark than this, that the measures the American Government may think proper to adopt will never prevent His Majesty's exercising a right acknowledged by all civilized nations, with the exception of these States.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General MASON, &c.

Colonel Thomas Barclay to General Mason.

SIR:

HARLEM, December 15, 1813.

From my letters to you of the 9th current, with the documents which accompanied them, you will perceive that the sixteen persons originally represented by Mr. Mitchell as having been confined in very improper places in the jail at Halifax, have in consequence (much to their regret, as Mr. Mitchell himself states) been restored to their original place of confinement with the ordinary American prisoners. You will also notice that eighty-three out of the one hundred and one seamen now on their way to England in His Majesty's ship *Regulus*, were sent thither from motives of humanity and accommodation, equally applicable to themselves and those who remained in Halifax after their departure. The fifteen others of the one hundred and one seamen so sent come equally under this description. I allude to those twice taken in arms prior to being exchanged; although they may not be so readily exchanged as ordinary prisoners, still they will be placed with and receive the same treatment. There remains, in my opinion, therefore, out of the one hundred and one men, but three, on whom, with any plea for improper treatment, the retaliatory system can be exercised.

I beg leave to request you will be pleased to inform me whether you have, in consequence of my above-mentioned letters to you, directed the release of the sixteen British prisoners put in dungeons, &c.; and also, whether you have restored to their former situation ninety-eight of the one hundred and one British seamen placed in strict confinement, under the impression that the same number of Americans sent to England were claimed as British subjects, and sent there for trial; and if you have not already ordered their release from strict confinement, whether you intend doing it? This is a subject which does not admit of delay; I am, therefore, under the necessity of requesting a speedy answer.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General MASON, &c.

General Mason to James Prince, Esq., Marshal of Massachusetts, dated

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, December 22, 1813.

Colonel Barclay having given me assurances that the ten petty officers and seamen of the Chesapeake have been taken from the dungeons or cells in which they were confined at Halifax, and placed in close confinement in a situation more conformable to that used for prisoners generally, you will be pleased, on the receipt of this letter, to remove the ten petty officers and seamen, British prisoners, you had confined in retaliation for them from their dungeons or cells, and to place them elsewhere in close confinement, in the same manner as done towards the British prisoners before held in retaliation, where the place of confinement was used to hold safe, and not to inflict further severity.

I have the honor to be, sir, your obedient servant,

J. MASON.

JAMES PRINCE, Esq., *Marshal of Massachusetts.*

Extract of a letter from the Commissary General of Prisoners to Colonel Barclay, dated

DECEMBER 22, 1813.

You will recollect, sir, that I apprized you that, at some short date after Mr. Mitchell's communication to me of the 3d of September, he informed me that the six officers of privateers had been removed to an upper room, and that I had immediately on receiving this information directed the six British officers of privateers confined in retaliation to be placed in a similar situation. On your information that the ten petty officers and seamen have been now withdrawn from their former place of confinement, I have directed the marshal of Massachusetts in the same way to ameliorate the condition of the ten persons confined in retaliation for them.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

DECEMBER 22, 1813.

I have received your letter of the 9th instant relative to the manner of confinement of our sixteen maritime officers and seamen at Halifax, respecting which I had the honor to address you on the 22d September last, and the three letters from Halifax then transmitted in explanation. After an attentive perusal of these, and a reference to the communications of Mr. Mitchell, our agent at that place, in which I founded my facts, I find the whole results in this: that he calls the places of their confinement dungeons; your informants call them cells, being two-thirds under ground; and that they state that the floor of each dungeon or cell was larger by two feet one way, and by eight inches the other, than he had made them; and as to light and air, they insist that the prisoners received more by seven inches in a two foot window than he represented; and, moreover, that there was a hole in the door of nine inches square, which he omitted altogether to mention. As to the accommodation of passage room for the seamen, placing the officers in an upper room, and the permission to walk in the yard, &c. you will please to remark, that your informants do not say that these indulgencies were given on the first confinement, and that Mr. Mitchell wrote on the 3d of September, immediately after it took place. Had you, sir, have attentively compared the circumstances, and have collated my remarks of the 22d of September, which you have been at the pains of returning to me in an extract, with the statements of your own officers, I cannot believe you would have seen any cause for approbating their measures in the manner your letter seems to convey. Admit the miserable surplusage of the few feet and inches on which they insist for the subterraneous floors and scanty apertures of these by two-thirds under ground cells, into which, in some five, and in others six of our unfortunate citizens were thrust, and I do yet aver that they were, in the fullest sense of the terms, "noisome holes," and "dark and impure receptacles of wretchedness," such as I am exceedingly glad to hear, on your representation, our prisoners have been removed from; and such as I hope your humanity will so interfere with the proper authorities of your Government as henceforward to keep others from being consigned to.

You will recollect, sir, that I apprized you that at some short date after Mr. Mitchell's communication to me of the 3d of September, he informed me that the six officers of privateers had been removed to an upper room, and that I had, immediately on receiving this information, directed the six British officers of privateers, confined in retaliation, to be placed in a similar situation. On your information that the ten petty officers and seamen have been now withdrawn from their former place of confinement, I have directed the marshal of Massachusetts in the same way to ameliorate the condition of the ten persons confined in retaliation for them.

I regretted to see, and I confess I do not comprehend the point of the sarcasm you no doubt intended to convey in the following passage of your letter: "The prisoners, from Mr. Mitchell's account, appear to regret the 'dark and impure receptacles of wretchedness' they have left, which they prefer to the pleasant, healthy, and comfortable island on which they are now confined; for this exchange they are wholly indebted to Mr. Mitchell." Poor unfortunate men! it would seem that it was enough that they had to submit to debasement and suffering of the severest kind, without being made the subjects of taunting paragraphs in official communication. The only consolation I have is, the perfect conviction that their country will not desert them; that it will follow their fate with a watchful eye; and that, painful as it may be to humanity, measure for measure will be dealt out, let that fate be what it may.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, December 30, 1813.

I am now to reply to your letters of the 9th and 15th of this month, respecting the fifty-nine American soldiers, and the one hundred and one American seamen, prisoners of war, sent from Halifax to England in the latter part of last summer, on whose subject I remonstrated with you on the 22d of September, and relative to whom I took occasion to make some remarks in my letters of the 9th October and 23d November.

In your replies of the 30th November, you are pleased to speak of some of my expressions, in relation to the manner of treatment, and on returning the fifty-nine soldiers, as harsh; if my remarks were founded in truth, however they may have borne on your officers, I am persuaded you will, on duly considering the subject, receive them

in the spirit in which they were intended, as designated to call directly to your attention, for the information of your Government, in a case of such serious import, a disingenuous procedure, ill becoming the agents of your nation, towards these defenceless and passive captives. In your communication to me of the 9th instant, in which you transmit the third list received of these men, (all of the three emanating from Lieutenant Miller, your agent for prisoners of war at Halifax; the first transmitted through our agent, Mr. Mitchell, on the 1st September, and the second by you on the 1st October,) you represent it as reconciling the contradiction between the other two, which I had pointed out to you, and describe that first sent me by you thus: "An ordinary list to account for alterations since his (Lieutenant Miller's) last return of prisoners, and not to designate the cause of these men being sent; he was, therefore, under no obligation to be particular in describing the cause; indeed, it would have been incorrect in him to have stated the particulars in a common monthly list, intended merely to account for alterations during the month." I send you, sir, a copy of the first list given out by Mr. Miller to Mr. Mitchell, and a copy of his letter of the 1st September, which enclosed it. I pray you to compare this with the two furnished you, and by you sent me; you will immediately perceive that no contradiction is reconciled; indeed, it is rather increased. In the list furnished you he goes back nearly to the ground first taken, in description of the men with Mr. Mitchell, namely, that they had given themselves up as British subjects; or, in other words, that fifty-nine men had all informed, each against himself, as to the crime, be that what it may, of which your officers had accused them, and for which, as I learn from you, and of which they must have been apprized before they "gave themselves up," they are to be tried for their lives. In the second (the first sent you) this ground is abandoned, and he takes a new one, not as to part of the men, as I was impressed when I first had occasion to animadvert on it to you, but as I find, on a stricter examination, as to *every man*, that they are deserters from the British service; and so plainly is this designated, that in the return he heads a column, "Name of the British regiment to which they belonged," and in this column is inserted against each man's name the number of a regiment, as first, fifth, sixth, and fourteenth; and you will find, sir, on recurring to your letter of the 1st October, that, taking this for authority, you remark to me, "you will perceive that the fifty-nine soldiers are deserters from His Majesty's service, and the name of the regiment to which each of them belonged placed opposite their names." I will certainly not undertake to determine what are the forms used for ordinary or extraordinary purposes made to you, but I will say, that if the fact of desertion existed, in a return showing cause why the men implicated were sent for trial, it would hardly have been withdrawn; and if it did not exist, it should never have been charged. In your last letter on this subject, you inform me that you are doubtful whether the number of the regiment shown in the return then sent, which I find precisely the same, and as to the same men, was the number of the British or American regiment. I can resolve that doubt now. These are the American regiments, or parts of regiments, engaged on the 24th June at the Beaver Dams, the time and place which the first return sent by you (by far the most detailed and particular of the three) designates; the fourteenth, from which most of the men were drawn, was commanded by Colonel Boerstler, made prisoner in that action, and lately returned on parole; and most of them are personally known to him.

Under the circumstances I have detailed, I must believe, sir, that you will see sufficient cause for the dissatisfaction of this Government with any explanation given for the sending off these fifty-nine men, to be tried in England or elsewhere.

I am entirely at a loss to know what analogy you have been able to find between the case of the two Frenchmen taken last summer in British service, and discharged in Richmond, and that of these fifty-nine American soldiers. In the case of the Frenchmen, their allegation was, that they were not, of right, prisoners of war, and they petitioned for their liberty. They were publicly examined and set at liberty. In the case of our soldiers, the question is not that of liberty, to which we have yielded, but of death, which you threaten.

I can confidently assure you, sir, that it will never be made cause of complaint against your Government, that it set at liberty, at his own request, any prisoner taken in our service, whether he be a native or foreigner.

As it regards the one hundred and one American seamen sent to England in September last, you say that three were supposed to be British subjects; fifteen had been twice taken in arms; and eighty-three were sent, from the explanation given by Lieutenant Miller to you in his letter of the 24th of November, which you send, because some had endeavored to effect their escape; some had shown a mutinous disposition; other prisoners were expected from Quebec, by which means the prison would have been crowded; the weather was hot, and the small-pox was prevalent; and that you confidently hope that these reasons will be satisfactory; the health, comfort, and convenience of the prisoners were the primary objects. Certainly these are primary objects, and it would give great satisfaction to this Government if they could see them consulted by your officers; but how was the convenience and comfort of our prisoners consulted, when a certain number of them are sent off from Halifax, crowded on board ship, beyond sea, to a distance from the facility of exchange, to make room for another number, to be in like manner sent by General Prevost from Quebec, at which place, as you have agreed with me, they should have remained to be exchanged on the land lines? And how was their health consulted as to the prevalence of the small-pox, when vaccination presented so easy and simple a remedy, compared with the risk of carrying the variolous infection into a voyage, in a crowded prison-ship, across the ocean? When men are taken a second time in war without exchange, it is a matter easily capable of proof, and, unless proved, ought not to be acted on; the proof, when had, should be exhibited. None such has, although you have informed me you have made inquiry, yet been exhibited. As to the fifteen men reported by your agent as so situated, whenever it is produced, the corresponding number of your prisoners held for them will be placed in the ordinary state of prisoners; until then they must be retained in the situation in which they now are. The eighty-three British seamen held against the eighty-three American seamen sent to England from Halifax, against whom you inform me there is no charge, will be returned to the ordinary state of non-paroled prisoners, but they will be withheld from exchange until the corresponding American seamen are exchanged or returned to the American station, from which they ought not to have been removed.

I have the honor to be, &c.

Colonel THOMAS BARCLAY, &c.

J. MASON.

SIR:

HARLEM, December 27, 1813.

I have the honor to enclose you copies of lists of American prisoners of war, sent from Halifax to England in November last, by order of his excellency Admiral Sir John B. Warren, in His Majesty's ships *Nemesis*, *Diomedes*, and *Diadem*, in consequence of the prison at Halifax being sickly and crowded with prisoners.

I am, sir, your obedient, humble servant,

THOMAS BARCLAY.

General MASON.

Note by the Commissary General of Prisoners.

The list above mentioned gives the names of 100 maritime prisoners, officers and seamen, and 50 military prisoners, officers and privates, sent to England in the *Nemesis*; 124 maritime prisoners, officers and seamen, and 77 military prisoners, officers and privates, sent to England in the *Diomedé*; and 50 military prisoners, non-commissioned officers, and privates, sent to England in the *Diadem*.

Making the whole number of 401.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners.

SIR:

HARLEM, December 31, 1813.

Your letter of the 22d current, in answer to mine of the 9th, I have received. I really expected, when I enclosed you copies of the letters received from Lieutenant Miller, and the copy of Mr. Mitchell's letter to him, you would have been convinced that Mr. Mitchell had too highly colored his description of the rooms in which the sixteen prisoners were confined in the jail at Halifax. This, however, appears not to be the case; on the contrary, you retain the same opinion, and even consider an error on the part of that gentleman of more than a fifth part of the area of the rooms too trifling to be noticed by you or me.

You cannot be ignorant of the situation of Melville island, near Halifax, where prisoners of war are confined, or of the prison, prison-ship, and hospital there. It is admitted, by all who have visited them, to be equal to any similar establishments of the same extent in Europe. No complaint, I believe, has been made against it, or the treatment which the prisoners receive there. In this prison, ten at least, and perhaps the whole of the sixteen prisoners were confined at the time they were removed to the town jail of Halifax; in which jail they remained several weeks, until they were again removed to their former confinement on Melville island, in consequence of Mr. Mitchell's representation to you that the rooms in which they were confined in the jail at Halifax were dungeons, dark and impure receptacles of wretchedness, where the prisoners were only permitted to receive the means of respiration and the light of heaven through an iron-barred aperture. Lieutenant Miller has declared that this statement of Mr. Mitchell's is incorrect, and that the rooms in the jail in which the sixteen prisoners were placed, instead of being dark and impure, were good and comfortable, and in every respect befitting prisoners of war, and that the prisoners were satisfied with them, and with the treatment they received while in jail. In proof of his assertion, I enclosed you not only a copy of Mr. Mitchell's letter to Lieutenant Miller, in which he acknowledges the men preferred the jail to Melville island, but also a letter from the sheriff of Halifax, in which he states "that the apartments allotted to them (the prisoners) were in every respect suitable, and sufficiently large and well ventilated, and every possible indulgence granted to them, consistent with their situation. That when they understood they were to return to Melville island, they expressed their sorrow at being removed, and acknowledged in my presence the indulgence which they had received from the jailer and his family." Possessed of the testimony of the sheriff of Halifax, and of the acknowledgment of the prisoners, (under Mr. Mitchell's hand,) "that their removal from Halifax jail to the prison on Melville island was not for the better," I am at a loss to account for your adhering to Mr. Mitchell's original account of the rooms, and still more so for your expressing yourself in your letter of the 22d instant in the words following: "I do yet aver, that they (the rooms) were, in the fullest sense of the terms, noisome holes, and dark and impure receptacles of wretchedness."

I wish to be informed on what evidence you found your opinion; not on what the prisoners say, for Mr. Mitchell himself has acknowledged in his letter to Mr. Miller, that they told him they preferred the jail to the prison-ship at Melville island; nor can you rest it on Mr. Mitchell's description; first, because it is proved to be incorrect as to dimensions, light, and air; and secondly, because he has acknowledged the prisoners regretted being removed from the jail. Will you, sir, say you oppose the dictum of Mr. Mitchell to the assurance of Lieutenant Miller, the declaration of the sheriff of Halifax, and the concurrent voice of the sixteen prisoners? If not, pray acquaint me on what authority it is that you speak with so much confidence? Do you recollect that, by your confirming Mr. Mitchell's description, you, in express terms, stultify the six officers and ten men who were confined in the jail; for none but fools or maniacs would prefer noisome holes and dark and impure receptacles of wretchedness, to the prison-ship at Melville island, the dimensions and other particulars of which I sent you.

The truth, sir, is, that both the prison-ship, and the rooms allotted to the sixteen American prisoners in the jail at Halifax, were comfortable places of confinement; and the reason why the prisoners preferred the latter to the former was this: At Melville island there were upwards of one thousand six hundred prisoners; consequently, the keepers and other attendants had it not in their power to pay attention and civility to each individual; whereas, in the jail there were only sixteen prisoners, to whom the jailer and his family showed every indulgence, as the prisoners acknowledged to the sheriff. If the rooms in the jail were as described by Mr. Mitchell, is it possible the prisoners would have regretted leaving them?

You are under a mistake in supposing I intended any thing sarcastic, or in a taunting manner to jest with the feelings or the situation of these prisoners. Give me leave to tell you, sir, that I am incapable of such an act, and that it ill comports with you even to insinuate it of me. I feel as much, and would go as far to serve these unfortunate men, as you or any other gentleman. My remarks are pointed to Mr. Mitchell, and not to the prisoners; for it was my wish to use their testimony to prove the incorrectness of the character given by Mr. Mitchell of the rooms in which they had been confined, and I assure you I approve of what they have done and said.

In my letter of the 9th instant I remarked, and again repeat, that the prisoners are wholly indebted to Mr. Mitchell for being removed, contrary to their wishes, from the jail in Halifax to the prison-ship at Melville island.

When you communicated to me in September Mr. Mitchell's description of the dungeons, cells, or rooms, (it is of no moment what appellations are given to them, for names cannot change realities,) into which the sixteen prisoners were placed, I transmitted, without delay, a copy of your letter to the admiral at Halifax, and requested an explanation, and at the same time desired, if the facts were as represented by Mr. Mitchell, that an amelioration of the treatment towards the prisoners might take place. On the receipt of my letter, the admiral, in order to remove even the shadow of complaint, directed that the sixteen prisoners should be returned to the prison-ship at Melville island. If Mr. Mitchell had not given you this horrid description of the places in the jail where those prisoners were confined, I take it for granted you would not have remonstrated to me against them, nor should I have written to the admiral on the subject; the prisoners, therefore, would have remained in the jail probably until they were exchanged or released on parole. This being the case, I am authorized to say Mr. Mitchell was the cause of their being removed, contrary to their wishes, from the jail on board the prison-ship.

As these men are now in their pristine situation as prisoners, I request you will be pleased to inform me whether the sixteen British prisoners, placed by your order in more than ordinary strict confinement by the marshal of Massachusetts, by way of retaliation for the sixteen Americans, have been restored to their original situation as prisoners.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, January 15, 1814.

SIR:

I received, in due course of mail, your letter of the 27th December, and the lists enclosed, whereby I am informed that four hundred and one of our prisoners, officers, non-commissioned officers, and privates of the army, and officers and crews of private armed vessels, have been sent to England from Halifax, on the plea of a crowded and sickly prison at Halifax. It appears to be in vain to remonstrate longer against measures which your officers seem determined to take, in relation to our prisoners, without regard to individual suffering, or to the convention between the two nations, as to stations of exchange. That a single prison might be crowded by the increase of prisoners at a station, and sickly in consequence of that crowding, is probable enough; but unless it was shown that the country in which that station is was sickly, there can be no pretension to humane motives for such a removal; other prison-houses or prison-ships should have been supplied. This, sir, as in the case of the last removal to England, is regarded as a measure replete with cruelty to the unfortunate prisoners concerned, and will, in due time, be met by a corresponding measure towards your prisoners in our possession.

I have the honor to be, &c.

Colonel THOMAS BARCLAY, &c.

J. MASON.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

SIR:

JANUARY 24, 1814.

Your letter of the 15th January, in answer to mine of the 27th December, I have had the honor to receive.

I am inclined to believe you are under a mistake in supposing it to be an unjustifiable act to send American prisoners of war from Canada, Nova Scotia, or the West Indies, to England for safe keeping; and I am of opinion you will find that all persons acquainted with the laws of nations will agree, that the answer "that the prisoners sent to Great Britain for that purpose" is conclusive, and ought to be satisfactory. When, in addition to these remarks, you are furnished with the additional reasons stated in Port Admiral Griffith's letter, a copy whereof is enclosed, that the prisoners were removed from Halifax to Great Britain in consequence of the prisons being crowded, and the men sickly, every objection to their removal I hope will cease. From your letter, it however appears you consider that "other prison-houses and prison-ships should have been supplied." This measure, perhaps, was not convenient; at all events it would be attended with an expense, which the admiral probably considered he was not authorized to incur. In England there are ample prisons; and I have reason to believe, from Lieutenant Miller's representations of the sufferings your prisoners have experienced in Nova Scotia from want of clothing, that they will, on their arrival in England, have reason to rejoice being under the care of Mr. Beasley, who will supply them with what is necessary.

I am at a loss to comprehend what you intend by remarking, "without regard to the convention between the two nations as to stations for exchange," because Liverpool or Falmouth, in England, are as much stations for exchange as Quebec or Halifax.

Extract of a letter from Rear Admiral Griffith to Colonel Thomas Barclay, dated

ON BOARD THE CENTURION, HALIFAX, December 19, 1813.

By an order from the Admiralty to Sir John Warren, which he has left with me, he is directed not to allow any more American prisoners to be released till the balance in our favor should be considerably reduced, and the order is accompanied by a return of the exchanges made in England, where alone the balance in our favor amounted to upwards of one thousand.

I would beg of you to inform me, as particularly as you can, respecting the mode of confinement and treatment of the British officers put into close confinement in the United States, that a similar measure of indulgence or severity may be exercised on the American officers confined here by way of retaliation. And I would take the liberty of suggesting to you the necessity of endeavoring to remove the impression of our having sent American prisoners to England on suspicion of their being British born subjects. The American Government can have no right to assume this as a fact. As far as relates to prisoners sent from hence to England, we have never avowed or acknowledged any such motive, with the exception of those who have been particularly designated as such.

The crowded state of the prison at Melville island, where double the number of prisoners were confined to that it was ever intended to have held, the difficulty, if not impossibility, of finding adequate security for them any where else, and the suspension of the exchange by the American Government, were sufficient excuses (if it were necessary to offer any) for sending some of the prisoners to England. I shall, however, stop sending any more till I hear from you; but if the exchange is again interrupted, we must thin off by every opportunity, for there are a great many more, even now, in this place, than there ought to be.

Extract of a letter from Lieutenant William Miller, British agent for prisoners of war at Halifax, to Colonel Thomas Barclay, dated

DECEMBER 20, 1813.

In consequence of your letter by the Analostan, that the Government of the United States had put into close confinement one hundred and seventy-six British prisoners of war, in various parts of the United States; in retaliation, I have been directed to confine the same number of American prisoners of war on board the Magnet prison-ship; and on the receipt of your last despatches of the 24th November to Lieutenant General Sherbrooke, wherein you state that forty-six British officers were also closely confined, I was directed to arrest the whole of the American officers on parole, seventy-two in number, and confine them on board the Malabar transport, lately returned from Quebec, by removing some of the soldiers to Melville island. I fitted up a large space from the mainmast, abaft, thirty feet long, twenty-two feet broad, and seven feet high, for their temporary accommodation, and I was directed to complete, or double that number, to ninety-two; but, on reconsideration, Sir John Sherbrooke and Rear Admiral Griffith thought proper to alter the arrangement, and permit the maritime officers selected by Mr. Mitchell to depart in the Analostan in such numbers as made up the equivalent rank of two hundred and fourteen.

In the number confined on board the Magnet prison-ship, I have selected as follows: for the twenty-one seamen of the Dominica, confined at Charleston, I have taken twenty-one men belonging to the United States' gun-

vessel No. 121, and for the seven seamen of the Tenedos, and eight of the Boxer, I have confined fifteen of the Chesapeake. It will be very necessary if I could be furnished with the names of the British officers and seamen confined in retaliation, that I might make a regular entry of them. (I have received the lists of the one hundred and one and the sixteen confined.) I have liberated the seamen of the Chesapeake, as per abstract, for the two seamen of the Dragon. You will be pleased to observe I sent four of those sixteen, confined in retaliation, to *England* on the 19th ultimo, as per abstract, which reduces the number in my custody to eight, although I still consider them on my list; and in consequence of the ill state of health of *James Trask*, late sailing-master of the Revenge privateer, I have sent him in the *Analostan*, but shall confine another in lieu, which leaves *Thomas Swain*, of the *Wiley Reynard*, and two warrant officers, and four seamen of the Chesapeake.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

SIR:

JANUARY 31, 1814.

On recurring to your letter of the 31st December, in reply to mine of the 22d of the same month, unwilling as I am to spin out discussions of an irritable character, I find it necessary to make some remarks on it.

As I have had, in other instances, occasion to do, I must now again express my regret, that you do not consider with more attention the papers in the case than it does seem you are accustomed to do, previous to entering on a discussion of their merits: had you, with more care, examined the letters and statements bearing on this case, you might have saved some trouble to you and myself, and probably have spared the necessity you appear to have imposed on yourself, of conducting your argument in terms little fitted to conviction.

Most certainly while Mr. Mitchell, our agent for prisoners at Halifax, continues to be thought by this Government worthy of remaining in the office which it has conferred on him, I shall consider all that comes from him as well worthy of faith as any thing which may be stated by your agent for prisoners; and I shall, in justice to him and to the Government, repel any attempt, from whatever quarter it may come, unaccompanied by proofs, to lessen his credibility. If, however, you had attended to my communication of the 22d December, you would have seen that I by no means proceeded on his statement alone; that I had carefully collated that with the declaration of your agents, and shown the result. I took, finally, the description of the places of confinement for our sixteen unfortunate prisoners, given by your agents themselves, and indisposed to graduate human misery as it were by a scale, and revolting at the idea of looking for comfort in such incarceration, did then say, as I now say, that an allotment of subterraneous floor, eleven feet one way, by seven feet eight inches the other; height, from floor to ceiling, (two-thirds of which under ground,) seven feet four inches; windows, or places for admission of light and air, two, one nine inch square, the other twenty-four by seventeen inches, is, in the fullest sense of the term, "a noisome hole, and a dark and impure receptacle of wretchedness:" in which sentiment I am abundantly confident I shall be joined by the whole civilized world, with exceptions too few in any degree to impair its correctness; and these are the precise dimensions and descriptions given by Lieutenant Miller, and the sheriff of Halifax, and your private friend, of the cells or dungeons into which were put, and kept for some days, sixteen American citizens, officers and seamen, maritime prisoners of war—six in one, and five in each of the two others.

It is distinctly to be remembered, that it was of this period, and of this manner of confinement, of which Mr. Mitchell first reported and complained; and respecting which I immediately remonstrated with you. It is, therefore, vain to confound, by description of passages and yards to which these prisoners might afterwards have had access, what first existed in relation to them, with what took place when their situation was in some degree ameliorated. You are well aware, sir, that Mr. Mitchell did report this amelioration, and that a corresponding relaxation toward those of your prisoners held in retaliation for them was immediately ordered; and that this amelioration was made some time before they were removed to Melville island. It was then with the second stage of confinement, that the situation of our sixteen prisoners, when carried to that island, is to be compared; which circumstance, when taken into consideration with the facts stated then and since by yourself, that there they were crowded in with sixteen hundred of their unfortunate countrymen, will sufficiently explain their preference, if such they had, to the prison in Halifax. I was glad to hear from you that, in the passage to which I alluded, as presumed to have been intended to convey a sarcasm on this preference attributed to our unfortunate prisoners, you did not mean to sport with their feelings. Difficult as it is to be understood in ordinary construction, I am willing to accept your explanation as to them; and you will permit me to remark, sir, should have been quite as much disposed to do so had it been given in terms more becoming the occasion.

Colonel Barclay to General Mason.

SIR:

HARLEM, February 6, 1814.

I have by this day's post had the honor to receive your letter of the 31st of January. I have attentively examined my letter to you of the 31st of December, and cannot discover any thing in it improper or necessary to be corrected. I regret you consider it "little fitted to conviction;" perhaps were your letter and mine on the subject submitted to impartial persons, they would differ in opinion with you.

I shall not travel the ground already gone over in my reply to your letter of the 22d of December, because mine of the 31st of that month is as full an answer to your letter of the 31st of January as it was to that of the 22d of December. I request, therefore, you will be pleased to receive it as such; and that you will give it the construction which the arguments and expressions merit.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General MASON, &c.

G.

Extract of a letter from the honorable Ebenezer Sage to the Commissary General of Prisoners, dated

SAG HARBOR, LONG ISLAND, September 28, 1813.

As it may be within the province of your official duties, I will trouble you with the following case: A few weeks since, a barge and nine men from the British squadron (which lies in Gardner's bay, within sight of this port,) came on shore in the night, a short distance from this, and took from his bed a Joshua Penny, and, without per-

mitting him to put on his hat or clothing, carried him on board the *Ramilies*, where he was put in irons and on short allowance, and in that condition sent off in the ship to Halifax, or elsewhere. You have probably seen, in the newspapers, the correspondence between the commanding officer of this port and Hardy, in which the former, the next day after the capture, demanded him as a non-combatant, and the latter refused to restore him, upon the plea that he had acted as a pilot to Commodore Decatur's barges, and the torpedo boat, and was on the books of Decatur's frigate, at forty dollars per month. That he acted as pilot in both the above cases is true, but the last charge is not true; he was hired as a pilot, and is on the books of no ship, or attached to any public service. The British commodore further declares, in his communication, that he holds him as a spy, in consequence of his being on board his ship at a certain time to sell clams; if this act makes him punishable as a spy, the commodore must be surrounded with spies every day, from Connecticut and elsewhere, with beef, breadstuff, onions, fruit, and eatables of all kinds, as we know his fleet is continually surrounded with traders. The question is, can this man be held as a prisoner of war, and held in irons? Is it not a case demanding the *lex talionis*?

Penny is a poor but industrious man, with a large family; a good seaman and pilot, and of a bold and daring spirit; has faced danger, and endured much hardship in almost every quarter of the world. It is a fact, that an American, who was on board the ship as a trader, put on the uniform of a lieutenant, and accompanied a crew to point out to them the place of Penny's abode, the day preceding the night in which he was taken. This we learn from some prisoners who have since been liberated, and from whom we also learn the circumstance of his confinement in irons, &c.

Extract of a letter from Commodore Stephen Decatur to the Secretary of the Navy, dated

SIR:

U. S. SHIP UNITED STATES, NEAR NEW LONDON, October 6, 1813.

I have the honor to acknowledge the receipt of your letter of the 30th ultimo.

I saw Sir Thomas Hardy's statement relating to Penny, in the newspapers, and had from the collector of Sag Harbor many of the particulars of his capture and subsequent treatment, who informed me that he should communicate the same facts to the Government, and for that reason I omitted doing it myself, as unnecessary.

Penny was never entered on the books of this ship in any capacity; nor ever employed by me but for the purpose of piloting our boats in the expedition to Gardner's island; and then he acted merely as a pilot; went, and continued during the expedition, unarmed, and received for his compensation the ordinary pilotage.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, November 1, 1813.

I am commanded by the President to direct that you will, with as little delay as possible after the reception of this order, place in close confinement, such as will preclude the possibility of escape, William Mayton, a British subject, and prisoner of war, late master's mate of the British ship of war *Ramilies*, and recently transferred, among other prisoners, to your custody by the marshal of Connecticut, there to be held as a hostage, to answer for the safety and proper treatment of Joshua Penny, a citizen of New York, lately seized at night in his bed, at his own house, near Sag Harbor, Long Island, by a detachment from the British squadron in that quarter, carried on board, and yet held in rigid confinement by the enemy. It is not intended, for the present at least, that the unfortunate person so confined, shall be barred from such decent accommodation and comfortable subsistence as his situation may admit of, and you are requested to inform him fully of the cause by which this measure has been made necessary.

I have the honor to be, sir, your most obedient servant,

J. MASON.

EBENEZER K. DEXTER, Esq., *Marshal of Rhode Island.*

H.

Extract of a letter from R. Swanton to the Secretary of State, dated

SIR:

NEW YORK, November 8, 1813.

I am informed, by letters written in Halifax, in July, August, and September last, that my brother, John Swanton, lately serving in the capacity of captain of marines on board the private armed schooner *Globe*, of Baltimore, Captain Moon, commander, was captured on the 29th May in the brig *Endeavor*, prize to the *Globe*. And Mr. Mitchell, agent for prisoners of war, in his letter of the 4th of September, says that my brother was then confined on board of His Britannic Majesty's ship *Melpomene*, and about to be sent in her to England, for the purpose of trial as a British subject.

I therefore presume that he is now in England, and that he either has or will be proceeded against. I am informed that Mr. Mitchell has laid his case before the Government; and my anxiety induces me to trouble you with this communication, and to request you to inform me whether any thing can be done for him.

ON BOARD HIS MAJESTY'S SHIP CENTURION,

DEAR ROBERT:

HALIFAX, July 14, 1813.

I have not, at this moment, time to enter more particularly into the occurrences that took place on board the *Globe*, than that the captain thought proper to send me a passenger to the United States in the brig *Endeavor*, captured by us, off the Rock of Lisbon, on the 20th March last, and was recaptured off Cape Henry, 29th May, by His Majesty's ship *Le Fantome*, Captain Lawrence, who detained me, in particular, under pretence of being a British subject. He took me with him to Bermuda, where I underwent a formal examination, which was committed to paper as follows: Where were you born? Kilcat county, Kilkenny, Ireland. When did you leave it? In 1789. How old are you? Thirty-eight years. Have you lived seven years in the United States of America? Yes, above three times that, and am a citizen in right of my father, who lived and possessed property in America before the revolution. Have you a vote? Yes, and voted for Mr. Madison, in opposition to Mr. Clinton. Are you a married man? Yes, and have five children. This is, as well as I can recollect, the substance of the examina-

tion. I was conveyed from that island to this port, and write to you in irons; nor do I know by what means I could have informed you of my situation, had it not been for the kindness of the commander of this ship, who permits me to write to Mr. Mitchell, agent for prisoners of war. I therefore request you to act immediately as the law directs in such cases, and write me an answer, sending me at the same time two hundred dollars. Remember me to our relations and friends in New York, and inform my wife in Pennsylvania, to whom it will be a sad stroke.

I impatiently wait your answer, and remain

Your loving brother,

J. SWANTON.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *December 17, 1813.*

I am commanded by the President to direct that you will, with as little delay as possible after the reception of this order, place in close confinement, such as will preclude the possibility of escape, William Lincoln, a British subject, and prisoner of war, late mate of the merchant brig *Fly*, there to be held as a hostage, to answer for the safety of John Swanton, late a captain of marines on board the privateer *Globe* of Baltimore, who has been unjustifiably confined by the British Government at Halifax, and sent from thence to England for trial.

It is not intended, for the present at least, that the unfortunate person so confined shall be barred from such decent accommodation as his situation may admit of; and you are requested to inform him fully of the cause by which this measure has been made necessary.

I have the honor to be, sir, your obedient servant,

J. MASON.

EBENEZER K. DEXTER, Esq. *Marshal of Rhode Island.*

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *January 2, 1814.*

I enclose you a letter from Mr. R. Swanton of New York, a very respectable citizen, to his brother, Mr. John Swanton, late a captain of marines on board the private armed schooner *Globe* of Baltimore, Captain Moon, captured in a prize of that vessel, and sent into Halifax, and thence in close confinement on board one of the British ships of war, in the month of September last, to England for trial, on pretext of being a British subject.

It is desirable to afford the friends of persons thus unfortunately situated every means of communicating with them as far as may depend on the public agents; you will, therefore, be pleased to endeavor to find out the place of confinement of Mr. Swanton, and convey to him the letter intended for him, and the pecuniary relief afforded by his brother, with any other you may be able to give him.

An officer of a British merchant ship, corresponding with him in rank, has been confined here, to answer, in his person, for his safety and proper treatment. I am informed by Mr. Swanton's family, and have no doubt of the facts, that, although born in Ireland, he came here very young, and is a citizen of the United States in the right of his father, who came to this country before the peace of 1783, and has habitually resided here since, until his death a few years ago.

I have the honor to be, sir, your most obedient servant,

J. MASON.

REUBEN G. BEASLEY, Esq. *U. S. agent for prisoners, London.*

I.

Extract of a letter from Commodore Isaac Chauncey to the Secretary of the Navy, dated

U. S. SHIP GENERAL PIKE, SACKETT'S HARBOR, *October 12, 1813.*

On the 24th of August last, I wrote to Commodore Sir James L. Yeo, respecting the detention of Thomas Goldsmith, late a seaman belonging to the *Julia*, and detained by Commodore Yeo for trial as a British subject. I have this day received his answer to that communication; copies of both letters I have the honor to enclose.

I shall wait your instructions, as to what further measures are to be adopted in regard to Goldsmith.

SIR:

U. S. SHIP GENERAL PIKE, SACKETT'S HARBOR, *August 24, 1813.*

The fortune of war having placed the crews of the *Growler* and *Julia* (two small schooners belonging to my squadron) in your power, and having understood that Thomas Goldsmith, ordinary seaman, belonging to the late United States' schooner *Scourge*, and captured in the *Julia*, has been detained for trial by your order, as a British subject, I will thank you to inform me upon what grounds Goldsmith has been detained, and whether it is your determination to try him in the province, or send him to England.

I have the honor to be, very respectfully, sir, your obedient servant,

ISAAC CHAUNCEY.

Commodore Sir JAMES LUCAS YEO, KT. *Commanding
His Britannic Majesty's naval forces on lake Ontario, &c.*

Extract of a letter from Commodore Sir James L. Yeo to Commodore Isaac Chauncey, dated

SIR:

ON BOARD THE WOLFE AT KINGSTON, *October 11, 1813.*

I have had the honor to receive your letter of the 24th August on my arrival at this port, requesting I would inform you upon what grounds Goldsmith has been detained.

In answer to which, I have to acquaint you, that the man himself acknowledges his being by birth and parentage a subject of Great Britain; but as to whether he will be tried for serving under the flag of his country's foes in this place, or in England, I cannot inform you.

Extract of a letter from the Commissary General of Prisoners, to James Prince, Esq. Marshal of Massachusetts, dated

SIR:

DECEMBER 18, 1813.

I am commanded by the President to instruct you to place immediately in close confinement one of the British seamen in your custody, captured on Lake Ontario, to be held as a hostage to answer for the proper treatment and safety of Thomas Goldsmith, late a seaman belonging to the United States' schooner Julia, unjustifiably detained for trial as a British subject, by order of Commodore Sir James Yeo.

You will inform the person so designated of the cause of this measure, and make his treatment the same as that recommended to you heretofore in similar cases.

K.

Extract of a letter from Thomas Steele, Esq., Deputy Marshal of Ohio, to the Commissary General of Prisoners, dated

CHILICOTHE, September 18, 1813.

I made a return of one prisoner, who was put into my custody on the 9th of May last, of the name of Thomas Alexander Clark, who was taken at the rapids of the Miami of the lake. I was instructed by Colonel Campbell that he, the said Clark, was to be kept in close confinement as a hostage for a certain Captain Knaggs of Detroit, which has been done in the jail of the county; the common jail fees are twenty-five cents per day. I have furnished him the necessary clothing.

SIR:

QUEBEC, October 7, 1813.

Agreeably to my proposition of last evening, I shall give you a statement of facts which is the cause of my confinement, and then leave it for your honor to decide, viz: I was assistant superintendent of Indian affairs, and captain of a militia company in Detroit, Michigan Territory, and was surrendered by General Hull at the capitulation of Detroit, and guaranteed, agreeably to a proclamation issued by General Brock, both in person and property. Shortly after such proclamation, the savages, who, to glut their thirst for blood, hunted me day and night for the purpose of assassinating me if they should find me, finding their search fruitless, they repaired to my dwelling, and robbed me of about twelve thousand dollars in specie and effects. After this had taken place, I was advised, by persons of respectability living on both sides of the river, to leave the country a short time, until the anger of the savages should be assuaged, both for my personal safety and the safety of my wife and children. Agreeably to their advice, I obtained a permit from Colonel Proctor to depart; myself and several others chartered a vessel for that purpose, and moved to Presque Isle; and after that I pursued my route to the States to settle my business, and returned to Pittsburg, and from there was making the best of my way to Detroit to find my family, who were daily exposed to the insults and dangers of the Indians. After I left Pittsburg, I arrived at the Miami rapids. I there, unexpectedly, fell in with a part of General Winchester's army, the other part had advanced to Frenchtown. I continued on from Miami rapids to Frenchtown, where I had a brother living, and put up with him, anxious to reach my family before the army arrived, lest the Indians might suspect I was with it, and massacre my family for retaliation; however, the next day an engagement took place between General Winchester and Colonel Proctor's forces, about two miles from where I was, in which the former had to retreat, and passed by where I was. The Indians finding me at that place, took me and carried me to Colonel Proctor, who said I had broken my parole, and ordered me to be immediately forwarded to Fort George, without any examination. I remained a few days at Fort George, where I obtained a certificate from General Winchester, showing that I had nothing to do with the army; I was then forwarded to Montreal, and then examined before the police, and committed as a prisoner of war; shortly after that, I had assurances of being sent home as soon as the roads would admit, but instead of that I was forwarded to this place, and confined as a prisoner having broken his parole, which I am now ready to show, by General Winchester and his officers, that I was no way concerned with the movements of General Winchester's army, directly or indirectly. An investigation of this affair would be highly gratifying to your obedient servant,

WHITMORE KNAGGS.

To Colonel GARDNER.

Extract of a letter from Colonel Barclay to the Commissary General of Prisoners, dated at

HARLEM, January 8, 1814.

I enclose you an extract of a letter from Captain Chambers, of the forty-first regiment, dated Chilicotte, 27th November, 1813, and beg you will be pleased to give the necessary orders that Mr. Thomas A. Clark, Indian interpreter, with the rank of a subaltern in the British service, now a prisoner in the jail at Chilicotte, either receives the three shillings sterling per day, the allowance for officers, or is supplied with such food as comports with his rank as an officer.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

JANUARY 22, 1814.

Mr. Thomas A. Clark, whom you mention, is confined at Chilicotte in retaliation for a Mr. Whitmore Knaggs, an American citizen, confined in jail in Quebec, where Colonel Gardner saw him in his jail, on common prisoner's fare, on the 15th October. Mr. Knaggs is a man of property and respectability; he was an inhabitant of, and captain of the local militia at, Detroit; was included in the capitulation of that place, and promised protection in person and property; the Indians were, however, permitted to plunder his house of money and effects to a large amount, and constantly threatened to assassinate him: under these circumstances he obtained permission from General Proctor to go within our lines, which he did in a vessel, with others, to Pennsylvania, leaving his family. After some months he was returning to his family at Detroit, when he was seized by the Indians and carried to General Proctor, who confined him on suspicion of belonging to General Winchester's army, who were engaged about the time and near the place Mr. Knaggs was met on his way to Detroit. He was first sent to Fort George, where he obtained a certificate from General Winchester that he was in no way attached to his army. Mr. Knaggs is kept in the common jail, and, as I understand, on ordinary prisoner's rations. I wrote directly that Mr. Clark be treated in the

same way, but that his subsistence be abundant and of the better kind, and his situation shall be ameliorated the moment you will inform me, from an authentic source, that Mr. Knaggs's has been; in other words, it is intended that he shall receive, in every thing, the treatment Mr. Knaggs receives, and I shall be extremely glad that, on a change in this, I may be enabled to make that of Mr. Clark entirely comfortable.

L.

Captain Jones to the Hon. Paul Hamilton, Secretary of the Navy.

SIR:

NEW YORK, November 24, 1812.

I have the honor to inform you of my arrival here to-day with the surviving officers and crew of the *Wasp*, excepting the boatswain, boatswain's mate, eight men, and two boys, who were detained as British subjects, and are now confined on board the prison ship at Bermuda.

Mr. McLeod has been eight or ten years in our service, has a boatswain's warrant, married in Virginia, and has there a wife and children. I do not know where those men may have been born, but the most, if not all, have protections; and, from their having detained two others, who Mr. Rodgers and myself knew to be native citizens, who were afterwards dismissed upon my observing that I knew them to be such, I think it probable that many of the others are natives of the United States.

JAMES JONES.

Honorable PAUL HAMILTON.

Captain Beresford to Admiral Warren.

SIR:

HIS MAJESTY'S SHIP POICTIERS, February 15, 1813.

In reply to the letter I had the honor to receive from you yesterday, I have the honor to inform you that the men I thought it my duty to detain, until your pleasure was known, are, in my opinion, British subjects. The boatswain, Mr. McLeod, told me he was born in Scotland, but that, having taken the American oath of allegiance, and being married in Philadelphia, he considered himself an American subject; the other men, in my opinion, are English, Scotch, or Irish. I told the officers of the *Wasp* my suspicions, and that, consequently, it was my intention to detain them, but that, if the captain or any other officer could identify any of them as Americans, I would instantly send them on board the cartel that was then going to New York with the officers and crew of the *Wasp*.

This they were unable to do, and I, therefore, sent them on board the *Ruby* to await your pleasure, being perfectly convinced, within my own breast, that they were British subjects, although I am certainly without documents to prove the fact.

I have the honor to be, &c.

J. P. BERESFORD.

The Right Honorable SIR J. B. WARREN, *K. B. Admiral, &c.*

Captain Jones to the Secretary of the Navy.

SIR:

MACEDONIAN, NEW LONDON, September 15, 1813.

The enclosed is from one of the twelve of the crew of the *Wasp*, who were detained after her capture by Captain Beresford on the supposition of their being British subjects.

The case of Mr. McLeod, the boatswain, is peculiarly hard. He was in the service during the war with Tripoli, and has continued so ever since; he has been for several years married to a discreet woman in Virginia, the daughter of a person living about nine miles from Norfolk, and has, or had when he left home, two or three children.

The persons detained were Mr. McLeod, boatswain, the writer of the enclosed, alias John Goldthwait, J. Stephens, boatswain's mate, George M. D. Read, Thomas Phillips, John Rose, a boy, Dennis Dougherty, marine, William Mitchell, Peter Barrow, John Brooks, boy.

Respectfully, yours,

J. JONES.

Hon. WILLIAM JONES, *Secretary of the Navy.*

[Enclosed in the preceding.]

Mr. Goulthrite to Captain Jones.

SIR:

MELVILLE PRISON, HALIFAX, August 16, 1813.

We take the liberty of writing to you to inform you that, on the 18th June, we were sent out of the *Goree* prison ship, at Bermuda, on board the *Dragon 74* for Halifax, where we arrived after a favorable passage of ten days, and we are sorry to inform you that we are almost naked for want of clothes, having nothing except one shirt and trowsers, and as there is no more prospect of getting clear than there was when we were first taken prisoners, we humbly entreat you that you will send us some relief, as we have applied several times to Mr. Mitchell for some clothes, and we cannot get any; so, without you relieve us, we shall perish for want of clothes here in winter, as it is very severe.

We remain your most obedient and humble servants,

J. GOULTHRITE, *and others.*Captain JONES, *United States' frigate Macedonian, New London.*

P. S. We are sorry to inform you that three died at Bermuda, viz. Peter Barrow, John Rose, and John Stephens.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

NOVEMBER 23, 1813.

But, sir, these are not the only cases in which it is plainly shown how the conduct of your officers in seizing and separating our captured men from the ordinary state of prisoners, and subjecting them to long and painful confinement, has stood self-condemned on their own assumed ground. I will instance, among many that might be cited, the cases of five, at least, of the six men of the crew of the *Nautilus*, the six men of the crew of the privateer *Sarah Ann*, thus taken, long held, and finally discharged; and the twelve men of the crew of the *Wasp*, taken and held in like manner, three of whom have fallen a sacrifice to, and during, severe confinement, and the remaining nine, as you have informed me, are at length restored to the ordinary state of prisoners in Halifax for exchange. In this last instance, I refer you, sir, to the letter from Commodore Beresford to Admiral Warren, of which I furnished you a copy, and in which he states explicitly that he had designated and detained them merely on suspicion, and because our officers could not, of their own knowledge, declare that they were native born Americans.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

SEPTEMBER 7, 1813.

His Majesty's schooner *Dominica*, lately captured by an American privateer after a sanguinary conflict, has been carried into Charleston, South Carolina. At the time the letter to me announcing her arrival was written, the marshal had not admitted the officers, midshipmen, and master's mates, &c., to their parole. I am also informed there are some masters of British armed vessels detained on board the prison-ship to whom the indulgence of parole has been refused.

Whether this is correct I do not take upon me to say; but you will do me a favor by ordering the marshal at Charleston to extend the indulgence of paroles to such characters as you think proper, and acquaint me with the extent to which you limit them.

I beg leave, also, to request you will send the necessary orders to the marshal to furnish the British prisoners with comfortable bedding, and the necessary utensils for cooking, &c. as the men of the *Dominica* were stripped of every thing by the crew of the American privateer, who, in every other instance, I am informed, behaved with a barbarity not practised by civilized nations. I do not mention this to you by way of complaint, because my Government will take the necessary measures, if the information is correct, but to afford the American Government an opportunity of investigating the facts and correcting future acts of barbarity which dishonor human nature. The crew of the American privateer, it is said, were principally blacks and men of color.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

OCTOBER 5, 1813.

I have written to the marshal of South Carolina on the subject of your letter of the 7th of September, and can assure you that every thing shall be done there that is requisite to make your prisoners comfortable. As to paroles at that depot, I have no particular information; I have required it, and it shall be, when received, communicated. The practice has been, heretofore, to parole all midshipmen and commissioned officers of men-of-war, and all master's mates and lieutenants of private armed ships and merchantmen, which I am entirely disposed to continue, if the practice on your side will permit me to do so. I understand that your Government paroles neither mates nor lieutenants, or at most not lower than the first mate, and no master of a privateer under fourteen guns. I request early information from you on this subject, to enable me to determine on the course proper to be taken here.

You state that you are informed that the men of the late British schooner *Dominica* were stripped of every thing by the crew of the capturing American privateer, and, in every instance, treated with a barbarity not practised by civilized nations, and which dishonor human nature. I regret to hear that any of our masters of privateers, who have heretofore been as remarkable for their generosity and kindness to prisoners when subdued, as they have been for their skill and bravery in battle, should be accused of such unpardonable acts. The facts shall be inquired into, and, if they exist, as you suppose they do, you may be assured they will not pass unnoticed by a Government whose constant effort has been to invite by example its enemy to conduct the war in all its branches in the most humane possible manner. Without, at this time, assenting to or denying the facts you suppose to exist, I will remind you that it is said to be difficult to restrain the conquering crew, on a vessel carried by boarding, from acts of cruelty and of pillage; and I trust the same laudable spirit which has excited your feelings on this occasion will cause you to inquire into the conduct of the crew of your frigate *Shannon*, (when the *Chesapeake* was carried in that way,) and, above all, will have induced you to have become possessed of, and to have reported to the proper authorities, the facts attending the Anglo-Indian warfare on the Canada lines; since, surely, if any excesses in this life can be most properly termed "barbarities which dishonor human nature," they must be those exhibited on the late occasions on the river Raisin, Brownstown, and elsewhere, when the Indians, in British pay, fighting by the side of British troops, and afterwards thanked in general orders by British officers, were permitted to murder by piecemeal, to hack, to mangle, and to torture unto slow death, and to burn alive, American citizens, their prisoners; and, as if to fill the measure of savage enormity, to expose the bodies of these wretched sufferers to be devoured on the surface by every passing vermin.

These things, sir, have been repeatedly done in the face of the world, and are not to be contradicted. It is to be hoped that you will afford the British Government an opportunity of investigating the facts, and of correcting acts, to the description of which, in adequate terms, no language used by civilized man is equal.

Extract of a letter from the Commissary General of Prisoners to Morton A. Waring, Esq., marshal of South Carolina, dated

OCTOBER 5, 1813.

I send extracts of a late letter from Colonel Barclay, and of my reply. Respecting paroles you will give me early information, and I request that you will make particular inquiry as to the conduct of the officers and crew of the *Decatur* on the charge brought against them, from such sources as can be depended on, and give me the most authentic information you can obtain, as also a list of the crew when she returned into port, also descriptive of the persons composing it, which may be readily had of the collector.

Extract of a letter from Morton A. Waring, marshal of South Carolina, to the Commissary General of Prisoners, dated

OCTOBER 16, 1813.

I hasten to reply, partially, to your letter of the 5th instant, which has this moment come to hand, accompanied by extracts, &c. therein referred to. Respecting paroles, they have never been, in any instance, denied to characters who were deemed worthy of them. I confess, in consequence of several breaches of paroles by captains of merchantmen, I felt, on the arrival of the Decatur, some hesitation in granting Captain Sinclair, master of a merchantman, a parole; but, as soon as I could receive the pledge of the British sub-agent here for his good conduct, I granted his parole. I have since paroled Captain Sinclair to Liverpool on the conditions prescribed by the cartel. The midshipmen taken in the Dominica were paroled as soon as possible after their arrival here. Those officers who came under the character of non-combatants were immediately released. Without orders from your Department, I shall not, on any occasion, parole officers below the grade of captains of merchantmen, and shall be very circumspect towards them. Therefore, sir, all that extract of Colonel Barclay's letter to you, which speaks of the refusal of paroles, is not founded on fact.

Extract of a letter from Morton A. Waring, marshal of South Carolina, to the Commissary General of Prisoners, dated

OCTOBER 26, 1813.

A letter from Dr. Tidyman, a gentleman of respectable professional standing, who volunteered his services to the wounded on their arrival here, is enclosed.

I have not been able to procure any certain information as to the characters of the persons who composed the crew of the Decatur; as near as I can come to the fact, she had about three-fourths white men on board.

Those officers who were heard to speak of the treatment which they received from the privateersmen, after their surrender, having gone from this place, I have been obliged to resort to the certificate of such gentlemen as questioned them on this point; which certificate I have herewith forwarded to you.

DEAR SIR:

CHARLESTON, *October 8, 1813.*

In compliance with your request, I hasten with cheerfulness to state to you my opinion of your conduct towards the British prisoners of war captured in the Dominica by the Decatur; and it is with peculiar pleasure I can candidly say that during the short time I attended the wounded, in company with Dr. Waring, I heard the prisoners express the most perfect satisfaction and gratitude at the humane treatment they received from yourself, and also from Captain Pratt, acting under your instructions; and I must confess that, in every part of Europe which I have visited, I never saw better treatment shown towards prisoners of war than is now experienced by the British prisoners on board of the prison-ship under the immediate command of Captain Pratt. To the best of my knowledge their diet is not only wholesome, but very liberal. I have no hesitation further to state that the officers of the Dominica, with Captain Sinclair of the British merchant ship London Trader, did receive their paroles within a very few days after the arrival of the respective vessels in our harbor. Your conduct has been, to the best of my observation, such as to entitle you to the good opinion of your fellow-citizens. You have acted in the strict line of your duty, and, consequently, must merit the approbation of your Government. I am extremely sorry to find that you have been unjustly charged with denying paroles to British officers, and keeping them in confinement on board of the prison ship. The character of an informer is always obnoxious; but when he descends to falsehoods, he then indeed ought to be treated as an outcast of society. With respect to your inquiry relative to what I know of the treatment which the British prisoners sustained on board of the Dominica and Decatur, I must beg leave to inform you that, as my only object in seeing those unfortunate men was to discharge the duties of my profession towards them, I considered it therefore indelicate to submit questions which might unnecessarily give rise to any unpleasant feelings or conversation on a subject that was foreign to my purpose, and which I felt myself unauthorized to seek into. When they were delivered to Captain Pratt they all appeared to be well clothed, and many brought with them their baggage. With respect to myself, I have done no more than was consistent with the duty of a Christian, and it is one I shall always feel gratified in discharging towards prisoners of any nation.

With sentiments of respect, I beg you to believe me your obedient servant,

MORTON A. WARING, Esq., *Marshal, Charleston.*

PHILIP TIDYMAN.

CITY OF CHARLESTON, *October 26, 1813.*

We hereby certify, that on the day subsequent to the arrival of the American private armed schooner Decatur, Captain Dominique d'Iron, with her prize, the British armed schooner Dominica, into this port, we, the undersigned, went on board the latter vessel, in company with several gentlemen, among others the honorable John Drayton, Judge of the Admiralty; and during our stay on board the said vessel we conversed with some of the prisoners, by whom we were explicitly informed that they had been treated by the captors "like brothers." It was remarked by them that there was considerable carnage and bloodshed, naturally consequent to the confusion of boarding, but after possession of the prize had been taken by the captors, every kindness was afforded.

JAMES JEWEE,
JOHN PRATT,
J. B. WHITE.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, *August 27, 1813.*

I have the honor to transmit you copies of the following letters from Dr. Samuel McKeehan, surgeon's mate, second regiment of the Ohio militia, to Major General Dearborn, of the 24th May last; two from the same person, one of the 6th May and one of the 9th May, to Lieutenant Dudley; and one of the 12th May, from George H. Rodgers, of the United States' army, to Lieutenant Dudley.

You will perceive from the statement of Dr. McKeehan, if it is correct, and, from the respectability of his character, there is no too much reason to believe it, that outrages have been committed on his person, not to be justified. I do not, however, in requiring an explanation, rest this matter on the statement of the suffering person only:

Lieutenant Dudley, of the United States' navy, was at Montreal during his confinement, as you will remark by the letters addressed to him. That gentleman furnished me himself with the originals of the two letters addressed to him by Dr. McKeehan, and of that from George H. Rodgers, and confirmed all that is stated by the doctor to have happened, after his (the lieutenant's) arrival at Montreal, and assured me that the doctor's treatment, previous to that time, was spoken of in Canada as a matter of notoriety, to be such as he has represented it.

I request, sir, that you will be pleased to inquire into the facts, and the causes alleged for treatment so inhuman to a man sent by the proper authority, under the sacred protection of a flag of truce, to administer kindly offices and medical aid to our wounded prisoners, and, also, into the facts of the severe confinement and cruel usage alleged to have been used towards the fourteen American prisoners at Montreal, named by Dr. McKeehan.

I shall refrain, sir, from pointing out what may be thought the proper atonement to be made on the cases described, until your explanation is received.

I have the honor to be, sir, your obedient servant,

Colonel THOMAS BARCLAY, &c.

J. MASON.

SIR:

MONTREAL PRISON, *May 6, 1813.*

I am an unfortunate American who was taken by the Indians on my way to Malden, with a flag of truce from General Harrison, on the night of the 31st of January, and after a variety of indignities, too tedious to mention, I was brought here and put into the dungeon for thirty-three days, and have been up on the centre floor a week. I wish to see you, if possible, and have your advice, &c.

In haste, yours, &c.

SAMUEL MCKEEHAN,

Surgeon's Mate, second Regiment, second Brigade, Ohio Militia.

Lieutenant DUDLEY.

SIR:

MONTREAL PRISON, *May 9, 1813.*

Yesterday Sir George's aid came and informed me that the nature of my confinement had been contrary to his orders, and Colonel Lethbridge was required to restore me my liberty. I was also informed that you and myself would probably in a few days be sent to the United States. Colonel Lethbridge told me he would send for me at three o'clock and take my parole. In less than an hour Major Shackleton called, and said the Governor, after more mature consideration, had concluded he could not let me have my liberty until he would hear from General Proctor.

Two or three days after my imprisonment Major Shackleton told me that General Proctor had promised, with the next despatches, to send on all the papers relating to my case, and that then I would have a hearing.

So you may see punishment by torture is not yet abolished. If they had drove a dagger through my heart my punishment would have been much less and their compassion much greater.

Yours, &c.

SAMUEL MCKEEHAN.

Major Shackleton also told me that Colonel Baynes was unauthorized to tell me what he did.

Lieutenant DUDLEY.

S. McK.

SIR:

MONTREAL JAIL, *May 12, 1813.*

I am requested by Dr. McKeehan to inform you of his present unpleasant situation. He is at this time so unwell as to be confined to his bed, and has no chance of getting any thing to make him comfortable. No person attends here to examine our situation, neither have we a chance to send out after any necessaries that we want.

I am confident the doctor's case requires some very speedy aid, particularly as it respects his confined situation, lodging, &c.

Yours, respectfully,

Lieutenant DUDLEY.

GEORGE H. RODGERS, *United States' army.*

SIR:

NIAGARA COFFEE HOUSE, *May 24, 1813.*

Without introduction or apology, I beg leave to state to your excellency, that, on the 31st of January last, I was ordered by General Harrison to proceed to the river Raisin with a flag of truce. I was required in my instructions, if I met no British officer at that place, to proceed to Malden, if too great danger did not appear from the savages. The same evening, thirty-three miles from the river Raisin, the Indians fired upon us and killed Mr. Lamont, one of my attendants, wounded myself in the foot, then conveyed me to Captain Elliott, who took me to the river Raisin, and from thence sent me to General Proctor at head-quarters in Sandwich, who swore, by God, that the flag and papers which I gave him were only a pretence to cover a dishonorable service. I rebutted his insinuations as moderately as my indignant feelings would permit. General Proctor made several observations on General Harrison's ability as a commander; said he was used to fight Indians, but not British troops, &c. He kept my instructions; did not even inform the senior officer, ensign Baker, of the American prisoners, that he had a letter for him. I was ordered to a tavern, under the care of a French serjeant. I waited till the 4th February before I wrote to General Proctor, demanding in what character I was considered, how long I would be detained, and the cause of my detention.

The next day the general's aid informed me I was recognized as surgeon's mate, and would attend with Dr. Brown on the American wounded prisoners. On the 12th I received a letter from General Proctor, in answer to one I had written to him on the day before, of which the following is a copy:

SIR:

SANDWICH, *February 12, 1813.*

In answer to your letter of the 11th instant, I am directed by Colonel Proctor commanding, to observe that you were sent in for the purpose of attending on the sick and wounded of General Winchester's army, for which purpose you are now detained, and beg leave further to observe that, in the execution of your duty, you will render a most important service to your country.

I have the honor to be, sir, your humble and most obedient servant,

A. W. McLEAIN, *A. D. C.*

I continued to attend the wounded until the 2d of March, when A. D. C. McLeain informed me that I was accused of carrying on a private correspondence, and that he was ordered to take me into custody, and secure

my papers, which was accordingly done in the most uncivil manner. On the 8th of March I was taken by a guard to Fort George, without trial or hearing, although I had written to General Proctor repeatedly, requesting an investigation, to which I received no answer of any kind. From Fort George I was sent to Montreal, and hurried on night and day, although thinly clothed, (having been robbed and stripped by the Indians,) and the weather very cold. On my arrival at Montreal, I was, without being asked any questions, or permitted to ask any myself, put into a dungeon eight or ten feet below the surface of the ground, in dark and solitary confinement, and there kept thirty-three days, after which I was put up with the American prisoners. A few days after my elevation, Lieutenant Dudley became acquainted with my situation, and made such representations to Governor Prevost as induced his excellency to send his aid, Colonel Baynes, who said he was directed by the Governor to inform me that the outrage which had been committed on my person was contrary to his orders, and told Colonel Lethbridge to take my parole and liberate me immediately. The colonel, not having materials for writing at hand, said he would send for me at three o'clock. In less than an hour the town major came, and informed me that the Governor, on more mature consideration, thought he could not liberate me until he got despatches from General Proctor. On the 17th of May, eight or ten days after, I was taken from prison, and, in company with Lieutenant Dudley, sent to the United States. I may here observe that the apartment in which I was confined did not contain either chair, bench, or stool, or bedding whatever, for the space of two weeks. Fresh beef was furnished, but no salt. I was denied pen, ink, and paper, and treated uniformly with the utmost contempt by the serjeant, whom I had the honor of seeing once every day for a few minutes. By the request of fourteen American prisoners, now in Montreal jail, whose names are hereunto annexed, I beg leave to state to your excellency that they are kept in close confinement, sometimes half a day without water, and frequently two or three days without wood to cook with; and when they complained the jailer's curses were freely lavished upon them. They have not the privilege of procuring some little necessaries, which the benevolence of some humane persons enabled them to do, by giving them a little money. Sir George Prevost has told them that their confinement is owing to the bad faith of their own Government, &c.

I would have stated to your excellency the knowledge I had, through the report of others, of the outrages and cruelties exercised on the American prisoners taken at General Winchester's defeat, but must refer your excellency to Mr. Ruland, who had a command in the Michigan militia last summer, and who was, after having been dispossessed of all his property, sent to Fort George with me; who, no doubt, had many opportunities of hearing such things triumphantly spoken of among British officers and subjects.

I have the honor to be, your excellency's most humble and obedient servant,

SAMUEL MCKEEHAN,

Surgeon's Mate 2d regiment Ohio militia.

Major General DEARBORN.

List of persons in Montreal jail.

George H. Rodgers, *United States' army,*
William Hollenback,
Seth Barns,
Gains Hooker,
Philaster Jones,
Danny Jones,
Jared Witherall,

Major Watson,
Alexander McGregor,
Lewis Minor,
John Campbell,
Zebina Konkey,
Pliny Konkey,
David Johnston.

Colonel Thomas Barclay to General Mason.

SIR:

HARLEM, August 30, 1813.

In reply to your letter of the 27th current, respecting Mr. Samuel McKeegan, Surgeon's Mate in the Ohio militia, and fourteen American prisoners at Montreal, mentioned by him, I beg leave to assure you that no exertions on my part shall be omitted to obtain an early and satisfactory elucidation of the treatment stated to have been received by Mr. McKeegan, and which he represents the fourteen other prisoners at Montreal experienced. By the next post I shall take the liberty to transmit to you a despatch to his excellency Sir George Prevost on the subject, with copies of your letter, and the documents enclosed therewith, which I request you will be pleased to have forwarded to Canada by a flag of truce.

I confidently hope a satisfactory explanation will be returned: whatever else may be considered as exceptionable traits in the characters of the individuals composing the nation to which I belong, inhumanity towards prisoners has, I suspect, never before been attributed.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General MASON.

General Mason to Colonel Thomas Barclay.

SIR:

HARLEM, August 17, 1813.

The enclosed is a copy of a letter to Mr. Moore, sub-agent for British prisoners at Schenectady, from Joseph Edwards and Doctor I. Muirhead, two of His Majesty's justices of the peace for the district of Niagara, who, it appears, were paroled on or before the 14th of June last, by the American general commanding at Fort George, but have since been made prisoners, and marched to Albany, without having (as they state) committed any offence, and no cause assigned for this treatment.

If their statement is correct, which, from the respectability of their characters, is most probable, the treatment they have received is a gross violation of the cartel of the 12th of May.

I request you will be pleased to take immediate measures to ascertain the facts, and if the merits turn out, as I hope they will, in favor of these gentlemen, that you will order them to be released, reimburse their expenses from Niagara to Albany, pay three shillings sterling per day for subsistence while in Albany, (to which their rank entitles them,) the necessary allowance for their expenses back to Niagara, and furnish them with passports to return thither.

But should the result of your inquiries prove that these gentlemen have acted improperly or imprudently, I request you will possess me with the particulars.

I have the honor to be, sir, your obedient and humble servant,

THOMAS BARCLAY.

General JOHN MASON, &c.

General Mason to Colonel Thomas Barclay.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, August 23, 1813.

SIR:

I have received your letter of the 17th instant, and have written this day to the deputy marshal at Pittsfield, to make the necessary inquiries there, and at Albany, as to the cases of Joseph Edwards and I. Muirhead, whose own account of their treatment you have transmitted. I can only assure you, sir, that if any thing incorrect has been done toward these persons, an immediate and proper course shall be taken; at any rate, you shall be informed of the result of my inquiries.

In the mean time I shall refrain from entering into a discussion of the merits of the case as supposed by you. I have the honor to be, sir, your obedient servant,

J. MASON.

Colonel THOMAS BARCLAY, &c.

Extract of a letter from the Commissary General of Prisoners to Colonel Robert Gardner, United States' agent for prisoners near Quebec.

OCTOBER 23, 1813.

Information has been received at this office, that Doctor William McDowell Scott, late marshal of the United States at Detroit, seized by the British officer commanding at that place, during last summer, and sent to Quebec, was, and is still, closely confined there; and that Doctor James W. Wood, of Plattsburg, Champlain, and Innis B. Palmer, of Schlosser, respectable private citizens, have been seized by the same authority, and confined at the same place.

You are requested to inquire of the proper authorities into the circumstances of these cases, and if you find them to exist in the manner I suppose them to be, to remonstrate, respectfully, but strongly, against the confinement and detention of these gentlemen, and that you will use your efforts to have them liberated and sent back to their country, with the prisoners about to be released. You will be pleased to report, in any event, particularly to me, the circumstances of each case, the manner of confinement and treatment, and the alleged cause.

General Mason to Colonel Thomas Barclay.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

WASHINGTON, December 27, 1813.

SIR:

Under cover with this, I have the honor to transmit you copies of letters and enclosures received from Colonel Gardner, American agent for prisoners of war in Canada, received a few days ago by Colonel Boerster, a list of which is annexed.

By these you will perceive the manner in which that gentleman is restricted; how different the treatment towards him from that observed toward the British agents similarly situated in this country. In short, that he is so tied up, that it is impossible that his functions can be performed in such a way as to be of the utility intended toward our prisoners, by the letter and spirit of the arrangement on this subject between the two nations.

I beg to call your particular attention to the letters which passed between Colonel Gardner and Captain Kempt, your agent for prisoners relative to rations. You will observe, sir, that as late as the 31st of October, my last communication, the allowance stipulated by the cartel had not been furnished our prisoners. I have to request, sir, that you will make immediate interference on this occasion, and cause a full allowance to be made them. Our soldiers will feel keenly the difference between half a pound of bread and half a pound of meat. Yours have constantly had it since the establishment of the cartel, and, before that, even more; an early inquiry on this subject is the more necessary on your part, because, from the hesitation of your officers, it does not appear that they mean to alter the system on the remonstrance of Colonel Gardner; and because, as your commanders had refused to receive an agent in Canada, until in the latter part of last summer, we had no means of ascertaining what was the subsistence allowed by your officers in that quarter to our prisoners, until the arrival of Colonel Gardner; remonstrance from this office has been much later than it otherwise would have been.

You will remark, sir, by the communication of General Glasgow, of the 15th of October, to Colonel Gardner, that his letters are all inspected before they are permitted to come away, and by Colonel Gardner's letter to me of the 19th of October, that all letters, even from this office, to him, will be opened.

I am instructed, sir, to request you, in future, to send all your letters for Canada unsealed through this office, and to inform you that all letters from that quarter to you must be inspected.

I have the honor to be, &c.

J. MASON.

Colonel THOMAS BARCLAY, &c.

Extract of a letter from Colonel Robert Gardner, United States' agent for prisoners in Canada, to the Commissary General of Prisoners.

BEAUFORT, October 15, 1813.

I have this day visited the prison in Quebec, accompanied by Colonel Perry, who has a particular command in the city, which includes the prison. Thirteen persons were shown me who were said to be Americans; on inquiry I find, that Doctor Scott and a Mr. Knaggs are American citizens; copies of the statements of their several cases I have the honor to enclose, having also enclosed in a letter to Sir George Prevost (copy of which is herewith) duplicates of the above statements. A Mr. John Gilbert and a black man of the name of Jones are also American citizens; they had previously given to Colonel Perry a statement of their cases, and he forwarded them to Sir George Prevost; they promise to give me copies, and, when I have them, I shall do what I can in their behalf; they were residents in Canada before the war, the others have long been residents in Canada, and most of them under the oath of allegiance to the British Government; one of them (a Roswell Johnson) went from Charry, within the British lines, to shun a militia draught. The situation of these men are as comfortable as prisoners in jail can expect to be; and they say that since Colonel Perry has had the command of the place it is much bettered.

There is also on board one of the prison-ships an American citizen of the name of Stephen Richards, whom I think detained contrary to the spirit of the cartel. I have sent a copy of his statement to Sir George Prevost; I enclose you another.

[Enclosed in the preceding letter.]

Mr. William H. Scott to Colonel Gardner.

SIR:

QUEBEC PRISON, October 8, 1813.

I beg leave to make a candid statement of my situation. I came into the United States early in 1796, a young man. I resided several years there, and at length regularly became a citizen, and held some respectable appointments. In this situation I was when surrendered by General Hull to General Brock, in August, 1812, when we were to be protected in persons and property, and the militia of the country to remain peaceably at home as if nothing had occurred. Shortly after this, I was stripped of all my personal property to upwards of five hundred dollars. I remained quietly at home, and in the fall had permission from General Proctor to depart in a vessel, but the season was late and the vessel leaky, so that we had to return. In this manner I remained until the month of February last, when, with a number of Americans, I was ordered to quit the territory for the State of New York, by the way of Fort George, and furnished with a regular passport as a citizen to behave as becometh. We travelled this distance at our own expense, and without any guard. While remaining at Fort George I was examined before his excellency Sir George Prevost, who declared that I was to be considered in no other light than the others of Brush's militia who were all crossed over there. It was not deemed expedient to cross over any more at that place. Colonel Brush had permission to return to his family, or to go to Kingston, and he crossed over there, which he did two or three days afterwards. While waiting for liberty to cross over I was warned to hold myself in readiness to proceed to Kingston; I was taken charge of as a prisoner by the serjeants and conducted to Kingston from one jail, guard-house, or cell, to another, and from thence to Montreal, where I was examined by the police and committed as a prisoner of war; received information I should be crossed over the line from the police office in the course of a week, and just at that time I was forwarded to this city, and I am now confined as a British subject having an intention of joining Harrison's army, although I had never been examined. Since, and all winter, if I had been so disposed, could have rode to the army in three hours' time, as it was not thirty miles distant from my farm. I have applied to the chief justice and the Supreme Court to investigate the case, but without success as yet. If I am a British subject, I have done nothing to merit imprisonment; if an American citizen, I am illegally confined and detained in prison in this manner. The contractor's agent at Malden purchased cattle of mine for which I have not been paid, exclusive of others taken for immediate consumption, and to be paid for. Also, for the use of my horses for expresses and fatigue; and in addition my horses and sleigh, which I had to leave about twenty miles back of Fort George, when I was made a prisoner. All these things I have suffered without any act or deed, on my part, that I know of, to merit this punishment; and, to crown all, thrown into the common prison, among felons, convicts, and negroes, and sometimes deprived of the common field-rations, far from my family and friends, or the means of assistance and relief.

I hope my case, sir, being taken into consideration, I may be honorably released, and suffered to depart in search of my afflicted wife and distressed family.

I have the honor to remain, sir, with profound respect, your obedient servant,

WILLIAM H. SCOTT.

To Colonel GARDNER.

Mr. Stephen Richards to Colonel Gardner.

ON BOARD HIS MAJESTY'S SHIP LORD CATHCART,

QUEBEC, October 14, 1813.

HONORED SIR:

I resided in Upper Canada at the commencement of the present war, and, refusing to take up arms against my country, I left this country under the proclamation of General Sheaf, in Upper Canada, turning myself and family out of doors and home to seek another in the United States.

I need not inform you of my feelings on this turn of fortune, which always attend the ravages of war. But my greatest care was for my family, which I considered myself the author of tearing them from their relatives and friends, in removing them to a place they were strangers to. We had lived about six months in this situation, when my wife grew very uneasy to go back to Canada to pay her father's family a visit, which brought an illness on her on this account. I thought it my duty to do what I could for her, and it terminated in making myself a prisoner for six weeks to this day. The way it took place was, that I came to Morristown, opposite to Brockville, where I was taken, and inquired if there was an officer of the army whereby I might procure a flag; but was informed there was none. They informed me that they had crossed with a flag, although not regular, and had always permission to return; and, under this impression, I crossed with my wife; there was a major of the militia who came down to receive me, and told me he had no orders to let me land; I told him I would return; but some of my wife's friends desired the major to let her stay until her brother (who lived near by) could come down and see her; he then told me that I might come alongside the wharf; from thence he informed me that I could go up as far as a tavern, where I was immediately put under guard as a prisoner, and have been sent on as a prisoner of war as far as this place. Thus, honored sir, if you think my situation is worthy of your notice to procure me a discharge, your goodness shall never be eradicated from my memory.

Yours, most respectfully,

STEPHEN RICHARDS,

Citizen of the United States.

Colonel GARDNER, *Agent.*

Doctor Wood to Colonel Gardner.

SIR:

BEAUFORT, October 18, 1813.

I take the liberty of troubling you for a moment, and have only to state that I am detained a prisoner in Beauport by the British Government, and solicit your assistance in procuring my release.

I am a resident of the town of Champlain, in the State of New York, and have resided within one and a half miles of the line of separation between the two Governments for a number of years. I was taken prisoner by the

British troops on their expedition to Plattsburg, on the 30th July last, and have been detained ever since; of which, sir, I think I have just cause to complain, as I was promised by Colonel Murray, who commanded the troops, and Captain Everard, who commanded the navy, that I should not be detained any longer than until their return from Plattsburg, of which I can produce satisfactory testimony; and further, that those officers pledged themselves and their Government by their proclamation, the purport of which was that, if the American citizens would not oppose them with force and arms on their Plattsburg expedition, they, nor their property, should not be molested; which condition was strictly adhered to by the American people.

His Excellency, the Governor of the Provinces, Sir George Prevost, issued a proclamation the 4th of September last, disavowing the principle and act of imprisoning civilians; and he cannot pretend that I was taken in retaliation for civilians taken in Canada; for in his proclamation, dated more than one month after I was taken, he disavows of ever having retaliated, but speaks in the future tense that he will retaliate hereafter in case the Americans persist in the same unlawful practice of seizing and detaining civilians belonging to the British Government.

I am the only prisoner, taken on or near our frontier, who was not doing military duty, and I believe that if Sir George Prevost is possessed of humanity, I am sure he cannot help sympathising with the unfortunate; and he must be aware of the immense sacrifices of being separated from a family in the way I have been; and, sir, if you will procure my discharge you will lay me under the greatest obligations.

I have the honor to be, &c.

JAMES WOOD.

Colonel GARDNER, &c.

Robert Gardner, Esq., Agent for Prisoners, to his Excellency Sir George Prevost.

SIR:

BEAUFORT, October, 1813.

There are detained in Quebec jail two persons by the names of William M. Scott and Whitmore Knaggs; one on board the transport Lord Cathcart, by the name of Stephen Richards, and one other at Beaufort by the name of James Wood, who complain that they are improperly held and detained, the three former as prisoners of war, the latter as a hostage for a Mr. Dixon, taken at Fort George. Copies of the statements of their several cases, made by themselves, I have the honor to forward to your excellency.

Mr. Scott appears, by his statement, to have been once examined by you, and that according to what he conceived to be your opinion then concerning him, he was not a prisoner of war, and ought to have been returned. What new matter has been brought to light against him, and which is legal grounds for confining him now as a prisoner of war, I cannot tell.

Mr. Knaggs, if his statements are correct, is, as I conceive, improperly detained upon a slight suspicion excited against him without much cause, and which, he says, he can prove to be groundless.

Richards is a simple man, and has been brought into difficulty by following the advice of men who knew as little as himself. He, no doubt, came improperly within the lines, but merely accidentally did so, with his wife in company, and there is no pretence that he was a soldier, or in arms, as he informs me, and if so, he is certainly, according to the cartel, a non-combatant, a private citizen, not liable to be held a prisoner of war.

With respect to Dr. Wood, his case is fully stated by himself. It seems he is not exactly a prisoner of war, but held as a hostage. If, as he states, he was improperly seized in the first instance, I beg leave to ask of your excellency whether his subsequent detention as a hostage is not also improper? He had no agency in the seizure of Mr. Dixon, whether such seizure was correct or not, but relying, as he says, upon the assurances given him by the commanders of the British land and naval forces on the expedition to Plattsburg, looked upon the return of that expedition to the coast of Champlain as the period of his enlargement and restoration to his family. I forbear to make any further remarks on the statements of the above persons, or on their particular cases, in the full confidence that they will receive your excellency's consideration, and that it will be your pleasure to restore them to their families, if consistent with the discharge of your duty, or that you will have the goodness to give me information, for the satisfaction of my Government, wherein their statements are incorrect.

I have the honor, &c.

ROBERT GARDNER,
American Agent for Prisoners of War.

His Excellency Sir GEORGE PREVOST, &c. &c.

The brothers of Doctor Wood to General Mason.

SIR:

PLATTSBURG, December 6, 1813.

Being brothers of Doctor James W. Wood, the undersigners, with Major E. D. Wood, of the engineers, beg leave to solicit your attention to a subject very interesting to us, and of the greatest importance to the unfortunate sufferer; more peculiarly so, as he is a private citizen, in no manner connected with the army or navy, without public support, and unexpectedly hurried, by a relentless enemy, from his country and numerous family, daily exposed, from their proximity to the frontiers of the country, to the cruelty and depredations of the foe.

The characteristic humanity, and the watchfulness of the national authorities for the safety and protection of American citizens, have inspired us with a (well founded, we trust,) confidence that the proper official means will be taken to answer our humble request in restoring to his country one who was rendered obnoxious to the invading foe by his zeal and activity alone in his country's cause.

Doctor James W. Wood was taken by a British invading force, near the northern limits of the State of New York, on lake Champlain, the 30th of July last, soon after conducted to Beaufort, near Quebec, and is now confined there as a hostage for the restoration of Mr. Dixon, a lawyer, taken some time since by the United States' troops under General Dearborn, at or near Fort George, and is now confined a prisoner at Pittsfield.

The public interest permitting, we earnestly entreat that a speedy exchange may take place between them, or some other method, in your wisdom, be resorted to, by which our unfortunate brother may be released from the pain and horror of British imprisonment, and shall continue to solicit.

We are, sir, your very obedient, humble servants,

BENJAMIN G. WOOD,
JONATHAN K. WOOD,
IRA A. WOOD,
BEZABEL WOOD, JUN.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, November 30, 1813.

I am instructed to direct you to release all the persons, in civil capacity, now in your charge and on parole, who had been arrested in Canada, in the neighborhood of Fort George, last summer, of whom you may have no information of misconduct, to return to their homes in Canada, by the most direct route, avoiding all military works and posts. You will give to each a special passport, descriptive of his name and person, and directing him to present himself immediately on his arrival in Canada to the American commander at Fort George, who will be requested to permit them to pursue their usual avocations, and remain at their respective places of residence, during their correct and peaceable demeanor.

They are, I understand, to be William Dickson, barrister at law; Joseph Edwards, merchant and justice of peace; James Muirhead, surgeon; Andrew Heron, merchant, Niagara; John Greer, ditto; John Baldwin, ditto; John Crooks, clerk to James Crooks, merchant; Haggai Skinner, farmer, full sixty-four years of age; ——— Doan, farmer; ——— Ramsay, a boy of Stamford; John McFarlane, boat builder.

William Ross, of the commissariat, Alexander Donald, deputy paymaster of militia, and John Syminton, deputy paymaster of militia, if they do not hold militia commissions in the line.

You will state to these gentlemen, some of whom are known to be very respectable, that the Government has granted this indulgence from a desire to alleviate the sufferings of individuals as much as the present posture of things will permit, and that it is expected of them that they will, on their return, so demean themselves, as to give no future cause of complaint.

I have the honor to be, sir, your obedient servant,

J. MASON.

THOMAS MELVILLE, Esq., *Dep. Marshal of Massachusetts.**Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated*

DECEMBER 22, 1813.

On the 30th ultimo orders were given to release, to return to their homes, the British subjects Messrs. Dickson, Muirhead, and others, sent in from the vicinity of Fort George in civil capacity, relative to whom you inquired in the month of August, and I learn from Major Melville that they have set out on their return.

Extract of a letter from Colonel Baines, Adjutant General of the forces in Canada, to Thomas Melville, Esq., Deputy Marshal of Massachusetts, dated at

MONTREAL, January 31, 1814.

By this opportunity Doctors Campbell and Easterman are sent back, in conformity to the terms of the cartel, as being non-combatants, and in consequence of your assurance of the release of William Dickson, and the other civilians of Niagara, Messrs. Wood, Scott, deputy assistant commissary Heron, and all other non-combatants, under similar circumstances, have been released and permitted to return at their own convenience, and on the same terms. I have to solicit the release of deputy assistant commissary Green.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, January 19, 1814.

I have now to speak of the facts alleged, and the inferences drawn, in the publication made by you, on the 13th of last month, respecting which act I had occasion, in a despatch of this date, to convey to you the sentiments of this Government.

The effort on your part seems to have been to invalidate, before the people of the United States, the whole of the statement relative to the treatment of our agent and prisoners, made, on oath, by Mr. Abraham Walter, late a prisoner at Quebec, by disproving what he had deposed respecting the provisions served out to our prisoners. His allegations, however, that several American prisoners, taken with him in June last, were immediately separated from their comrades and confined, to be sent to England to be tried for treason, on the mere suspicion of the examining officer; that others were forced on board British vessels, to assist in working them to Halifax and England; that forty-six American officers and non-commissioned officers were imprisoned under a proclamation previously made; that some of the American officers had been rigorously confined on the plea of breach of parole; and that Colonel Gardner, the American agent at Quebec, was restricted to the same limits prescribed to prisoners of war on parole, and not permitted to visit prisoners in the prison ships, or the town, to negotiate his bills, are most of them unquestionably true; and that others, from practices known on different occasions, are by no means improbable, can be readily shown. Of the first class are the facts of the confinement of the forty-six officers, about which no evidence is now necessary; of the treatment of Colonel Gardner, witness the letter of General Glasgow to him of the 19th of October, a copy of which has been heretofore furnished you; of the rigorous confinement of some of the American officers, though it is believed not in irons, for an accidental overstepping of the parole limits, as I am assured by Colonel Boerstler, lately a prisoner at and returned from the vicinity of Quebec,* was the case; and of the forcing our seamen, prisoners at Quebec, to work British ships. To prove this fact, I send you an extract of a letter from Mr. Mitchell, our agent at Halifax, dated November 11, 1813, in which he expressly states that "some of our people have been employed to navigate their transports from Quebec here, and on from this for Bermuda, the transport seamen having been sent on the lakes," and that he had remonstrated against it; and that this practice is not new, I beg leave to recall to your recollection an advertisement by Mr. Maude, in the Jamaica newspaper, (exhibited to you in my last,) in which he, the British agent for prisoners in that island, offers to hire American prisoners to work British ships on their voyages, &c.; this fact has since been inquired into and established. I have in my possession a Jamaica newspaper containing the advertisement.

* It has been found, on further communication with Colonel Boerstler, that he was in part misapprehended in relation to the American officers confined at Quebec for breach of parole; that, as to the accidental overstepping the local limits, he alluded to another case, in which certain officers were threatened with confinement; and that the officers referred to by Mr. Walter had actually committed a reprehensible breach of limits, were closely confined for that offence, and so remained at the time of the last accounts from Quebec.

Of the second class, is the circumstance of confining American prisoners, on the charge of treason, on mere suspicion. For a similar procedure, I refer to the instances quoted in my letter to you of 23d of November, and an extract of a letter from Mr. Mitchell, of the 11th November last, stating that twelve or fourteen persons, so sent, had passed Halifax, from Quebec, for England. With regard to the other points, previous to the establishment of the cartel entered into between you and myself in May last, and immediately after your arrival in this country, complaints had been made from many quarters, from all as to the quantity, and from several as to the quality of the provisions furnished our prisoners. I will instance a few of them. Mr. Beasley, our agent in England, stated, in a letter dated November 5, 1812, that the allowance per man, other than of bread and vegetables, was, for five days of the week, only half a pound of beef a day, and, for the other two days, one pound a day of herrings or codfish. Mr. Mitchell, American agent at Halifax, wrote, on the 17th of October of the same year, that the prisoner ration there, besides bread and vegetables, consisted of no more than half a pound of meat per day. Colonel Lear, our late consul general to the Barbary States, having been, on his way from Algiers to the United States, detained at Gibraltar, from early in August to the latter part of November, by the seizure of the ship in which he was a passenger, and of all other American ships in port, and the confinement of their officers and crews as prisoners of war, acquired a good knowledge of their treatment from the interference in their behalf which his public character authorized him to make, and informed the Government that "the allowance for American seamen, prisoners in Gibraltar, was, according to the technical expression of the place, six upon four, that is, the full allowance of four men to be divided among six prisoners; and it was universally said, the part of the allowance which consisted of bread and peas was in so decayed a state as not to be fit or wholesome to be eaten, and that the whole was deficient in weight, according to the proportion before stated. But upon this subject, as well as upon all other points relative to the treatment of American seamen, prisoners in Gibraltar, while I was there, I would refer you to Captain Eben. Eveleth, late master of the Alleghany." The following is an extract from a letter of Captain Eveleth to me, on the same subject:

"With respect to the crew of the Alleghany, they were sent on board the prison-ship the day after she was detained, and there closely confined till the last of January, when they were sent to England.

"During their confinement on board the prison ship, their allowance was as follows, viz. for six men.

Days of the week.	Bread.	Beef, pieces of 8 lbs.	Pork, pieces of 4 lbs.	Pints of peas.	Pints of oatmeal.	Ounces of sugar.	Pints of cocoa.	Pints of rice.	Pounds of raisins.	
Sunday,	-	4	-	1	2					No fresh provisions or vegetables are allowed on board the prison-ship. The bread, flour, and rice, was generally very bad, being half devoured, and full of insects.
Monday,	-	4	-	-	4	6	4			
Tuesday,	-	4	1*	-	-	-	-	4	3	
Wednesday,	-	4	-	-	2	-	-			
Thursday,	-	4	-	1	2					
Friday,	-	4	-	-	2	4	6	4		
Saturday,	-	4	1*	-	-					

* Or four pounds beef and three pounds flour.

"I myself was permitted to remain on board the Alleghany, with my son, the second mate, and steward, until the 18th of November, when, without the ship being libeled, we were sent on board the prison-ship, and fared in the same manner with the rest of the crew until the 21st of January."

You will no doubt recollect that, when the article of the cartel in relation to rations was under discussion, I more than once took occasion to mention to you that the quantum of the ration, as limited every where by your Government, was unsatisfactory; and that we had repeated information of abuses as to the quality of the provisions given out by your officers to our prisoners, while your prisoners had constantly received in the United States the most ample and wholesome allowances. It is true, remonstrances were not then more formally made for what was past, because it was considered a greater object to provide by express agreement against future deficiencies of this nature.

Since the adoption of the cartel, it gives me pleasure to acknowledge that complaints as to the prisoners' rations have been received but from one of the stations at which we have agents, although many have been urged as to other treatment of our prisoners from several. Your Government is in the habit of holding prisoners at many and at distant places, in which, having no agents, we have no certain information of their treatment; but it is remarkable, that in that instance the complaint was made as soon as it was well possible it could have been done, (in four days after the arrival of the agent,) direct to the proper British officer, and remained, as far as we know, as yet unredressed; and that it comes from the very station (Quebec) in relation to which you have thought proper, in your publication, to advance the position, that, if injustice was done, "blame in some degree attaches to the British officer who has care of the prisoners, but the greater proportion of it must rest on Colonel Gardner, whose duty it is to see that justice is done the prisoners." It is to be remarked, too, that you were in possession of the correspondence of Colonel Gardner, on this subject, with your officers, on the 2d of January, when you express yourself as gratified that Colonel Gardner, with two exceptions, confirms the truth of your assertions; now certainly he speaks of the treatment of prisoners (in the letter complaining of their subsistence) only in regard to provisions; and in others he complains of the imprisonment of the officers, and his being barred all access to them; of the severe privations inflicted on our prisoner soldiers shipped off to England; because of the refusal to permit him to distribute clothing, and a small advance of pay to them; and against your assertion, that he had the best opportunity of knowing in what manner the prisoners under his care have been treated, he expressly states that he is so restricted that his presence there can be longer of very little use. I need not remind you that, until the latter part of last summer, your officers in Canada had constantly refused to receive an agent for prisoners from us in that country; that very soon after their assent to this measure was signified, Colonel Gardner was appointed and despatched; that he left Boston, the place of his residence, on the 1st of September, and, owing to a detention after he entered your lines, did not reach Quebec until the 8th of October; hence the lateness of his complaint, and of my remonstrance to you of the 27th of last month, made very soon after the reception of his letter. Nor is it less singular

that the two exceptions, of which you speak so lightly, happen to be in relation to the two principal points on which you have put yourself at issue with Mr. Walter—the quantity and quality of the bread and meat part of the ration served to the prisoners. Colonel Gardner unquestionably, as to both, expresses himself as dissatisfied, and demands redress—as to the meat, in so great a proportion as *one-half* of the quantity; and as to the quality of the bread, it not being made of *wheaten flour*. It will be readily granted that he does not represent the quality of either bread or meat to have been, at the time he inspected them, (for we have no accounts, as yet, of but one inspection by him,) such as it is stated to have been by Mr. Walter; but, in justice to Mr. Walter, it must be recollected that he was confined in Quebec and fed on prisoner's allowance for several months before the arrival of Colonel Gardner; and it is not improbable that, under the direction of officers who had continued from early in summer, (when we know they received the cartel,) as late as November, to furnish only half the allowance of meat promised by their Government, it may have happened that, at some time during this period, they were as regardless of the quality of the provisions as were the officers in Gibraltar the year before, as shown by letters of Colonel Lear and Captain Eveleth, before quoted.

I have the honor to be, &c.

J. MASON.

Colonel THOMAS BARCLAY, &c.

Extracts of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

HARLEM, January 25, 1814.

That Mr. G. Walter's representation did not comport with the truth, is evident from Colonel Gardner's letter of the 12th October, 1813, to Captain Kempt, British agent for transports and prisoners of war, wherein, after stating that the American prisoners at Quebec were not subsisted agreeably to the cartel of the 12th of May, and requesting that half a pound of bread may be deducted from the rations received, and half a pound of beef or a quarter of a pound of pork added, in order to make the ration agree with the directions in the cartel, he adds, "I take this opportunity to say to you, that I see no cause at present to be dissatisfied with the treatment of the prisoners in other respects."

There was no intention or effort on my part, as you have been pleased to state, "to invalidate before the people of the United States the whole of the statement relative to the treatment of your agent and prisoners, made on oath by Mr. Walter;" on the contrary, if a fair construction is given to the publication by me, the other charges, from my silence respecting them, would rather be considered as admitted than denied. I abstained from touching on them, because they have been repeatedly subjects of correspondence between you and me. On the subject of provisions issued to the American prisoners at Quebec you had never complained, and I confess I rather looked for your approbation than objections to my correcting the misrepresentation. The two nations are already sufficiently irritated against each other to render fuel to the flame necessary by means of false representations.

With respect to the grievances stated in your second letter of the 19th instant, I have to remark that they are matters which must be negotiated between Mr. Monroe, the Secretary of State, and Admiral Sir John Warren, or with His Majesty's ministers in London. I shall transmit copies of your letter to the commissioners, and call their attention particularly to Captain Eveleth's table of provisions daily issued at Gibraltar, described in your letters, and acquaint you with the answer.

I have lately received from the commissioners the objections of His Majesty's ministers and the Lords of the Admiralty to some of the articles of the cartel of 12th of May, 1813, one of which is particularly pointed to the ration of provisions agreed upon in that cartel. I am preparing copies for you, which I hope to forward in a few days.

Lieutenant Deacon to the Secretary of the Navy.

SIR:

WASHINGTON CITY, February 10, 1814.

Enclosed you will receive a list of thirteen American seamen, prisoners of war, confined on board the British prison-ships at Quebec. On or about the middle of September, 1813, they were forcibly taken out of said prison-ships, and sent on board the homeward bound transports, to assist in navigating them. A certificate signed by Mr. Osgood, master's mate in the United States' navy, who was present at the time, together with a copy of an order from General Glasgow, the commander at Quebec, to Captain Kempt, the British agent for prisoners, directing him to take the American prisoners for that purpose, was left in the hands of General Chandler, to be forwarded on to the Navy Department; as they have not been received, I feel it my duty to make this statement known.

I have the honor to be, sir, your obedient servant,

L. DEACON,

Lieutenant commanding U. S. schooner Growler.

The Hon. WILLIAM JONES, *Secretary of the Navy.*

List of American seamen, prisoners of war, taken from on board the prison-ship at Quebec, to work on board of the transports, and sailed from thence.

United States' schooner Growler.—Colvin Williams, boatswain; William H. Warner, seaman; Philip Baker, ditto; William Johnson, do.

Schooner Julia.—William Wilcox, seaman; John Mallet, ditto; John Rian, do.; James Peterson, do.; John Bernard, do.; John Smith, do.; James Riley, do.; Edward Myers, do.; George Springs, do.

OFFICE OF COMMISSARY GENERAL OF PRISONERS,

SIR:

WASHINGTON, April 2, 1814.

One of the objections to the cartel entered into between you and myself on the 12th of May last, made by the Commissioners of the British Admiralty, as stated to me in your letter of the 1st of February, is to the allow-

ance to prisoners for subsistence. The daily ration agreed upon in that instrument for prisoners, and certainly little enough to support a hearty man without suffering, was one pound of beef, or twelve ounces of pork, one pound of wheaten bread, one-fourth of a pint of peas, or six ounces of rice, or one pound of potatoes, and two quarts of salt and four quarts of vinegar to every hundred rations. In the new project of arrangement, all stipulation about quantity of provisions is rejected; and you inform me that it is intended to give our prisoners one pound and a half of the coarsest bread per day; and to eat with their bread, for two days in the week, no meat; only one pound of herrings, and one pound of potatoes, for one of these days, and for the other, one pound of codfish, and one pound of potatoes; for the other five days, only half a pound of fresh beef, half a pound of greens, one ounce of Scotch barley, and one-quarter of an ounce of onions, with one-third of an ounce of salt; no vinegar at any time, and no salt for two days in the week.

I should not have called this subject now separately to your attention, but that in a letter just received from Mr. Storm, agent for American prisoners at Barbadoes, is the following passage: "I now have to state that Mr. Barker, the British agent here, has officially informed me that the convention entered into between yourself and Colonel Barclay has not been ratified by the Government of Great Britain; of course, our prisoners are not allowed more than two-thirds of what they had. I await your instructions on the subject."

I infer from this that the British Government has come to a determination as to the provision article, and have given orders to reduce the ration to the standard stated by you, since it is actually in practice at Barbadoes.

I beg to be informed on this subject. You are pleased to remark, in your letter of the 1st February, in explanation of this article, that the British Government, so frequently involved in war, has had an opportunity to ascertain what is a rational and proper allowance to prisoners; that it is reasonable to suppose the ration used in Britain, as described by you, "is, in truth, a proper allowance."

You must permit me to observe that this was not your opinion heretofore, and I should hope cannot now be so, when you reflect on the subject. It is a matter of daily experience and feeling common to every man of every class in the community. Every man can at once decide that one pound and a half of coarse bread, with the scanty appendages of one pound of herrings or codfish, and one pound of potatoes, will not satisfy for a day the cravings of hunger; and that the half a pound of beef, with the pittance of greens, barley, and onions allowed, will be very little better. Our prisoners in your hands, on such an allowance, must suffer constantly and severely from hunger. Your prisoners, if reduced to a like allowance, must suffer in an equal degree; and yet, repugnant as it will be to the wishes and feelings of this Government, if that course has been determined on by your Government, it will necessarily be adopted here. I request your particular and early attention to this case, so important to humanity, and shall be much gratified if you are authorized to make any arrangement upon the subject that may obviate the sufferings, on both sides, which must ensue by a system which will deal out to the unfortunate prisoners less subsistence than is absolutely requisite.

The privations of these men are, of necessity, sufficiently great; let us avoid increasing them, I entreat you, by refusing that which is every where, proverbially, the first call of nature, *enough to eat*, and the want of which sinks deepest into human wretchedness.

I have the honor to be, &c.

J. MASON.

Colonel THOMAS BARCLAY, &c.

SIR:

BLADENSBURG, April 5, 1814.

Your letter of the 2d instant I did not receive until yesterday noon. My letter to you of the 1st of February was drawn up conformably to the instructions I received from the commissioners. I have long since transmitted to them a copy of my letter to you, and, at the same time, communicated to them fully my sentiments on each of the articles contained in the cartel of the 12th of May, and the amendments proposed. I think it probable I shall receive an answer in May or June. In the interim, however, I hope to receive your answer to my letter; indeed, I have long since expected it. Under present circumstances, I cannot return you an answer to the inquiry contained in your letter of the 2d of this month. The 7th article in the draught of the cartel sent you to be submitted to the President, states, "they (the prisoners) are to be furnished by the Government in whose possession they may be with a subsistence of sound and wholesome provision." I acknowledge the clause is vague, and perhaps it would have been preferable to have specified the articles and quantity. Yet the word "subsistence" intends a reasonable quantity for the support of nature; and the words "sound and wholesome provision" certainly designate the quality. The precise quantity issued for each Government may readily be ascertained through the respective agents of both nations.

You misapprehend me when you state I inform you that it is intended to give the American prisoners one pound and a half of the coarsest bread a day, &c. By referring to my letter of the 1st of February, you will find I expressed myself in the words following: "I transmit herewith a table of the provisions daily issued to prisoners in Great Britain and elsewhere in the British dominions, save in such places as the agents have adopted the regulations of the cartel, but which will eventually be countermanded." The quality of the bread is not mentioned; nor did I state, that, if the proposed cartel was agreed to by the President, in lieu of that of the 12th of May, that the American prisoners, under the words of the cartel, would receive subsistence precisely conformable to the copy of the table of provisions sent you. I beg leave, however, to say I think it probable, and for the reasons given in my letter of the 1st of February.

I have received no further information on the subject of the provisions to be issued to prisoners since I wrote you in February. From what Mr. Storm writes you, it is evident the commissioners have sent orders to the West Indies on the subject. Lieutenant Miller, at Halifax, in his letter to me of March, does not hint that he had received any.

I have the honor to be, &c.

THOMAS BARCLAY.

General MASON, &c.

B.

Abstract of the causes assigned by the British Admiralty for refusing to discharge seamen impressed from American vessels into the naval service of Great Britain, calculated to show the grounds upon which a compliance with the demands of the agents of the United States to discharge such seamen is stated to have been declined on the part of the British Government.

Refused to be discharged for the following reasons, viz:—

Having no documents.
Born in England.
Not Americans.
Protections irregular.
Regularly exchanged as British subjects.
Ignorant of America.
Taken in enemies' privateers.
Voluntarily entered, and received the bounty.
Had accepted warrant offices in the British navy.
Said to be impostors.
Not answering descriptions given in protections.
Natives of foreign countries, Prussia, Sweden, &c.

Insufficiency of documents, viz:—

Protections from consuls and vice-consuls.
Notarial and other affidavits made in the United States.
Collectors' protections.
Discharges from British ships of war as American citizens.
Discharges from American ships of war as British subjects.

Admiralty protections.
Forged protections.
Collectors' duplicate protections.
Documents from the Department of State of the United States.
Indentures.
Notarial affidavits made in England.
Marriage certificates.

Other reasons, viz:—

Not on board ships stated.
Deserted.
Drowned, or otherwise dead.
Invalided.
Sent into the service for smuggling.
Said to be on board ships not in commission.
On board ships on foreign stations.
Were released from prison in Gottenburg.
Not knowing where or in what ships they are serving.
Names of the ships cannot be ascertained.
Killed.

[Correspondence of Mr. Beasley, concerning seamen impressed from American vessels before the commencement of the war, and detained in the British service.]

Mr. Croker to Mr. Beasley.

SIR:

ADMIRALTY OFFICE, August 5, 1812.

Having communicated to my Lords Commissioners of the Admiralty your letter of the 31st ultimo, transmitting a list of men, said to be Americans, who have been impressed and detained on board His Majesty's ships, and requesting their discharge, I have their lordships' commands to acquaint you that, under present circumstances, they will defer the consideration of this request.

I am, &c.

J. W. CROKER.

R. G. BEASLEY, Esq.

Extract of a letter from Mr. Beasley to Mr. Monroe, dated

LONDON, October 23, 1812.

I have informed you that I had addressed Lord Castlereagh on the subject of our citizens who have been impressed, and are now held in the British naval service. I demanded their release, and complained of the treatment which some had received on offering to give themselves up as prisoners, or refusing to serve when they heard of the war. In reply, I have received a short note from Mr. Cooke, one of the under secretaries, stating that he was instructed to require of me the names of the men who had received the treatment complained of, and the vessels in which they were; which I immediately furnished. I urged a reply to the other part of my letter. In an interview which I have since had with Mr. Cooke, I took occasion to remind him of it; when he intimated that the Government did not intend to answer me on that point, adding, that England was fighting the battles of the world; we had chosen to go to war, and so aid the great enemy; and that England had as much right to recruit her army and navy in every possible manner as France.

Extracts of a letter from Mr. Beasley to Lord Castlereagh, dated

WIMPOLE STREET, October 12, 1812.

In consequence of the war unhappily existing between the United States and Great Britain, it has become my duty to call your lordship's attention to the situation of the great number of American seamen who have been impressed, and are now held in the ships of war of His Britannic Majesty.

To put an end to a proceeding and a state of things so revolting to humanity, and so contrary to the law and usage of civilized nations, I persuade myself it is only necessary to present them to the view of the British Government, and I therefore trust that effectual measures will be immediately taken to restore these injured men to liberty and to their country.

Extract of a letter from Mr. Beasley to Mr. Cooke, of the Foreign Office, dated

OCTOBER 19, 1812.

I beg you to remind Lord Castlereagh that the other part of my letter of the 12th instant, requesting the release of the American seamen detained in the British service is still unanswered.

Extract of a letter from Mr. Beasley to Mr. Monroe, dated

LONDON, October 28, 1812.

Since writing you the 23d instant, I have called twice at the Foreign Office, and, I am happy to state, I found Mr. Cooke more reasonable on the subject mentioned in my last. Indeed, the tone and substance of his conversation were so much changed, that I shall have little to complain of if followed up in practice. In communicating to you, however, this apparent change, I regret to be obliged to add that, within the last three or four days, many of our seamen have been impressed; and I learn that attempts have been made (and in some instances with success) to entice some who were confined as prisoners to enter into British ships of war and merchantmen.

Mr. Barrow to the Transport Board.

GENTLEMEN:

ADMIRALTY OFFICE, February 25, 1813.

Having laid before my Lords Commissioners of the Admiralty your letter of the 18th instant, enclosing the copy of a letter, together with the documents therein referred to, from Mr. Beasley, the American agent for prisoners of war in this country, on the subject of certain alleged citizens of the United States detained in His Majesty's service, I have it in command to signify their lordships' directions to you to acquaint Mr. Beasley that neither now, in war, nor before, during peace, is or was the British Government desirous of having American seamen in its service, and that their lordships will now discharge, as prisoners of war, as they formerly did as neutrals, those persons who can adduce any sufficient proof of their being Americans.

You will further inform Mr. Beasley that all the cases stated by him have received, or are under accurate examination, and that such persons who may appear to be Americans will be immediately sent to prison, as many have been already.

I am, &c.

JOHN BARROW.

SIR:

WIMPOLE STREET, March 13, 1813.

I was duly favored with your letters of the 26th ultimo and 6th instant, each enclosing the copy of a letter addressed to the Board on the preceding day by the Secretary of the Lords Commissioners of the Admiralty. I regret that other engagements should have delayed till now a particular notice of their contents, as these include a charge against myself which perhaps required an earlier refutation.

In the letter of their lordships' secretary of the 5th instant, the Board are directed to observe to me that the printed letter which I addressed to certain American seamen detained in the British navy, "contains a *statement unfounded in fact*, for that neither since the war with America, nor before, have their lordships declined to release American seamen admitted or proved to be such." It is not necessary to my present purpose to enter upon an examination of their lordships' conduct on this matter before the war; although my own official observation in numerous cases, when I held the office of consul, would authorize me to dispute even that part of their secretary's assertion. But with reference to their lordships' conduct since the war, I beg to remind them of their letter of the 5th August, soon after the commencement of the war, in answer to a request made on the 31st July for the release of certain impressed American seamen, in which their lordships, going beyond the mere declining to release the men, stated "that, under the present circumstances, they will defer the consideration of the request for their release;" or, in other words, that they will not, at present, war being commenced, even think on the subject of their release. If further proof be necessary of their lordships having, as I stated in my printed letter, declined the release of such seamen in consequence of the war, I will call to their recollection a letter written by their secretary on the 25th August, in answer to an application for the release of William Wilson, an impressed American detained on board the *Cornelia*, in which they state that "this man, being an alien enemy, *must continue to serve or go to prison*." Should other corroboration be wanted, it may be found in the long and marked silence of the British Government to my numerous applications again and again repeated for the release of these men, seeing that it was not until the 25th February, nearly seven months after their lordships had informed me of their having deferred the consideration of the subject, and nearly five months after my formal demand made to Lord Castlereagh, that they directed the Board to inform me of their intention to treat them as prisoners of war. And even this was not done until eight days after my printed letter in question appears to have been on their table. Surely it was in utter forgetfulness of all these circumstances that their lordships declared my statement unfounded in fact; for it appears impossible that they can, in the mind of any person, bear a different interpretation from that which I have given them. But how do these facts bear on their lordships' statement? How, I ask, does their determination that Wilson, *proved and admitted to be an American, must continue to serve or go to prison*, support the assertion that their lordships have *not declined to release American seamen admitted or proved to be such*? But, perhaps, in their lordships' view to send them from service and detention in ships of war to confinement in prisons *is to release them*. If so, it is unnecessary to pursue the subject further, and I will content myself with having vindicated the correctness of my own statement.

I come now to the consideration of their lordships' purpose, as expressed in their secretary's letter of the 25th ultimo, to treat as prisoners of war the American seamen who have been impressed, and are held in the British service. Taking into view the manner in which these unfortunate persons came into the power of the British Government, that their own rights and inclinations, the rights of their country, the law of nations, and every principle of justice were violated in the very act by which each of these men was brought within its power, and that this wrong accumulates so long as any of them remain in its power, I do maintain that they are, on every ground, entitled to, and that the British Government is bound to grant their immediate and complete release. It acquired them only as the spoils of unlawful violence. How, then, can it retain them as the fruits of lawful war? Its right of control over them can only arise from the lawfulness of their detention; but that which was unlawfully taken can-

not be rightfully held: and to acknowledge the pretension to such control as their lordships' purpose implies, would be to legitimatise the act by which they came into their power. The British Government disclaims all right and all intention to take them, and this disavowal is an acknowledgment of its obligation to restore them to the same condition and to the same freedom from which they were taken. Upon what grounds is it, then, that they are to be treated as prisoners of war? Not many years have elapsed since all Europe resounded with the complaints of Great Britain against France for detaining as prisoners of war certain British subjects, who, having entered the French territories in time of peace, were found there at the breaking out of the war. But if that were regarded in England as an outrage, what will be thought of this detention as prisoners of war of American seamen, who, having been wrongfully taken on the high seas, and forcibly carried into the British service in time of peace, are found therein at the breaking out of a war doing her service and fighting her battles? The conduct of France was attempted to be justified by certain acts of England, which were alleged to be equally contrary to the law of nations. But what justification, what excuse can be set up for this conduct of Great Britain towards the impressed American seamen? What infraction of the law of nations, what violence or injustice exercised towards British subjects, or what outrage is this cruel act to retaliate? It cannot be the free and spontaneous permission given by the United States, at the commencement of the war, for every British subject of every class and description found within their territories or in their power, to return to his country that this imprisonment of American seamen is to requite. And surely this cannot be the indemnification which Great Britain offers these unfortunate men for the wrongs which she has inflicted on them, or the reward which she bestows for the service she has received at their hands.

To the unqualified prohibition of all correspondence between myself and the impressed American seamen in His Britannic Majesty's fleet, so unreservedly stated in the letter of their lordships' secretary of the 6th instant, I must conform, whatever may be my feelings and sentiments respecting it. The situation in which these unfortunate men and myself stood towards each other, appeared not only to invite but to authorize a communication between us. On their part the object of this correspondence was to obtain information and counsel as to the proper manner of conducting themselves under circumstances the most difficult, and on occasion the most important and solemn, namely: how to act while forcibly held to service in ships of war belonging to a State engaged in actual hostilities against their country; a situation which their own good sense and proper feelings taught them was alike incompatible with their rights and their duties. My part has been, after having waited five months in vain for a communication of their lordships' intentions, to recommend them, since there appeared no means of obtaining their release, to give themselves up as prisoners of war; an evil comparatively light to that which they suffer. In other instances their letters have related the rejection of their offer and the threats of punishment; and all contain complaints of the unexampled hardship of their situation. However, as their lordships declare that the British Government has no wish to have American seamen in its service, they will no doubt adopt some effectual plan to make known these sentiments to all such seamen now in its service, and at the same time to inform them of the manner in which, if they desire to leave it, their object may be accomplished. Since I am no longer permitted to advise them in these matters, such a proceeding on the part of their lordships becomes, under all the circumstances, an indispensable measure of justice towards the men, while it is also necessary to prevent their lordships' intentions on so momentous a subject from misinterpretation. If the consequence of this interdiction of the correspondence with me be to bring the condition of these men more completely under their lordships' notice, there will, I trust, be less reason to regret it. I entreat their lordships to take their claims into the most serious consideration. Their detention appears to be the only remaining ground of that unhappy quarrel which divides the two countries: and in their immediate release their lordships have an opportunity, by an act of justice and of magnanimity worthy of the British name, to bring back peace and to restore those relations of honorable friendship so natural and so beneficial to both.

I have the honor, &c.

R. G. BEASLEY.

ALEXANDER McLEAY, Esq., &c. *Transport Office.*

Extract of a letter from the Commissioners of the Transport Board, in London, to Reuben G. Beasley, Esq., agent of the United States in England, dated

TRANSPORT OFFICE, May 26, 1813.

We have received your letter dated the 15th instant, and, having communicated the same to the right honorable the Lords Commissioners of the Admiralty, we are instructed by their lordships to inform you that to your former letter of the 13th of March last, their lordships did not authorize us to return an answer, because it referred to subjects which it is beyond your competency, in the character of agent for prisoners of war, to discuss, and because, easy as it would have been to have completely answered the misconceptions and misstatements of that letter, it seemed unnecessary to proceed with a correspondence which could conduce to no practical effect.

On the subject of your late application, we are to repeat to you, that neither before the war nor since has this country been desirous of retaining in its service any *bona fide* American citizens, but that the flagrant and undeniable abuses of the official documents of American citizenship (to say nothing of the question of naturalizing British subjects) have obliged their lordships to look at all such documents with the utmost distrust.

And if, from the similarity of language and manners, some American seamen have been impressed into His Majesty's service, the blame is imputable to those who have permitted the official documents of citizenship to be so prostituted as to be at last wholly undeserving of any attention or respect, and the British Government has always regretted that this check (slight as it originally was) has been so infinitely abused, and, finally, so completely destroyed, not only for the sake of the Americans themselves, who might thereby suffer the inconvenience of a temporary detention, but for that of the British officers, who were thereby rendered still less capable than before of distinguishing the persons whom it was their duty to impress.

Their lordships, for the reasons already stated, do not enter with you into any explanation of the rules which governed their conduct on this subject before the war; but as far as regards the prisoners of war sent, either at your or their own request, to prison from His Majesty's service, their lordships have no hesitation in stating that they have, in favor of that first principle of civilized society, the allegiance which is due to the land of a man's nativity, been anxious to avoid even the possibility of obliging any American to fight against his country; and they have, therefore, discharged persons from the military service of this country, on evidence of their being Americans, which would not, in ordinary times, have been considered sufficient, even in the opinion and practice of the American consulate here, to obtain their release. And it has happened that several persons have, on their own assertions, or on production of American documents, been so discharged, of whom it has since been discovered that they are natural born subjects of His Majesty, and that such assertions were false, or such documents fraudulently obtained.

But while their lordships prefer the risk of losing the services of a British subject to that of obliging an American citizen to continue in arms against his country, they cannot, on evidence loose and unsatisfactory, or without any evidence at all, permit such persons to proceed to the United States to bear arms against this country. We are, therefore, to acquaint you that persons discharged to prison from His Majesty's service, as being Americans, cannot be released, unless, in each individual case, you shall produce satisfactory proofs that the person, whose exchange you demand, is a natural born American citizen. Whenever such proof shall be produced, the person will be immediately released from prison, upon the usual terms of exchange, if he has been a volunteer into our service; or, if an impressed man, freely and without restriction.

Mr. Beasley to Alexander McLeay, Esq. Secretary of the Transport Board.

SIR:

HARLEY STREET, May 29, 1813.

I have received the letter addressed to me by the Board on the 26th instant, communicating the present intentions of the Lords Commissioners of the Admiralty, respecting the American seamen who have been heretofore detained in the British service.

In making those observations in my letter of the 13th of March upon this subject, which their lordships consider as entering upon a question beyond my competency to discuss, I was influenced solely by a sense of duty. The topic is unfortunately too humiliating to be willingly selected; but painful as its consideration was to myself, and unwelcome as it appears to have been to their lordships, I cannot regret that I yielded to the necessity of presenting it clearly to their view, since it now appears that their lordships no longer adhere to their determination, that impressed American seamen must continue to serve His Britannic Majesty or go to prison, to be released only as prisoners of war.

I cannot but lament that, as their lordships thought it necessary to allude to "misconceptions and misstatements," which they represent that letter to contain, they did not take the trouble to point them out, especially as, in their opinion, they might have been "so easily answered." I lament this the more, as I can discover nothing in it which further reflection and experience do not confirm.

But whatever ground their lordships' letter affords for retorting such a charge upon themselves, I forbear to notice. If their lordships do see, in the fraudulent use of documents of American citizenship by British seamen, any excuse for impressing and detaining American seamen in the British navy, and if they do consider such impressment and detention as only a temporary inconvenience to the American seamen, and if they think that the blame of all such impressment and detention is imputable, as their letter insinuates, to the United States, I should utterly despair that our opinions could ever be brought to coincide, and, consequently, that any practical good could result from any effort of mine to effect it. Happily, however, this is not now necessary. The question does not relate to the abuse of documents of American citizenship, whether resulting from forgeries practised here, or frauds committed in the United States; nor is it essential to inquire whether American seamen have been taken through error or design; nor whether their impressment and detention be in conformity with long and general practice in the British navy, or contrary to the wishes of the British Government. The fact is admitted that American seamen have been impressed and held in the service of Great Britain, and their lordships now declare that, upon satisfactory proof of this national character, they shall be released, either as prisoners of war, or freely and without restriction. The question then is as to the proof.

But, on entering upon this question, we should not overlook the very important consideration that the greater number of these persons having been taken from American vessels, were, whether they did or did not bear documents of their citizenship, taken against the *prima facie* evidence of their being American citizens. They were deprived of the benefit of this evidence upon the mere suspicion of persons interested in discrediting it, and they have been detained in the British service without any evidence of their being British subjects. It is the British Government, therefore, on which the burthen of proof should still lie.

These unfortunate men are, however, in the power of the British Government, and it imposes this burthen upon them. To this additional hardship they must therefore submit. We come, then, to its operation.

The official documents of American citizenship are declared by their lordships to be "wholly undeserving of any attention or respect," and in but few instances has there been opportunity to obtain any other evidence. Thus, there remains scarcely any documentary testimony to offer on behalf of these men, and a very long time must necessarily elapse before it could be received from America. But, with respect to many of them, I am persuaded that no such evidence need be sought; and, to delay the release of those who are clearly Americans, is not, I trust, now intended by their lordships.

To prevent, therefore, in some degree, the hardships to which the measures proposed by their lordships must necessarily subject the far greater part of these unfortunate men, I would suggest that their lordships should authorize competent persons to examine those who claim to be Americans, and that such as, in the judgment of these persons, are *bona fide* Americans, should forthwith be released, according to the terms of their lordships' letter. I will most readily assist at such examinations, and will communicate any documents or papers in my office, which may be considered necessary to facilitate the object. With regard to those who may not be able to satisfy these persons respecting their national character, I will cause proper inquiry to be made at the places to which they respectively claim to belong, and they may be in like manner released, when the proof which may have been deemed necessary shall be received.

Their lordships will not, I trust, be withheld from the adoption of these or some other equally fair means of investigating, without delay, the claims of these men by any technical incompetency on my part to offer such suggestions. Whatever may be my powers, their lordships are at all events free to adopt such means as may be equitable; and for the desire they express to "favor that which they consider the first principle of civilized society, the allegiance which is due to the land of a man's nativity," (which principle would be scarcely less violated by depriving his country of his assistance in her defence, than by "obliging him to fight against his country,") I would fain hope they will prefer those which will be the most effectual to the end. Nor, I persuade myself, will the consideration that the United States are now carrying on war for the redress of the wrong done in the detention of these men, prevent their lordships from redressing the wrong of themselves, not only because it is the duty of a State to remove all just ground of complaint, even on the part of an enemy, but because, by so doing, they would, in a great degree, supersede the necessity of a continuance of the war.

I cannot close this communication without expressing my anxiety at the total silence of their lordships respecting the numerous representations which have been made by me since the war of individual cases of impressment. In many of these cases the proof has been such as should not have failed to satisfy their lordships, even disposed

as they are to look at all proof in these matters with the utmost distrust, that the men on whose behalf it was offered are *bona fide* American citizens. Yet in no instance have I heard of any favorable decisions on their claims. I will hope, however, that the course which their lordships will adopt may speedily remove all those unfavorable impressions, which, with every disposition to give them credit for the most just intentions, could not fail to result from this single fact that, among the thousands of impressed men in the British navy who claim to be Americans, I have not heard of one man who has been freely released and permitted to return to his country since the commencement of hostilities.

I am, sir, your most obedient, humble servant,

R. G. BEASLEY.

ALEXANDER McLEAY, Esq., &c.

Mr. Beasley to Mr. Monroe.

SIR:

LONDON, June 10, 1813.

The numerous instances of hardships imposed on American citizens by impressment, which came under my observation when I held the office of consul, could not fail to make a deep impression on my mind. I therefore availed myself of the earliest opportunity to address the British Government on the subject. If any incentive had been wanting to this step, I should have found it in the many communications which I daily received from those unfortunate persons; all asking advice, and some complaining of acts of cruelty by British officers, because having heard of the war they refused to do service. Relying on the justice and magnanimity of the British Government, I considered it would be an insult to demand redress, or even to remonstrate; I therefore contented myself, as you will have seen by my letter to Lord Castlereagh on the subject, with merely representing the facts. But if my confidence was great, so has been my disappointment; for an answer to my letter of the 13th October was not returned until the 26th May, notwithstanding I had frequently called it to the attention of the Government. And it appears I owe this answer to the following circumstance: After having waited so many months for the sentiments of the Government on a topic involving the happiness of thousands of my countrymen, I was induced, as the season was near at hand when many ships would proceed to foreign stations, to issue a circular in answer to the numerous letters which I had received in the interval, stating that the Lords of the Admiralty having declined to release American citizens who had been impressed, there appeared to be no other course than to give themselves up as prisoners of war. Not many of these letters reached the parties before I was informed that "I must not correspond with persons in His Majesty's fleet; and that my circular contained a statement unfounded in fact, for neither before the war nor since had the Lords of the Admiralty declined to release Americans admitted or proved to be such." My letter of the 13th March contains my sentiments on these two points; on the latter I have proved the correctness of my statement by letters from under their secretary's own hand. In their reply of the 26th May, they say, easy as it would have been to have completely answered the misconceptions and misstatements of that letter, they decline doing so, because it refers to subjects which it is beyond my competency, in the character of agent for prisoners of war, to discuss. And they repeat, "that neither before the war nor since has this country been desirous of retaining in its service any *bona fide* American citizens;" that, at the same time, they cannot, on evidence loose and unsatisfactory, or without any evidence at all, permit persons to proceed to the United States to bear arms against this country; that, therefore, those who have been discharged from His Majesty's service to prison as being Americans, cannot be released unless, in each individual case, satisfactory proof shall be produced that the person whose release is demanded is a natural born American citizen; and that, when such proof shall be produced, he will be immediately released from prison upon the usual terms of exchange, if he has been a volunteer, or, if an impressed man, freely and without restriction.

To prevent, in some degree, the hardships of the measure thus proposed, I suggested in my letter of the 29th May, that they "would authorize competent persons to examine those who claim to be Americans, and that such as, in the judgment of these persons, are *bona fide* Americans, should be forthwith released according to the terms of their letter." I offered to assist at such examinations, and to communicate any documents or papers in my possession that might be considered necessary to facilitate the object; and, with regard to those who might not be able to satisfy these persons respecting their national character, I would cause proper inquiry to be made at the places to which they respectively claim to belong concerning the truth of their allegations, that they might, in like manner, be released when the proofs which might have been deemed necessary should be received.

To this proposition I have just received their answer, stating "that they have nothing to add to their former communications on this subject, by which they mean to abide."

Now that you may know what value to place on the repeated assurances contained in that communication, I beg to state that, since the 9th of March last, I have transmitted documents (many of which came authenticated from the Department of State) on behalf of one hundred and sixty-five persons, impressed and detained on board of British ships, and that they have not thought proper to notice a single case.

What a prospect for those unfortunate men—to linger in prison, or to fight against their country! This is literally their unhappy lot; for it is insulting to talk any longer of evidence, when it is manifest that none that could be produced would be found satisfactory; when they refuse even to examine the cases; and when the very language the victims speak is considered *prima facie* evidence against them.

I have the honor to be, &c.

R. G. BEASLEY.

The Hon. JAMES MONROE, &c.

Extract:—Mr. Beasley to Mr. Monroe.

LONDON, July 5, 1813.

Notwithstanding the fair promises made some time ago relative to our citizens who had been impressed, there is scarcely an instance of a discharge from the prison-ships.

Mr. Beasley to Mr. Croker.

SIR:

No. 65, HARLEY STREET, July 13, 1813.

I transmit herewith the copy of an application which I made to the Transport Board, on behalf of Jonathan Bigelow, the bearer hereof, an impressed American seaman, as also of the answer I have received.

I now transmit documents in proof of his being an American, as mentioned on the other side, and I have to request that he may be discharged from His Britannic Majesty's service, in conformity to the determination of the Lords Commissioners of the Admiralty respecting American seamen, as communicated to me by the Transport Board in their letter of 26th April last.

I am, sir, &c.

R. G. BEASLEY.

J. W. CROKER, Esq., *Admiralty Office.*

Certificate of his birth granted by the town-clerk of the place wherein he was born; certificate of his parents being inhabitants of said place, authenticated by a notary public; and a protection granted by the collector of the district of Penobscot, dated 23d May, 1810.

Mr. Barrow to Mr. Beasley.

SIR:

ADMIRALTY OFFICE, *July 14, 1813.*

Having laid before my Lords Commissioners of the Admiralty your letter of yesterday's date and its enclosures, requesting the discharge of Jonathan Bigelow, an American, belonging to His Majesty's ship *Cornelia*, I have their lordships' commands to acquaint you this man must join his ship, in order that the necessary inquiries may be made into his case. I herewith return the documents, and am, sir, &c.

JOHN BARROW.

Mr. Beasley to Mr. Monroe.

SIR:

LONDON, *September 1, 1813.*

I beg leave to call your attention to the case of Jonathan Bigelow, an American seaman, who was impressed into the British service in the year 1807, and has been held therein ever since. In the month of July last, this man being then on leave of absence from the *Cornelia*, applied to me to procure his discharge from that ship. I made a request to that effect to the Transport Board, informing them that I had examined him, was satisfied he was an American citizen, and that I had documents in my possession, proving that he was a native of Boston, in the State of Massachusetts. To this I received an answer, stating that that Board had no authority to discharge him, but that the documents referred to should be submitted to the Lords Commissioners of the Admiralty, and that, in the mean time, he must rejoin his ship at the expiration of his leave, or otherwise he would be liable to be apprehended as a deserter. I immediately made an application to the Admiralty, of which I transmit herewith a copy, and received an answer, a copy of which is also enclosed, stating that he must join his ship, in order that the necessary inquiries might be made into his case. Having no means, at that time, of sending him immediately to the United States, and being fearful that he might be apprehended at the expiration of his leave and treated harshly, besides being considered as a prisoner of war, I consented to his returning to the ship accordingly. Hearing from the man, after having returned to the service, that no steps had been taken in his case, but that, on the contrary, he had been draughted to serve in another ship, I again addressed a letter to the Lords of the Admiralty, recalling his case to their consideration, and repeating my request that he might be discharged. To this I have yet received no answer, and I have just received a letter from the man himself, stating that the *Cydnus*, to which ship he has been draughted, is on the point of sailing for the West Indies.

In this extraordinary case, I would particularly call your attention to the circumstance of the Lords of the Admiralty desiring, after being put in possession of the documents transmitted in proof of his American nativity, that he should return to the British service, for the purpose, it was alleged, of making the necessary inquiries into his case; their having since taken no notice of it whatever, even after my renewed request, is a clear proof that his discharge was not intended, even should the result of inquiry respecting him be the most satisfactory, and that that motive for desiring his return was assigned merely for the purpose of again obtaining possession of him.

By a letter addressed to me by the Transport Board on the 26th of May last, a copy of which I had the honor of transmitting to you some ago, the British Government engaged that persons discharged to prison from His Britannic Majesty's service as being Americans, upon my producing satisfactory proofs that they were natural born Americans, should be immediately released from prison, upon the usual terms of exchange, if they had volunteered into the service, or, if impressed men, freely and without restriction. The case of Bigelow, and the fact that, in the months of March and April last, I transmitted documents and made representations in behalf of one hundred and sixty-five unfortunate persons, without having yet ever received a reply to any one case, must convince even those best inclined to believe it, how little the practice of the British Government accords with its profession in favor of impressed American seamen.

I have the honor to be, &c.

R. G. BEASLEY.

Honorable JAMES MONROE, *Secretary of State.*

Extract of a letter from R. G. Beasley to John Mason, Esq., dated

LONDON, *November 25, 1813.*

I transmit herewith copies of a correspondence which I have lately had with the Transport Board, relative to some seamen who have been surrendered to prison, as Americans, from British ships of war, from which you will perceive the little prospect which the many unfortunate men, in the same situation, have of being released on documentary evidence. I shall, nevertheless, continue my exertions in their behalf.

Mr. Beasley to Mr. McLeay.

SEPTEMBER 18, 1813.

I have to recall to the consideration of the Board the cases of several persons, claiming to be American citizens, on whose behalf I transmitted particular statements and evidence some time ago, namely on the 9th of March last, on behalf of ninety-five persons, on the 7th of April, on behalf of thirty, and, on the 24th of April, of forty

persons. The only information which I have received from the Board, relative to them, is obtained from the lists of American prisoners which have been transmitted to me; from which it appears that some of those persons have been discharged from the British service as Americans, and sent to prison; some of them, however, are still compelled to remain in the service. I have, therefore, now to request that such of these persons, and those who have been discharged to prison, whose claims to be American citizens appear to be well founded, may be immediately discharged, and allowed to return to the United States.

I transmit herewith particular statements and evidence relative to nineteen seamen who have been discharged from British ships of war, and are now confined on board the prison-ship *Nassau* at Chatham; and, as the evidence of their being Americans must, I conceive, be considered quite satisfactory, I trust there will be no difficulty in granting their release in conformity to the assurance contained in your letter of the 26th of May last.

I am, sir, &c.

R. G. BEASLEY.

ALEXANDER McLEAY, Esq., *Transport Office*.

Copy of the statement made on behalf of William Dews, one of the nineteen seamen before mentioned.

It appears from the books of the American consulate office at London, that, in October, 1809, this man was ordered by the Lords Commissioners of the Admiralty to be discharged, as an American, from the *Princess of Orange*; the protection herewith transmitted is the same which was at that time offered on his behalf by the consul.

Copy of a letter from Mr. McLeay to Mr. Beasley.

SIR:

TRANSPORT OFFICE, *October 20, 1813.*

I have received and laid before the commissioners for the transport service, &c. your letter of the 18th ultimo, with its enclosures, claiming the release of nineteen American seamen, represented to have been discharged from British ships of war, and to be now confined as prisoners of war on board the *Nassau* prison-ship at Chatham; and in reply, am commanded to acquaint you, that your said application having been submitted to the consideration of the right honorable the Lords Commissioners of the Admiralty, their lordships have directed the Board to acquaint you that William Dews, one of the persons in question, was not discharged in 1809 as represented; that he was not again impressed as represented; and that his documents, as well as all the others, excepting Brainard's, (whose release was ordered on the 25th ultimo,) are of that description which have been so notoriously fraudulent, that their lordships do not feel satisfied in paying any attention to them; and that they, therefore, cannot, without satisfactory proof, release, as Americans, persons who have been lately serving in His Majesty's ships.

I am, sir, &c.

ALEXANDER McLEAY, *Secretary*.

R. G. BEASLEY, Esq. &c.

Commodore Rodgers to the Secretary of the Navy.

SIR:

U. S. FRIGATE *PRESIDENT*, BOSTON, *January 14, 1813.*

Herewith you will receive two muster-books of His Britannic Majesty's vessels *Moselle* and *Sappho*, found on board the British packet *Swallow*.

As the British have always denied that they retained on board their ships of war American citizens, knowing them to be such, I send you the enclosed, as a public document of their own, to prove how illy such an assertion accords with their practice.

It will appear by these two muster-books that so late as August last, about an eighth part of the *Moselle* and *Sappho*'s crews were Americans; consequently, if there is only a quarter part of that proportion on board their other vessels, that they have an infinitely greater number of Americans in their service than any American has yet had an idea of.

Any further comment of mine on this subject I consider unnecessary, as the enclosed documents speak but too plainly for themselves.

I have the honor to be, with the greatest respect, sir, your obedient servant,

JOHN RODGERS.

The Hon. PAUL HAMILTON, *Secretary of the Navy, Washington.*

[Correspondence between General Taylor and Captain Barrie, concerning James Balfour, an impressed seaman on board the *Dragon*.]

Extract of a letter from General Taylor to the Secretary of War,

HEAD-QUARTERS, NORFOLK, *November 23, 1813.*

Herewith I transmit copies of a letter addressed by me to the officer commanding the enemy's squadron in Lynnhaven, and of Captain Barrie's reply, on the subject of an American on board the *Dragon*, James Balfour.

This man has been twice impressed into the British service, and has been the last time detained some years.

Copy of a letter from General Taylor to Captain Barrie.

SIR:

HEAD QUARTERS, NORFOLK, *November 15, 1813.*

Major Somerville, of Maryland, transmitted to me, a few days ago, a letter from James Balfour, now on board your ship, to Robert Brough; which letter, he stated, had been given to him by you, accompanied by your assurance "that the man would be immediately released on his procuring satisfactory evidence of his birth-place."

I now transmit to you such affidavits as I presume will be entirely satisfactory. I will vouch to you, sir, for the veracity and respectability of the persons who make them; and you will have the best opportunity of testing

them by inquiry of the man himself, of the facts stated in them, which, if not true, he cannot corroborate, as there has been no means of concert between him and the persons making them.

Captain Myers, who will have the honor to deliver this, is accompanied by a person to identify Balfour.

I cannot conclude this letter without expressing my sense of the candor and liberality with which you have acted in this affair, and offering you the assurance of my perfect consideration.

I have the honor to be, &c.

ROBERT B. TAYLOR, *Brigadier General.*

The SENIOR OFFICER, &c.

Copy of a letter from Captain Robert Barrie, of His Britannic Majesty's ship Dragon, to Brigadier General Robert Taylor.

SIR:

LYNNHAVEN BAY, *November 20, 1813.*

I have the honor to acknowledge the receipt of your letter of the 15th instant, with its enclosures, relative to the identity of James Balfour.

Major Somerville must have misunderstood my meaning, when he stated me to have assured him, "that the man would be immediately released, on his procuring satisfactory evidence of his birth-place." What I intended the major to understand, was, that on procuring the necessary evidence I would discharge the man from the service, but as to granting his unconditional release, it is beyond my power. If it were not, your testimony of the respectability of the parties who have made the affidavits of Balfour's citizenship would be sufficient evidence with me to order his discharge immediately.

I represented this man's case to my superior officer in March last; his reply I have shown to Captain Myers, in which I am directed to dispose of all persons in Balfour's situation as prisoners of war. All I can therefore do, is to send the man to Bermuda as a prisoner. I will also forward the documents you have handed me to my superior officer there, accompanied by my conviction that Balfour is an American, and I will write to Sir John Warren to request that he will order Balfour to be released, or at least admitted to parole, and I have no doubt he will comply with my request.

I beg to assure you I shall always feel great satisfaction in giving you every proof of my respectful consideration.

ROBERT BARRIE.

Brigadier General TAYLOR, &c.

[13th CONGRESS.]

No. 266.

[2d SESSION.]

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 16, 1814.

To the House of Representatives of the United States:

APRIL 16, 1814.

I transmit to the House of Representatives a report of the Secretary of State, complying with their resolution of the 13th instant.

JAMES MADISON.

DEPARTMENT OF STATE, *April 16, 1814.*

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 13th instant, requesting information touching our relations with France, has the honor to submit to the President an extract of the letter from the minister plenipotentiary of the United States at Paris, which contains the latest, and the only material information received by this Department on that subject.

All which is respectfully submitted.

JAMES MONROE.

Extract:—Mr. Crawford to the Secretary of State.

PARIS, *January 16, 1814.*

On the 29th ultimo I had an interview with the Minister of Exterior Relations, who informed me that he had made to the Emperor a detailed report of the negotiation, and that he would inform me of His Majesty's decision the moment it should be made known to him. His conversation during this interview was as conciliatory as it could be, and his expressions, though still general, admitted that indemnity was determined upon.

The address of the senator, Count Segur, to the inhabitants of the 18th military division of the empire, published in the *Moniteur* of the 15th instant, stated that His Majesty was going to place himself at the head of his troops. Knowing that I should not be able to advance a single step in the negotiation during his absence, unless he should, before his departure from Paris, decide upon the classes of cases for which indemnity should be made, I determined to address a note to the Duke of Vicence, with a view to impress more strongly upon his mind the necessity of an immediate decision. The day on which I intended to present this note I was informed that the Duke of Vicence had set out from Paris at four o'clock A. M. for the head quarters of the two Emperors, which was then said to be in Switzerland. The general impression in Paris that day was, that the Emperor would set out immediately for Metz, where his army of reserve has been forming ever since he crossed the Rhine. This cir-

cumstance induced me to believe that the note would not produce any good effect; I therefore determined not to present it. The Emperor is still in Paris, and I regret extremely that I did not adhere to my first determination, notwithstanding the absence of the Minister of Foreign Relations. From the situation of affairs here, it is impossible to foresee the delays to which this perplexing business will yet be subject. In the first and only interview which I had with the Duke of Bassano, he said expressly that the obstacles which his absence had thrown in the way of the negotiation should not occur again; two months have not elapsed before the same obstacles are presented.

[13th CONGRESS.]

No. 267.

[3d SESSION.]

GREAT BRITAIN—RETA LIATION.

COMMUNICATED TO CONGRESS, THE 26TH DAY OF SEPTEMBER, 1814.

To the Senate and House of Representatives of the United States:

SEPTEMBER 26, 1814.

I transmit to Congress for their information copies of a letter from Admiral Cochrane, commanding His Britannic Majesty's naval forces on the American station, to the Secretary of State, with his answer, and a reply from Admiral Cochrane.

JAMES MADISON.

Vice Admiral Cochrane to Mr. Monroe.

HIS BRITANNIC MAJESTY'S SHIP THE TONNANT, IN THE
PATUXENT RIVER, August 18, 1814.

SIR:

Having been called upon by the Governor General of the Canadas to aid him in carrying into effect measures of retaliation against the inhabitants of the United States for the wanton destruction committed by their army in Upper Canada, it has become imperiously my duty, conformably with the nature of the Governor General's application, to issue to the naval force under my command, an order to destroy and lay waste such towns and districts upon the coast as may be found assailable.

I had hoped that this contest would have terminated without my being obliged to resort to severities which are contrary to the usage of civilized warfare, and as it has been with extreme reluctance and concern that I have found myself compelled to adopt this system of devastation, I shall be equally gratified if the conduct of the Executive of the United States will authorize my staying such proceedings, by making reparation to the suffering inhabitants of Upper Canada, thereby manifesting that if the destructive measures pursued by their army were ever sanctioned, they will no longer be permitted by the Government.

I have the honor to be, sir, with much consideration, your most obedient humble servant,

ALEX. COCHRANE, *Vice Admiral and Commander-in-chief*
of His Britannic Majesty's ships and vessels upon the North American station.

The Hon. JAMES MONROE, *Secretary of State, &c.*

Mr. Monroe to Sir Alexander Cochrane, Vice Admiral, &c.

SIR:

DEPARTMENT OF STATE, September 6, 1814.

I have had the honor of receiving your letter of the 18th of August, stating that, having been called on by the Governor General of the Canadas, to aid him in carrying into effect measures of retaliation against the inhabitants of the United States for the wanton desolation committed by their army in Upper Canada, it has become your duty, conformably with the nature of the Governor General's application, to issue to the naval force under your command an order to destroy and lay waste such towns and districts upon the coast as may be found assailable.

It is seen, with the greatest surprise, that this system of devastation, which has been practised by the British forces, so manifestly contrary to the usage of civilized warfare, is placed by you on the ground of retaliation. No sooner were the United States compelled to resort to war against Great Britain, than they resolved to wage it in a manner most consonant to the principles of humanity, and to those friendly relations which it was desirable to preserve between the two nations after the restoration of peace. They perceived, however, with the deepest regret, that a spirit, alike just and humane, was neither cherished nor acted on by your Government. Such an assertion would not be hazarded if it was not supported by facts, the proof of which has, perhaps, already carried the same conviction to other nations that it has to the people of these States. Without dwelling on the deplorable cruelties committed by the savages in the British ranks, and in British pay at the river Raisin, which to this day have never been disavowed or atoned for, I refer, as more immediately connected with the subject of your letter, to the wanton desolation that was committed at Havre de Grace and at Georgetown, early in the spring of 1813. These villages were burnt and ravaged by the naval forces of Great Britain, to the ruin of their unarmed inhabitants, who saw with astonishment that they derived no protection to their property from the laws of war. During the same season, scenes of invasion and pillage, carried on under the same authority, were witnessed all along the waters of the Chesapeake, to an extent inflicting the most serious private distress, and under circumstances that justified the suspicion that revenge and cupidity, rather than the manly motives that should dictate the hostility of a high-minded foe, led to their perpetration. The late destruction of the houses of the Government in this city is another act which comes necessarily into view. In the wars of modern Europe, no example of the kind, even among nations the most hostile to each other, can be traced. In the course of ten years past, the capitals of the principal Powers of the continent

of Europe have been conquered, and occupied alternately by the victorious armies of each other, and no instance of such wanton and unjustifiable destruction has been seen. We must go back to distant and barbarous ages to find a parallel for the acts of which I complain.

Although these acts of desolation invited, if they did not impose on the Government the necessity of retaliation, yet in no instance has it been authorized.

The burning of the village of Newark in Upper Canada, posterior to the early outrages above enumerated, was not executed on that principle. The village of Newark adjoined Fort George, and its destruction was justified by the officers who ordered it, on the ground that it became necessary in the military operations there. The act, however, was disavowed by the Government. The burning which took place at Long Point was unauthorized by the Government, and the conduct of the officer subjected to the investigation of a military tribunal. For the burning at St. David's, committed by stragglers, the officer who commanded in that quarter was dismissed, without a trial, for not preventing it.

I am commanded by the President distinctly to state, that it as little comports with any orders which have been issued to the military and naval commanders of the United States, as it does with the established and known humanity of the American nation, to pursue a system which it appears you have adopted. This Government owes it to itself, to the principles which it has ever held sacred, to disavow, as justly chargeable to it, any such wanton, cruel, and unjustifiable warfare.

Whatever unauthorized irregularities may have been committed by any of its troops, it would have been ready, acting on these principles of sacred and eternal obligation, to disavow, and, as far as might be practicable, to repair. But in the plan of desolating warfare which your letter so explicitly makes known, and which is attempted to be excused on a plea so utterly groundless, the President perceives a spirit of deep-rooted hostility, which, without the evidence of such facts, he could not have believed existed, or would have been carried to such an extremity.

For the reparation of injuries, of whatever nature they may be, not sanctioned by the law of nations, which the military or naval force of either Power may have committed against the other, this Government will always be ready to enter into reciprocal arrangements. It is presumed that your Government will neither expect nor propose any which are not reciprocal.

Should your Government adhere to a system of desolation, so contrary to the views and practice of the United States, so revolting to humanity, and repugnant to the sentiments and usages of the civilized world, whilst it will be seen with the deepest regret, it must and will be met with a determination and constancy becoming a free people contending in a just cause for their essential rights and their dearest interests.

I have the honor to be, with great consideration, sir, your most obedient humble servant,

JAMES MONROE.

Sir ALEXANDER COCHRANE, *Vice Admiral and Commander-in-chief, &c.*

Vice Admiral Sir Alexander Cochrane to Mr. Monroe.

HIS BRITANNIC MAJESTY'S SHIP TONNANT,

IN THE CHESAPEAKE, *September 19, 1814.*

SIR:

I have had the honor to receive your letter of the 16th instant this morning, in reply to the one which I addressed to you from the Patuxent.

As I have no authority from my Government to enter upon any kind of discussion relative to the points contained in your letter, I have only to regret that there does not appear to be any hope that I shall be authorized to recall my general order; which has been further sanctioned by a subsequent request from Lieutenant General Sir George Prevost.

A copy of your letter will this day be forwarded by me to England, and, until I receive instructions from my Government, the measures which I have adopted must be persisted in, unless remuneration be made to the inhabitants of the Canadas for the injuries they have sustained from the outrages committed by the troops of the United States.

I have the honor to be, sir, with much consideration, your most obedient and very humble servant,

ALEX. COCHRANE, *Vice Admiral and Commander-in-chief of
His Britannic Majesty's ships and vessels upon the North American station.*

The Hon. JAMES MONROE, *Secretary of State.*

[For a report of a Committee of the House of Representatives on the "spirit and manner in which the war has been waged by Great Britain," see *Military Affairs*, vol. 1, No. 123.]

13th CONGRESS.]

No. 268.

[3d SESSION.]

CONTINENTAL EUROPEAN POWERS.

COMMUNICATED TO THE SENATE, OCTOBER 3, 1814.

To the Senate of the United States:

OCTOBER 3, 1814.

I transmit to the Senate a report from the Department of State, complying with their resolution of the 26th ultimo.

JAMES MADISON.

DEPARTMENT OF STATE, *October 1, 1814.*

The undersigned, acting as Secretary of State, to whom was referred the resolution of the Senate, requesting the President to cause to be laid before the Senate such information, in his possession, respecting the existing state of

the relations between the United States and the continental Powers of Europe, as he may deem not improper to be communicated, has the honor to report:

That the relations of the United States with the continental Powers of Europe continue to be those of peace and amity, nor is there, so far as is known to this Department, reason to believe that an unfavorable change is likely to take place.

Measures have been taken to continue our diplomatic relations with France, under the existing Government, and to renew those with Spain, which have been for a time interrupted by the peculiar circumstances of that country. Diplomatic relations are also renewed with the United Provinces of the Low Countries. Their new Government has sent an envoy extraordinary and minister plenipotentiary to the United States, who has been received.

With the other Powers of the continent of Europe, our relations have undergone no change since the last session of Congress.

All which is respectfully submitted.

JAMES MONROE.

13th CONGRESS.]

No. 269.

[3d SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, OCTOBER 10TH AND 14TH, AND DECEMBER 1, 1814.

WASHINGTON, October 10, 1814.

To the Senate and House of Representatives of the United States:

I lay before Congress communications just received from the plenipotentiaries of the United States charged with negotiating peace with Great Britain, showing the conditions on which alone that Government is willing to put an end to the war.

The instructions to those plenipotentiaries, disclosing the grounds on which they were authorized to negotiate and conclude a treaty of peace, will be the subject of another communication.

JAMES MADISON.

WASHINGTON, October 13, 1814.

To the Senate and House of Representatives of the United States:

I now transmit to Congress copies of the instructions to the plenipotentiaries of the United States charged with negotiating a peace with Great Britain, as referred to in my message of the 10th instant.

JAMES MADISON.

DECEMBER 1, 1814.

To the Senate and House of Representatives of the United States:

I transmit for the information of Congress the communications last received from the ministers extraordinary and plenipotentiary of the United States at Ghent, explaining the course and actual state of their negotiations with the plenipotentiaries of Great Britain.

JAMES MADISON.

Mr. Monroe, Secretary of State, to the Plenipotentiaries of the United States for treating of peace with Great Britain.

GENTLEMEN:

DEPARTMENT OF STATE, April 15, 1813.

I had the honor, on the — ultimo, to receive from Mr. Adams two letters, one bearing date 30th of September, the other on the 17th of October last, communicating the overture of the Emperor of Russia to promote peace by his friendly mediation between the United States and Great Britain. On the day following, Mr. Daschkoff, the Russian minister, made a similar communication to this Department. The subject has, in consequence, been duly considered, and I have now to make known to you the result.

The President has not hesitated to accept the mediation of Russia, and he indulges a strong hope that it will produce the desired effect. It is not known that Great Britain has acceded to the proposition, but it is presumed that she will not decline it. The President thought it improper to postpone his decision until he should hear of that of the British Government. Sincerely desirous of peace, he has been willing to avail himself of every opportunity which might tend to promote it, on just and honorable conditions, and in accepting this overture he has been particularly gratified to evince, by the manner of it, the distinguished consideration which the United States entertain for the Emperor Alexander. Should the British Government accept the mediation, the negotiation to which it leads will be held at St. Petersburg. The President commits it to you, for which a commission is enclosed, and he has appointed Mr. Harris secretary of the mission.

The impressment of our seamen and illegal blockades, as exemplified more particularly in the orders in council, were the principal causes of the war. Had not Great Britain persevered obstinately in the violation of these important rights, the war would not have been declared. It will cease as soon as these rights are respected. The proposition made by Mr. Russell to the British Government immediately after the war, and the answer given by this Department to Admiral Warren's letter since, show the ground on which the United States were willing to adjust the controversy relative to impressment.

This has been further evinced by a report of the Committee of Foreign Relations of the House of Representatives, and an act of Congress passed in consequence of that report. By these documents you will see that, to accommodate this important difference, the United States are disposed to exclude British seamen altogether from the Ameri-

can service. This being effectually done, the British Government can have no pretext for the practice. How shall it be done? By restraints to be imposed by each nation on the naturalization of the seamen of the other, excluding, at the same time, all others not naturalized? Or shall the right of each nation to naturalize the seamen of the other be prohibited, and each exclude from its service the natives of the other? Whatever the rule is, it ought to be reciprocal. If Great Britain is allowed to naturalize American seamen, the United States should enjoy the same privilege. If it is demanded that the United States shall exclude from their service all native British subjects, a like exclusion of American citizens from the British service ought to be reciprocated. The mode also should be common to both countries. Each should be at liberty to give the same facilities, or be bound to impose the same restraints that the other does. The President is willing to agree to either alternative, and to carry it into effect by the most eligible regulations that can be devised.

If the first alternative is adopted, the extent of the proposed exclusion will depend on the impediments to naturalization, on the efficacy of the regulations to prevent imposition, and the fidelity of their execution. The greater the difficulty in acquiring the right of citizenship, the easier will it be to avoid imposition, and the more complete the desired exclusion. The law of the last session of Congress relative to seamen proves how sincerely desirous the Legislative as well as Executive branch of our Government is, to adjust this controversy, on conditions which may be satisfactory to Great Britain. By that law it is made indispensable for every British subject who may hereafter become a citizen, to reside five years, without intermission, within the United States, and so many guards are imposed to prevent frauds, that it seems to be impossible that they should be eluded. No British subject can be employed in a public or private ship of the United States, unless he produces to the commander, in the one instance, and to the collector, in the other, a certified copy of the act by which he became naturalized. A list of the crew, in the case of a private ship, must be taken, certified and recorded by the collector, and the consuls or commercial agents of Great Britain may object to any seamen, and attend the investigation. The commander of a public ship receiving a person not duly qualified, shall forfeit a thousand dollars, and the commander or owner of a private ship, knowing thereof, five hundred dollars, to be recovered in an action of debt, one half to the informer, and one half to the United States. It is also made penal, punishable as a felony by imprisonment and labor from three to five years, or by fine from five hundred to one thousand dollars, for any person to forge or counterfeit, or to pass or use any forged or counterfeited certificate of citizenship, or to sell or dispose of one.

It may fairly be presumed, that, if this law should be carried into effect, it would exclude all British seamen from our service.

By requiring five years continued residence in the United States, as the condition of citizenship, few if any British seamen would ever take advantage of it. Such as had left Great Britain, and had resided five years in this country, would be likely to abandon the sea for ever. And by making it the duty of the commanders of our public and of the collectors in the case of private ships, to require an authenticated copy from the clerk of the court, before which a British subject, who offered his service, had been naturalized, as indispensable to his admission, and highly penal in either to take a person not duly qualified, and by allowing also British agents to object to any one offering his service, and to prosecute by suit the commander or collector, as the case might be, for receiving an improper person, it seems to be impossible that such should be received.

If the second alternative is adopted, that is, if all native British subjects are to be hereafter excluded from our service, it is important that the stipulation providing for it should operate so as not to affect those who have been already naturalized. By our law, all the rights of natives are given to naturalized citizens. It is contended by some that these complete rights do not extend beyond the limits of the United States; that, in naturalizing a foreigner, no state can absolve him from the obligation which he owes to his former Government, and that he becomes a citizen in a qualified sense only. This doctrine, if true in any case, is less applicable to the United States than to any other Power. Expatriation seems to be a natural right, and, by the original character of our institutions, founded by compact on principle, and particularly by the unqualified investment of the adopted citizen with the full rights of the native, all that the United States could do, to place him on the same footing, has been done. In point of interest, the object is of little importance to either party. The number to be affected by the stipulation is inconsiderable; nor can that be a cause of surprise, when the character of that class of men is considered. It rarely happens that a seaman, who settles on a farm, or engages in a trade, and pursues it for any length of time, returns to sea. His youthful days are exhausted in his first occupation. He leaves it with regret, and adopts another, either in consequence of marriage, of disease, or as an asylum for age.

To a stipulation which shall operate prospectively only the same objection does not apply. In naturalizing foreigners, the United States may prescribe the limit to which their privileges shall extend. If it is made a condition that no native British subject, who may hereafter become a citizen, shall be employed in our public or private ships, their exclusion will violate no right. Those who might become citizens afterwards would acquire the right, subject to that condition, and would be bound by it. To such a stipulation, the President is willing to assent, although he would much prefer the alternative of restraints on naturalization; and, to prevent frauds, and to carry the same fully into effect, you are authorized to apply all the restraints and checks, with the necessary modifications, to suit the cases that are provided in the act above recited, relative to seamen, for the purposes of that act.

In requiring that the stipulation to exclude British seamen from our service, with the regulations for carrying it into effect, be made reciprocal, the President desires that you make a provision, authorizing the United States, if they should be so disposed, to dispense with the obligations imposed by it on American citizens. The liberal spirit of our Government and laws is unfriendly to restraints on our citizens, such, at least, as are imposed on British subjects, from becoming members of other societies. This has been shown in the law of the last session, relative to seamen, to which your particular attention has been already drawn. This provision may likewise be reciprocated if desired.

The President is not particularly solicitous that either of these alternatives (making the proposed reservation in case the latter be) should be preferred. To secure the United States against impressment he is willing to adopt either. He expects in return, that a clear and distinct provision shall be made against the practice. The precise form in which it may be done is not insisted on, provided the import is explicit. All that is required is, that, in consideration of the act to be performed on the part of the United States, the British Government shall stipulate, in some adequate manner, to terminate or forbear the practice of impressment from American vessels.

It has been suggested, as an expedient made for the adjustment of this controversy, that British cruisers should have a right to search our vessels for British seamen, but that the commanders thereof should be subjected to penalties in case they made mistakes, and took from them American citizens. By this the British Government would acquire the right of search for seamen, with that of impressing from our vessels the subjects of all other Powers. It will not escape your attention that, by admitting the right, in any case, we give up the principle, and leave the door open to every kind of abuse. The same objection is applicable to any and every other arrangement which withholds the respect due to our flag, by not allowing it to protect the crew sailing under it.

If the first alternative should be adopted, it will follow that none of the British seamen who may be in the United States at the time the treaty takes effect, and who shall not have become citizens, will be admitted into our service until they acquire that right.

If the second is adopted, the number of native British seamen, who have been naturalized, and will be admissible into our service, will not, it is believed, exceed a few hundred; all others who may be in the United States at the time the treaty takes effect, or who may arrive afterwards, will be excluded.

As a necessary incident to an adjustment on the principle of either alternative, it is expected that all American seamen, who have been impressed, will be discharged, and that those who have been naturalized, under the British laws, by compulsive service, will be permitted to withdraw.

I have to repeat that the great object which you have to secure, in regard to impressment, is, that our flag shall protect the crew, and, providing for this in a satisfactory manner, that you are authorized to secure Great Britain effectually against the employment of her seamen in the service of the United States. This, it is believed, would be done by the adoption of either of the above alternatives, and the application to that which may be adopted, of the checks contained in the law of the last session, relative to seamen; in aid of which it will always be in the power of Great Britain to make regulations operating in her own ports with a view to the same effect. To terminate, however, this controversy, in a manner satisfactory to both parties, the President is willing, should other checks be suggested as likely to be more effectual, consistent with the spirit of our constitution, that you should adopt them. The strong feature of the first alternative, which authorizes the naturalization of seamen, requires their continued residence in the United States for five years, as indispensable to the attainment of that right. In case this alternative be adopted, the President is willing, for example, to secure a compliance with that condition, to make it the duty of each alien, who may be desirous to become a citizen, to appear in court every year, for the term of five years, until his right shall be completed. This example is given, not as a limitation, but as an illustration of your power; for to the exclusion of British seamen from our service no repugnance is felt. To such exclusion the amicable adjustment of this controversy with Great Britain affords a strong motive, but not the only one. It is a growing sentiment in the United States that they ought to depend on their own population for the supply of their ships of war and merchant service. Experience has shown that it is an abundant resource. In expressing this sentiment you will do it in a manner to inspire more fully a confidence that the arrangement which you may enter into will be carried faithfully into effect, without derogating, however, from the conciliatory spirit of the accommodation.

A strong desire has heretofore been expressed by the British Government to obtain of the United States an arrangement to prevent the desertion of British seamen when in our ports, and it cannot be doubted that a stipulation to that effect would be highly satisfactory as well as useful to Great Britain. It is fairly to be presumed that it, alone, would afford to the British Government a strong inducement to enter into a satisfactory arrangement of the difference relating to impressment. The claim is not inadmissible, especially as the United States have a reciprocal interest in the restoration of deserters from American vessels in British ports; you may, therefore, agree to an article, such as hath been heretofore authorized by the United States, which shall make it the duty of each party to deliver them up.

Of the right of the United States to be exempted from the degrading practice of impressment, so much has been already said, and with such ability, that it would be useless, especially to you, who are otherwise so well acquainted with it, to dilate on its merits. I must, observe, however, that the practice is utterly repugnant to the law of nations; that it is supported by no treaty with any nation; that it was never acquiesced in by any; and that a submission to it by the United States would be the abandonment, in favor of Great Britain, of all claim to neutral rights, and of all other rights on the ocean.

This practice is not founded on any belligerent right. The greatest extent to which the belligerent claim has been carried, over the vessels of neutral nations, is, to board and take from them persons in the land and sea service of an enemy, contraband of war, and enemy's property. All nations agree respecting the two first articles, but there has been and still exists a diversity of opinion as to the last. On that and other questions of considerable importance, disputes have arisen which are yet unsettled. The Empress Catherine, of Russia, a distinguished advocate of just principles, placed herself, in 1780, at the head of neutral nations, in favor of a liberal construction of their rights, and her successors have generally followed her example. In all the discussions on these topics, we find nothing of the British claim to impressment; no acknowledgment of it in any treaty, or proof of submission to it by any Power. If instances have occurred in which British cruisers have taken British seamen from the vessels of other nations, they were, as it is presumed, in cases either not acquiesced in, or of an extraordinary nature only, affording no countenance to their practice and pretension in relation to the United States. Cases of this kind, if such there be, afford no proof of a systematic claim in the British Government to impressment, or of submission to it by other Powers. This claim has been set up against the United States only, who have, in consequence thereof, been compelled to discuss its merits.

This claim is, in fact, traced to another source, the allegiance due by British subjects to their sovereign, and his right, by virtue thereof, to their service. This has been distinctly stated in a late declaration by the Prince Regent. Knowing the nature of the claim, we know also the extent of the right and obligations incident to it. Allegiance is a political relation between a sovereign and his people. It is the obligation which binds the latter in return for the protection which they receive. These reciprocal duties have the same limit. They are confined to the dominions of the sovereign, beyond which he has no rights, can afford no protection, and can of course claim no allegiance. A citizen or subject of one Power, entering the dominions of another, owes allegiance to the latter in return for the protection he receives. Whether a sovereign has a right to claim the service of such of his subjects as have left his own dominions, is a question respecting which also a difference of opinion may exist. It is certain that no sovereign has a right to pursue his subjects into the territories of another, be the motive for it what it may. Such an entry, without the consent of the other Power, would be a violation of its territory, and an act of hostility. Offenders, even conspirators, cannot be pursued by one Power into the territory of another, nor are they delivered up by the latter, except in compliance with treaties, or by favor. That the vessels of a nation are considered a part of its territory, with the exception of the belligerent right only, is a principle too well established to be brought into discussion. Each State has exclusive jurisdiction over its own vessels. Its laws govern in them, and offences against those laws are punishable by its tribunals only. The flag of a nation protects every thing sailing under it in time of peace, and in time of war likewise, with the exception of the belligerent rights growing out of the war. An entry on board the vessels of one Power by the cruisers of another, in any other case, and the exercise of any other authority over them, is a violation of right, and an act of hostility.

The British Government, aware of the truth of this doctrine, has endeavored to avoid its consequences in the late declaration of the Prince Regent. It has not contended that British cruisers have a right to pursue and search our vessels for British seamen. It asserts only that they have a right to search them for other objects; and being on board for a lawful cause, and finding British seamen there, that they have a right to impress and bring them away,

under the claim of allegiance. When we see a systematic pursuit of our vessels by British cruisers, and the impressment of seamen from them, not at a port of the enemy, where a regular blockade has been instituted, and by the blockading squadron, but in every part of the ocean, on our coast, and even in our harbors, it is difficult to believe that impressment is not the real motive, and the other the pretext for it. But to place this argument of the British Government on the strongest ground, let it be admitted that the entry was lawful, is it so to commit an act not warranted by the purpose for which the entry was made? There is a levity in this argument which neither suits the parties nor the subject. The British Government founds its right of impressment from our ships on that of allegiance, which is a permanent right, equally applicable to peace and war. The right of impressment, therefore, from the vessels of other Powers must likewise be permanent, and equally applicable to peace and war. It would not, however, take this broad ground, lest the injustice and extravagance of the pretension might excite the astonishment and indignation of other Powers, to whom it would be equally applicable. To claim it as a belligerent right would have been equally unjust and absurd, as no trace of it could be found in the belligerent code. The British Government was therefore reduced to a very embarrassing dilemma. To acknowledge that it could not support the claim on either principle would be to relinquish it, and yet it could rely on neither. It endeavored to draw some aid from both. A state of war exists which brings the parties together, Great Britain as a belligerent, and the United States as a neutral Power. British officers have now a right to board and search American vessels, but for what? Persons in the service of an enemy, contraband of war, or enemy's property? This would not accomplish the end. It is, however, the utmost limit of the belligerent right. Allegiance, which is an attribute of sovereignty, comes to her aid and communicates all the necessary power. The national character of the neutral vessel ceases. The complete right of sovereignty and jurisdiction over it is transferred to Great Britain. It is on this foundation that the British Government has raised this monstrous superstructure. It is with this kind of argument that it attempts to justify its practice of impressment from our vessels.

The remark contained in the declaration of the Prince Regent, that, in impressing British seamen from American vessels, Great Britain exercised no right which she was not willing to acknowledge as appertaining equally to the Government of the United States, with respect to American seamen in British merchant ships, proves only that the British Government is conscious of the injustice of the claim, and desirous of giving to it such aid as may be derived from a plausible argument. The semblance of equality, however, in this proposition, which strikes at first view, disappears on a fair examination. It is unfair, first, because it is impossible for the United States to take advantage of it. Impressment is not an American practice, but utterly repugnant to our constitution and laws. In offering to reciprocate it nothing was offered, as the British Government well knew. It is unfair, secondly, because if impressment was allowable, a reciprocation of the practice would be no equivalent to the United States. The exercise of a right in common, at sea, by two nations, each over the vessels of the other, the one powerful and the other comparatively weak, would be to put the latter completely at the mercy of the former. Great Britain, with her vast navy, would soon be the only party which made impressment. The United States would be compelled to abstain from it, and either to submit to the British rule, with all the abuses incident to power, or to resist it. But should the United States be permitted to make impressment from British vessels, the effect would be unequal. Great Britain has, perhaps, thirty ships of war at sea to one of the United States, and would profit of the arrangement in that proportion. Besides, impressment is a practice incident to war—in which view, likewise, the inequality is not less glaring, she being at least thirty years at war to one of the United States. Other considerations prove that the British Government made this acknowledgment merely as a pretext to justify its practice of impressment, without intending that the right or practice should ever be reciprocated. What would be the effect of its adoption by American ships of war with British merchant vessels? An American officer boards a British merchant vessel, and claims, as American citizens, whom he pleases. How many British seamen would disclaim a title which would take them to the United States, and secure them there all the advantages of citizenship? The rule of evidence, as the ground of impressment in every instance, must likewise be reciprocated between the two Governments. The acknowledgment of the men would surely be a better proof of their national character than the decision of a British officer who boarded an American vessel, however impartial he might be, and strong his power of discrimination, when opposed by the voluntary and solemn declaration of the party. In this way we might draw from the British service the greater part, if not all their seamen. I might further ask, why was this acknowledgment made at this late period, for the first time only, after the declaration of war, and when, on that account, it could produce no effect? In the various discussions of this subject, in many of which it has been demanded whether the British Government would tolerate such a practice from American ships of war, no such intimation was ever given.

If Great Britain had found the employment of her seamen in our service injurious to her, and been disposed to respect our rights, the regular course of proceeding would have been for her Government to have complained to the Government of the United States of the injury, and to have proposed a remedy. Had this been done, and no reasonable remedy been adopted, sound in principle and reciprocal in its operation, the British Government might have had some cause of complaint, and some plea for taking the remedy into its own hands. Such a procedure would, at least, have given to its claim of impressment the greatest plausibility. We know that such complaint was never made, except in defence of the practice of impressment, and that, in the mean time, the practice has gone on, and grown into a usage, which, with all its abuses, had resistance been longer delayed, might have become a law. The origin and progress of this usurpation afford strong illustrations of the British policy. The practice and the claim began together, soon after the close of our revolutionary war, and were applicable to deserters only. They extended next to all British seamen; then to all British subjects, including, as in the case of emigrants from Ireland, persons who would not have been subject to impressment in British ports, not being seafaring men; and, finally, to Swedes, Danes, and others, known to be not British subjects, and by their protections appearing to be naturalized citizens of the United States.

Other views may be taken of the subject, to show the unlawfulness and absurdity of the British claim. If British cruisers have a right to take British seamen from our vessels, without regarding the abuses inseparable from the practice, they may take from them, on the same principle, and with much greater reason, every species of property to which the British Government has any kind of claim. Allegiance cannot give to a sovereign a better right to take his subjects than ownership to take his property. There would be no limit to this pretension or its consequences. All property forfeited by exportation, contrary to the laws of Great Britain, every article to which her sovereignty, jurisdiction, or ownership would extend, in British vessels, would be liable to seizure in those of the United States. The laws of England would be executory in them. Instead of being a part of the American, they would become a part of the British territory.

It might naturally be expected that Great Britain would have given, by her conduct, some support to her pretensions; that, if she had not disclaimed altogether the principle of naturalization, she would at least have excluded from her service foreign seamen. Her conduct, however, has been altogether at variance with her precepts. She has given great facility to naturalization, in all instances where it could advance her interest, and peculiar encou-

agement to that of foreign seamen. She naturalizes by special act of Parliament; she naturalizes all persons who reside a certain term of years in British colonies, all those who are born of British subjects in foreign dominions, and all seamen who have served a certain short term in the British service, and would doubtless protect all such as British subjects, if required by them so to do. Her governors of neighboring provinces are, at this time, compelling emigrants thither from the United States to bear arms against the United States.

The mediation offered by Russia presents to Great Britain, as well as to the United States, a fair opportunity of accommodating this controversy with honor. The interposition of so distinguished a Power, friendly to both parties, could not be declined by either, on just ground, especially by Great Britain, between whom and Russia there exists at this time a very interesting relation. When the British ministers are made acquainted at St. Petersburg, with the conditions on which you are authorized to adjust this difference, it seems as if it would be impossible for Great Britain to decline them. Should she do it, still adhering to her former pretensions, her motive could not be misunderstood. The cause of the United States would thenceforward become the common cause of nations. A concession by them would operate to the disadvantage of every other Power. They would all find, in the conduct of Great Britain, an unequivocal determination to destroy the rights of other flags, and to usurp the absolute dominion of the ocean. It is to be presumed that the British Government will find it neither for the honor nor interest of Great Britain to push things to that extremity, but will have accepted this mediation, and have sent a minister or ministers to St. Petersburg with full powers to adjust the controversy on fair and just conditions.

Should improper impressions have been taken of the probable consequences of the war, you will have ample means to remove them. It is certain, that from its prosecution Great Britain can promise to herself no advantage, while she exposes herself to great expenses and to the danger of still greater losses. The people of the United States, accustomed to the indulgence of a long peace, roused by the causes and the progress of the war, are rapidly acquiring military habits and becoming a military people. Our knowledge in naval tactics has increased, as has our maritime strength. The gallantry and success of our little navy have formed an epoch in naval history. The laurels which these brave men have gained, not for themselves, but for their country, from an enemy pre-eminent in naval exploits, for ages past, are among the proudest boasts of their grateful and affectionate fellow-citizens. Our manufactures have taken an astonishing growth. In short, in every circumstance, in which the war is felt, its pressure tends evidently to unite our people, to draw out our resources, to invigorate our means, and to make us more truly an independent nation, and, as far as may be necessary, a great maritime Power.

If the British Government accepts the mediation of Russia, with a sincere desire to restore a good intelligence between the two countries, it may be presumed that a fair opportunity will be afforded for the arrangement of many other important interests, with advantage to both parties. The adjustment of the controversy relating to impressment only, though very important, would leave much unfinished. Almost every neutral right has been violated; and its violation persisted in to the moment that war was declared. The President sincerely desires, and it is doubtless for the interest of Great Britain, to prevent the like in future. The interposition of the Emperor of Russia to promote an accommodation of these differences is deemed particularly auspicious.

[Confidential paragraph No. 1, omitted.]

A strong hope is, therefore, entertained that full powers will be given to the British commissioners to arrange all these grounds of controversy in a satisfactory manner. In entering on this interesting part of your duty, the first object which will claim your attention is that of blockade. The violation of our neutral rights by illegal blockades, carried to an enormous extent, by orders in council, was a principal cause of the war. These orders, however, and with them the blockade of May, 1806, and, as is understood, all other illegal blockades, have been repealed, so that that cause of war has been removed. All that is now expected is, that the British Government will unite in a more precise definition of blockade, and in this no difficulty is anticipated; for having declared that no blockade would be legal, which was not supported by an adequate force, and that the blockades which it might institute should be supported by an adequate force, there appears to be, according to the just interpretation of these terms, no difference of opinion on the subject.

The British Government has recently, in two formal acts, given definitions of blockade, either of which would be satisfactory. The first is to be seen in a communication from Mr. Merry to this Department, bearing date on the 12th of April, 1804. The following are the circumstances attending it. Commodore Hood, the commander of a British squadron in the West Indies, in 1803, having declared the islands of Martinique and Guadaloupe in a state of blockade, without applying an adequate force to maintain it, the Secretary of State remonstrated against the illegality of the measure, which remonstrance was laid before the Lords Commissioners of the Admiralty, in England, who replied that they had sent "orders not to consider any blockade of those islands as existing unless in respect of particular ports, which might be actually invested, and then not to capture vessels, bound to such ports, unless they shall previously have been warned not to enter them." The second definition is to be found in a convention between Great Britain and Russia, in June, 1801, fourth section, third article, which declares, "that, in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the disposition of the Power which attacks it, with ships stationary or sufficiently near, an evident danger in entering." The President is willing for you to adopt either of these definitions; but prefers the first as much more precise and determinate; and when it is considered that it was made the criterion by so formal an act, between the two Governments, it cannot be presumed that the British Government will object to the renewal of it. Nothing is more natural, after the differences which have taken place between the two countries, on this and other subjects, and the departure from this criterion by Great Britain, for reasons which are admitted by her no longer to exist, than that they should, on the restoration of a good understanding, recur to it again. Such a recurrence would be the more satisfactory to the President, as it would afford a proof of a disposition in the British Government, not simply to compromise a difference, but to re-establish sincere friendship between the two nations.

An interference with our commerce between enemy colonies and their parent country, was among the first violations of our neutral rights, committed by Great Britain in her present war with France. It took place in 1805, did extensive injury and produced universal excitement. In securing us against a repetition of it, you will attend to an article of the convention between Russia and Great Britain, entered into on the —— day of ——, 1801, to the eleventh article of the project of a treaty with Great Britain that was signed by Mr. Monroe and Mr. Pinkney, on the 31st December, 1806, and to the instructions from this Department relating to that article, of the 20th May, 1807. The capture, by Great Britain, of almost all the islands of her enemies, diminishes the importance of any regulation of this subject; but as they may be restored by a treaty of peace, it merits particular attention. It being understood, however, that unless such a trade can be obtained, in a proper extent, and without a relinquishment of the principle contended for by the United States, it will be best that the treaty be silent on the subject.

A disposition has been shown by the British Government to extend this principle so far as to inhibit a trade to neutrals, even between a Power at peace with Great Britain and her enemy; as, for example, between China and

France. The absurdity of this pretension may prevent its being hereafter advanced. It will not, however, be unworthy of your attention.

By an order of the British Government in 1803, British cruisers were authorized to take neutral vessels, laden with innocent articles, on their return from an enemy's port, on the pretence that they had carried to such port contraband of war. This order is directly repugnant to the law of nations, as the circumstance of having contraband articles on board, bound to an enemy's port, is the only legal ground of seizure. The claim was relinquished by the British Government, in the ninth article of the project above recited. You will endeavor in like manner to provide against it. It is the practice of British cruisers to compel the commanders of neutral vessels which they meet at sea, either to board them in person with their papers, or to send their papers on board in their own boat by an officer. The injustice and irregularity of this procedure need not be mentioned. You will endeavor to suppress it in the manner proposed in the third article of a project communicated to Mr. Monroe at London, in his instructions of the 5th of January, 1804. You will endeavor likewise to restrict contraband of war, as much as is in your power, to the list contained in the fourth article of that project.

The pretension of Great Britain to interdict the passage of neutral vessels, with their cargoes, from one port to another port of an enemy, is illegal and very injurious to the commerce of neutral Powers. Still more unjustifiable is the attempt to interdict their passage from a port of one independent nation to that of another, on the pretence that they are both enemies. You will endeavor to obtain, in both instances, a security for the neutral right.

Upon the whole subject I have to observe, that your first duty will be to conclude a peace with Great Britain, and that you are authorized to do it, in case you obtain a satisfactory stipulation against impressments, one which shall secure, under our flag, protection to the crew. The manner in which it may be done has been already stated, with the reciprocal stipulations which you may enter into to secure Great Britain against the injury of which she complains. If this encroachment of Great Britain is not provided against, the United States have appealed to arms in vain. If your efforts to accomplish it should fail, all further negotiations will cease, and you will return home without delay. It is possible that some difficulty may occur in arranging this article respecting its duration. To obviate this, the President is willing that it be limited to the present war in Europe. Resting, as the United States do, on the solid ground of right, it is not presumable that Great Britain, especially after the advantage she may derive from the arrangement proposed, would ever revive her pretension. In forming any stipulation on this subject, you will be careful not to impair by it the right of the United States, or to sanction the principle of the British claim.

It is deemed highly important, also, to obtain a definition of the neutral rights which I have brought to your view, especially of blockade, and in the manner suggested; but it is not to be made an indispensable condition of peace. After the repeal of the orders in council, and other illegal blockades, and the explanations attending it, it is not presumable that Great Britain will revive them. Should she do it, the United States will always have a corresponding resort in their own hands. You will observe, in every case in which you may not be able to obtain a satisfactory definition of the neutral right, that you enter into none respecting it.

Indemnity for losses seems to be a fair claim on the part of the United States, and the British Government, if desirous to strengthen the relations of friendship, may be willing to make it. In bringing the claim into view, you will not let it defeat the primary objects entrusted to you. It is not perceived on what ground Great Britain can resist this claim, at least in the cases in favor of which she stands pledged. Of these a note will be added.

(Confidential paragraph No. 2, omitted.)

You are at liberty to stipulate in the proposed treaty the same advantages, in the ports of the United States, in favor of British ships of war, that may be allowed to those of the most favored nations. This stipulation must be reciprocal.

(Confidential paragraph No. 3, omitted.)

No difficulty can arise from the case of the non-importation act, which will doubtless be terminated in consequence of a pacification. Should any stipulation to that effect be required, or found advantageous, you are at liberty to enter into it. Should peace be made, you may, in fixing the periods at which it shall take effect in different latitudes and distances, take for the basis the provisional articles of the treaty of peace with Great Britain in 1782, with such alterations as may appear to be just and reasonable.

In discharging the duties of the trust committed to you, the President desires that you will manifest the highest degree of respect for the Emperor of Russia, and confidence in the integrity and impartiality of his views. In arranging the question of impressment, and every question of neutral right, you will explain to his Government, without reserve, the claims of the United States, with the ground on which they severally rest. It is not doubted that from a conduct so frank and honorable the most beneficial effect will result.

(Confidential paragraph No. 4, omitted.)

I shall conclude by remarking that a strong hope is entertained that this friendly mediation of the Emperor Alexander will form an epoch in the relations between the United States and Russia, which will be extensively felt, and be long and eminently distinguished by the happy consequences attending it. Since 1780, Russia has been the pivot on which all questions of neutral right have essentially turned. Most of the wars which have disturbed the world in modern times have originated with Great Britain and France. These wars have affected distant countries, especially in their character as neutrals, and very materially the United States, who took no part in promoting them, and had no interest in the great objects of either Power.

(Confidential paragraph No. 5, omitted.)

I have the honor to be, &c.

JAMES MONROE.

Extract of a letter from the Secretary of State to the commissioners of the United States for treating of peace with Great Britain, dated

DEPARTMENT OF STATE, June 23, 1813.

An opportunity offering, I avail myself of it to explain more fully the views of the President on certain subjects already treated on in your instructions, and to communicate his sentiments on some others, not adverted to in them.

The British Government having repealed the orders in council and the blockade of May, 1806, and all other illegal blockades, and having declared that it would institute no blockade which should not be supported by an adequate force, it was thought better to leave that question on that ground, than to continue the war, to obtain a more precise definition of blockade, after the other essential cause of the war, that of impressment, should be removed. But when it is considered that a stipulated definition of blockade will cost Great Britain nothing, after having thus recognized the principle, and that such definition is calculated to give additional confidence in the future security of our commerce, it is expected that she will agree to it. It is true, this cause of war being removed, the United States are under no obligation to continue it for the want of such stipulated definition, more especially as they

retain in their hands the remedy against any new violation of their rights, whenever made. The same remark is applicable to the case of impressment; for, if the British Government had issued orders to its cruisers not to impress seamen from our vessels, and notified the same to this Government, that cause of war would also have been removed. In making peace, it is better for both nations that the controversy respecting blockade should be arranged by treaty, as well as that respecting impressment. The omission to arrange it may be productive of injury. Without a precise definition of blockade, improper pretensions might be set up on each side respecting their rights, which might possibly hazard the future good understanding between the two countries.

Should a restitution of territory be agreed on, it will be proper for you to make a provision for settling the boundary between the United States and Great Britain, on the St. Lawrence and the lakes, from the point at which the line between them strikes the St. Lawrence to the northwest corner of the Lake of the Woods, according to the principles of the treaty of peace. The settlement of this boundary is important, from the circumstance that there are several islands in the river and lakes of some extent and great value, the dominion over which is claimed by both parties. It may be an advisable course to appoint commissioners on each side, with full powers to adjust, on fair and equitable considerations, this boundary. To enable you to adopt a suitable provision for the purpose, it will be proper for you to recur to the instructions heretofore given on the subject, published in the documents in your possession.

Mr. Monroe, Secretary of State, to the Plenipotentiaries of the United States at St. Petersburg.

GENTLEMEN:

DEPARTMENT OF STATE, *January 1, 1814.*

I have not received a letter from you since your appointment to meet ministers from Great Britain at St. Petersburg, to negotiate a treaty of peace under the mediation of the Emperor of Russia. This is doubtless owing to the miscarriage of your despatches.

The message of the President, of which I have the honor to transmit to you a copy, will make you acquainted with the progress of the war with Great Britain to that period, and the other documents which are forwarded will communicate what has since occurred.

Among the advantages attending our success in Upper Canada, was the important one of making capture of General Proctor's baggage, with all the public documents belonging to the British Government in his possession. It is probable that these documents will be laid before Congress, as they are of a nature highly interesting to the public. You will understand their true character by extracts of two letters from Governor Cass, which are enclosed to you. By these, it appears, that the British Government has exercised its influence over the Indian tribes within our limits as well as elsewhere in peace, for hostile purposes towards the United States; and that the Indian barbarities since the war were, in many instances, known to and sanctioned by the British Government.

I have the honor to be, &c.

JAMES MONROE.

Mr. Monroe, Secretary of State, to the Plenipotentiaries of the United States at St. Petersburg.

GENTLEMEN:

DEPARTMENT OF STATE, *January 8, 1814.*

I have the honor to transmit to you a copy of a letter from Lord Castlereagh to this Department, and of a note from Lord Cathcart to the Russian Government, with my reply to the communication.

The arrangement of a negotiation to be held at Gottenburg, directly between the United States and Great Britain, without the aid of the Russian mediation, makes it necessary that new commissions should be issued correspondent with it, and for this purpose that a new nomination should be made to the Senate. The President instructs me to inform you that you will both be included in it; and that he wishes you to repair, immediately on the receipt of this, to the appointed rendezvous. It is probable that the business may not be limited to yourselves, on account of the great interests involved in the result. The commissions and instructions will be duly forwarded to you as soon as the arrangements shall be finally made.

In taking leave of the Russian Government, you will be careful to make known to it the sensibility of the President to the friendly disposition of the Emperor, manifested by the offer of his mediation; the regret felt at its rejection by the British Government; and a desire that, in future, the greatest confidence and cordiality and the best understanding may prevail between the two Governments.

I have the honor to be, &c.

JAMES MONROE.

Mr. Monroe, Secretary of State, to the American Plenipotentiaries at Gottenburg.

GENTLEMEN:

DEPARTMENT OF STATE, *January 28, 1814.*

The British Government having declined the Russian mediation, and proposed to treat directly with the United States, the President has, on due consideration, thought proper to accept the overture. To give effect to this arrangement, it was necessary that a new commission should be formed, and, for that purpose, that a new nomination should be made to the Senate, by whose advice and consent this important trust is committed to you.

You will consider the instructions given to the commission to treat under the mediation of Russia as applicable to the negotiation with which you are now charged, except as they may be modified by this letter.

I shall call your attention to the most important grounds of the controversy with Great Britain only, and make such remarks on each, and on the whole subject, as have occurred since the date of the former instructions, and are deemed applicable to the present juncture, taking into view the negotiation in which you are about to engage.

On impressment, as to the right of the United States to be exempted from it, I have nothing new to add. The sentiments of the President have undergone no change on that important subject. This degrading practice must cease; our flag must protect the crew, or the United States cannot consider themselves an independent nation. To settle this difference amicably, the President is willing, as you are already informed by the former instructions, to remove all pretext for it to the British Government, by excluding all British seamen from our vessels; and even to extend the exclusion to all British subjects, if necessary, excepting only the few already naturalized; and to stipulate, likewise, the surrender of all British seamen deserting in our ports in future from British vessels, public or private. It was presumed by all dispassionate persons, that the late law of Congress relative to seamen would effectually accomplish the object. But the President is willing, as you find, to prevent a possibility of failure, to go further.

Should a treaty be made, it is proper, and would have a conciliatory effect, that all our impressed seamen who may be discharged under it should be paid for their services by the British Government, for the time of their detention, the wages which they might have obtained in the merchant service of their own country.

Blockade is the subject next in point of importance, which you will have to arrange. In the instructions bearing date on the 15th of April, 1813, it was remarked that, as the British Government had revoked its orders in council, and agreed that no blockade could be legal which was not supported by an adequate force, and that such adequate force should be applied to any blockade which it might thereafter institute, this cause of controversy seemed to be removed. Further reflection, however, has added great force to the expediency and importance of a precise definition of the public law on this subject. There is much cause to presume that, if the repeal of the orders in council had taken place in time to have been known here before the declaration of war, and had had the effect of preventing the declaration, not only that no provision would have been obtained against impressment, but that, under the name of blockade, the same extent of coast would have been covered by proclamation as had been covered by the orders in council. The war, which these abuses and impressment contributed so much to produce, might possibly prevent that consequence. But it would be more satisfactory, if not more safe, to guard against it by a formal definition in the treaty. It is true, should the British Government violate again the legitimate principles of blockade, in whatever terms or under whatever pretext it might be done, the United States would have in their hands a correspondent resort; but a principal object in making peace is to prevent, by the justice and reciprocity of the conditions, a recurrence again to war for the same cause. If the British Government sincerely wishes to make a durable peace with the United States, it can have no reasonable objection to a just definition of blockade, especially as the two Governments have agreed, in their correspondence, in all its essential features. The instructions of the 15th of April, 1813, have stated in what manner the President is willing to arrange this difference.

On the other neutral rights enumerated in the former instructions, I shall remark only that the catalogue is limited in a manner to evince a spirit of accommodation; that the arrangement proposed in each instance is just in itself; that it corresponds with the general spirit of treaties between commercial Powers; and that Great Britain has sanctioned it in many treaties, and gone beyond it in some.

(Confidential paragraph No. 1—omitted.)

On the claim to indemnity for spoliations, I have only to refer you to what was said in the former instructions. I have to add, that should a treaty be formed, it is just in itself, and would have a happy effect on the future relations of the two countries, if indemnity should be stipulated on each side for the destruction of all unfortified towns, and other private property, contrary to the laws and usages of war. It is equally proper that the negroes taken from the Southern States should be returned to their owners, or paid for at their full value. It is known that a shameful traffic has been carried on in the West Indies, by the sale of these persons there, by those who professed to be their deliverers. Of this fact, the proof which has reached this Department shall be furnished you. If these slaves are considered as non-combatants, they ought to be restored; if as property, they ought to be paid for. The treaty of peace contains an article which recognises this principle.

In the view which I have taken of the conditions on which you are to insist in the proposed negotiation, you will find, on a comparison of them with those stated in the former instructions, that there is no material difference between them, the two last mentioned claims to indemnity excepted, which have originated since the date of those instructions. The principal object of this review has been to show that the sentiments of the President are the same in every instance, and that the reasons for maintaining them have become more evident and strong since the date of those instructions.

In accepting the overture of the British Government to treat independently of the Russian mediation, the United States have acted on principles which have governed them in every transaction relating to peace since the war. Had the British Government accepted the Russian mediation, the United States would have treated for themselves, independently of any other Power; and had Great Britain met them on just conditions, peace would have been the immediate result. Had she refused to accede to such conditions, and attempted to dictate others, a knowledge of the views of other Powers on those points might have been useful to the United States. In agreeing to treat directly with Great Britain, not only is no concession contemplated on any point in controversy, but the same desire is cherished to preserve a good understanding with Russia and the other Baltic Powers, as if the negotiation had taken place under the mediation of Russia.

(Confidential paragraph No. 2—omitted.)

It is probable that the British Government may have declined the Russian mediation from the apprehension of an understanding between the United States and Russia for very different purposes from those which have been contemplated, in the hope that a much better treaty might be obtained of the United States, in a direct negotiation, than could be obtained under the Russian mediation, and with a view to profit of the concessions which might thus be made by the United States in future negotiations with the Baltic Powers. If this was the object of the British Government, and it is not easy to conceive any other, it clearly proves the advantage to be derived, in the proposed negotiation, from the aid of those Powers, in securing from the British Government such conditions as would be satisfactory to all parties. It would be highly honorable as well as advantageous to the United States, if the negotiation with which you are charged should terminate in such a treaty.

(Confidential paragraph No. 3—omitted.)

I have the honor to be, &c.

JAMES MONROE.

Mr. Monroe, Secretary of State, to the Plenipotentiaries of the United States at Gottenburg.

GENTLEMEN:

DEPARTMENT OF STATE, *January 30, 1814.*

In addition to the claims to indemnity, stated in your preceding instructions, I have to request your attention to the following, to which, it is presumed, there can be no objection.

On the declaration of war by the United States, there happened to be, in the ordinary course of commerce, several American vessels and cargoes in the ports of Great Britain, which were seized and condemned; and, in one instance, an American ship which fled from Algiers, in consequence of the declaration of war by the Dey, to Gibraltar, with the American consul and some public stores on board, shared a like fate.

After the declaration of war, Congress passed an act allowing to British subjects six months from the date of the declaration, to remove their property out of the United States, in consequence of which many vessels were removed, with their cargoes. I add, with confidence, that, on a liberal construction of the spirit of the law, some

vessels were permitted to depart, even after the expiration of the term specified in the law. I will endeavor to put in your possession a list of these cases. A general reciprocal provision, however, will be best adapted to the object in view.

I have the honor to be, &c.

JAMES MONROE.

From the Secretary of State to the Commissioners of the United States for treating with Great Britain.

GENTLEMEN:

DEPARTMENT OF STATE, February 10, 1814.

Should you conclude a treaty, and not obtain a satisfactory arrangement of neutral rights, it will be proper for you to provide that the United States shall have advantage of any stipulations more favorable to neutral nations, that may be established between Great Britain and other Powers. A precedent for such a provision is found in a declaratory article between Great Britain and Russia, bearing date on the 8th October, 1801, explanatory of the second section third article of a convention concluded between them on the 5th of June of the same year.

I have the honor to be, &c.

JAMES MONROE.

Extract:—The Secretary of State to the Commissioners of the United States for treating with Great Britain.

DEPARTMENT OF STATE, February 14, 1814.

I received last night your letter of the 15th October, with extracts of letters from Mr. Adams and Mr. Harris of the 22d and 23d of November.

It appears that you had no knowledge, at the date even of the last letter, of the answer of the British Government to the offer which had been made to it a second time of the Russian mediation. Hence it is to be inferred that the proposition made to this Government, by the Bramble, was made not only without your knowledge, but without the sanction, if not without the knowledge, of the Emperor. Intelligence from other sources strengthens this inference. If this view of the conduct of the British Government is well founded, the motive for it cannot be mistaken. It may fairly be presumed that it was to prevent a good understanding and concert between the United States and Russia and Sweden, on the subject of neutral rights, in the hope that by drawing the negotiation to England, and depriving you of an opportunity of free communication with those Powers, a treaty less favorable to the United States might be obtained, which might afterwards be used with advantage by Great Britain in her negotiations with those Powers.

By an article in the former instructions, you were authorized, in making a treaty to prevent impressment from our vessels, to stipulate, provided a certain specified term could not be agreed on, that it might continue in force for the present war in Europe only. At that time it seemed probable that the war might last many years. Recent appearances, however, indicate the contrary. Should peace be made in Europe, as the practical evil of which we complain, in regard to impressment, would cease, it is presumed that the British Government would have less objection to a stipulation to forbear that practice for a specified term, than it would have should the war continue. In concluding a peace with Great Britain, even in case of a previous general peace in Europe, it is important to the United States to obtain such a stipulation.

Mr. Monroe, Secretary of State, to the Plenipotentiaries of the United States at Gottenburg.

GENTLEMEN:

DEPARTMENT OF STATE, March 21, 1814.

By the cartel Chauncey you will receive this, with duplicates of the commission to treat with Great Britain, and of the instructions and other documents that were forwarded by the John Adams. This vessel is sent to guard against any accident which might attend the other.

(Confidential paragraph omitted.)

If a satisfactory arrangement can be concluded with Great Britain, the sooner it is accomplished the happier for both countries. If such an arrangement cannot be obtained, it is important to the United States to be acquainted with it without delay. I hope, therefore, to receive from you an account of the state of the negotiation and its prospects, as soon as you may be able to communicate any thing of an interesting nature respecting them.

I have the honor to be, &c.

JAMES MONROE.

Mr. Monroe to the Envoys Extraordinary and Ministers Plenipotentiary of the United States.

GENTLEMEN:

DEPARTMENT OF STATE, June 25, 1814.

No communication has been received from the joint mission which was appointed to meet the commissioners of the British Government at Gottenburg. A letter from Mr. Bayard at Amsterdam, of the 18th of March, was the last from either of our commissioners. It was inferred from that letter, and other communications, that Mr. Bayard, Mr. Gallatin, and Mr. Adams, would be in Gottenburg; and it has been understood from other sources that Mr. Clay and Mr. Russell had arrived there about the 15th of April. It is, therefore, expected that a meeting will have taken place in May, and that we shall soon be made acquainted with your sentiments of the probable result of the negotiation.

It is impossible, with the lights which have reached us, to ascertain the present disposition of the British Government towards an accommodation with the United States. We think it probable that the late events in France may have had a tendency to increase its pretensions.

At war with Great Britain, and injured by France, the United States have sustained the attitude founded on those relations. No reliance was placed on the good offices of France in bringing the war with Great Britain to a satisfactory conclusion. Looking steadily to an honorable peace, and the ultimate attainment of justice from both Powers, the President has endeavored, by a consistent and honorable policy, to take advantage of every circumstance that might promote that result. He, nevertheless, knew that France held a place in the political system of Europe and of the world, which, as a check on England, could not fail to be useful to us. What effect the late events may have had, in these respects, is the important circumstance of which you are, doubtless, better informed than we can be.

The President accepted the mediation of Russia from a respect for the character of the Emperor, and a belief that our cause, in all the points in controversy, would gain strength by being made known to him. On the same principle he preferred (in accepting the British overture to treat independently of the Russian mediation) to open the negotiation on the continent rather than at London.

It was inferred from the general policy of Russia, and the friendly sentiments and interposition of the Emperor, that a respect for both would have much influence with the British cabinet in promoting a pacific policy towards us. The manner, however, in which it is understood that a general pacification is taking place; the influence Great Britain may have in modifying the arrangements involved in it; the resources she may be able to employ exclusively against the United States; and the uncertainty of the precise course which Russia may pursue in relation to the war between the United States and Great Britain, naturally claim attention, and raise the important question in reference to the subject of impressment, on which it is presumed your negotiations will essentially turn, whether your powers ought not to be enlarged so as to enable you to give to those circumstances all the weight to which they may be entitled. On full consideration it has been decided, that, in case no stipulation can be obtained from the British Government at this moment, when its pretensions may have been much heightened by recent events, and the state of Europe be most favorable to them, either relinquishing the claim to impress from American vessels, or discontinuing the practice, even in consideration of the proposed exclusion from them of British seamen, you may concur in an article stipulating that the subject of impressment, together with that of commerce between the two countries, be referred to a separate negotiation, to be undertaken without delay, at such place as you may be able to agree on, preferring this city if to be obtained. I annex at the close of this letter a project of an article expressing more distinctly the idea which it is intended to communicate, not meaning thereby to restrain you in any respect as to the form. Commerce and seamen, the objects of impressment, may, with great propriety, be arranged in the same instrument. By stipulating that commissioners shall forthwith be appointed for the purpose, and that all rights on this subject shall, in the mean time, be reserved, the faith of the British Government will be pledged to a fair experiment in an amicable mode, and the honor and rights of the United States secured. The United States having resisted by war the practice of impressment, and continued the war until that practice had ceased by a peace in Europe, their object has been essentially obtained for the present. It may reasonably be expected that the arrangement contemplated and provided for, will take effect before a new war in Europe shall furnish an occasion for reviving the practice. Should this arrangement, however, fail, and the practice be again revived, the United States will be again at liberty to repel it by war, and that they will do so cannot be doubted; for after the proof which they have already given of a firm resistance in that mode, persevered in until the practice had ceased, under circumstances the most unfavorable, it cannot be presumed that the practice will ever be tolerated again. Certain it is, that every day will render it more ineligible in Great Britain to make the attempt.

In contemplating the appointment of commissioners, to be made after the ratification of the present treaty, to negotiate and conclude a treaty to regulate commerce, and provide against impressment, it is meant only to show the extent to which you may go, in a spirit of accommodation, if necessary. Should the British Government be willing to take the subject up immediately with you, it would be much preferred, in which case the proposed article would, of course, be adapted to the purpose.

Information has been received, from a quarter deserving attention, that the late events in France have produced such an effect on the British Government as to make it probable that a demand will be made at Gottenburg to surrender our right to the fisheries; to abandon all trade beyond the cape of Good Hope; and to cede Louisiana to Spain. We cannot believe that such a demand will be made. Should it be, you will of course treat it as it deserves. These rights must not be brought into discussion. If insisted on, your negotiations will cease.

I have the honor to be, with great respect, gentlemen, your most obedient servant,

JAS. MONROE.

Whereas, by the peace in Europe, the essential causes of the war between the United States and Great Britain, and particularly the practice of impressment, have ceased, and a sincere desire exists to arrange, in a manner satisfactory to both parties, all questions concerning seamen, and it is also their desire and intention to arrange, in a like satisfactory manner, the commerce between the two countries, it is therefore agreed that commissioners shall forthwith be appointed on each side, to meet at _____, with full power to negotiate and conclude a treaty, as soon as it may be practicable, for the arrangement of those important interests. It is, nevertheless, understood that, until such treaty be formed, each party shall retain all its rights, and that all American citizens who have been impressed into the British service shall be forthwith discharged.

Extract of a letter from Mr. Monroe, Secretary of State, to the joint Commissioners of the United States for treating of peace with Great Britain, dated

DEPARTMENT OF STATE, June 27, 1814.

The omission to send ministers to Gottenburg, without a previous and official notification of the appointment and arrival there of those of the United States, a formality, which, if due from either party, might have been expected from that making the overture, rather than that accepting it, is a proof of a dilatory policy, and would, in other respects, justify animadversions, if there was less disposition here to overlook circumstances of form, when interfering with more substantial objects.

By my letter of the 25th instant, which goes with this, you will find that the subject had already been acted on under similar impressions with those which Mr. Bayard and Mr. Gallatin's letter could not fail to produce. The view, however, presented by them is much stronger, and entitled to much greater attention. The President has taken the subject into consideration again, and given to their suggestions all the weight to which they are justly entitled.

On mature consideration, it has been decided, that, under all the circumstances alluded to, incident to a prosecution of the war, you may omit any stipulation on the subject of impressment, if found indispensably necessary to terminate it. You will, of course, not recur to this expedient until all your efforts to adjust the controversy in a more satisfactory manner have failed. As it is not the intention of the United States, in suffering the treaty to be silent on the subject of impressment, to admit the British claim thereon, or to relinquish that of the United States, it is highly important that any such inference be entirely precluded, by a declaration or protest, in some form or other, that the omission is not to have any such effect or tendency. Any modification of the practice, to prevent abuses, being an acknowledgment of the right in Great Britain, is utterly inadmissible.

Although Gottenburg was contemplated at the time your commission was made out, as the seat of the negotiation, yet your commission itself does not confine you to it. You are at liberty, therefore, to transfer the negotia-

tion to any other place made more eligible by a change of circumstances. Amsterdam and the Hague readily present themselves as preferable to any place in England. If, however, you should be of opinion that, under all circumstances, the negotiation in that country will be attended with advantages outweighing the objections to it, you are at liberty to transfer it there.

Extract of a letter from the Secretary of State to the Commissioners of the United States for treating of peace with Great Britain, dated

DEPARTMENT OF STATE, August 11, 1814.

I had the honor to receive, on the 3d of this month, a letter from Mr. Bayard and Mr. Gallatin, of the 23d of May, and one from Mr. Gallatin of the 2d of June.

The President approves the arrangement communicated by those gentlemen for transferring the negotiation with the British Government from Gottenburg to Ghent. It is presumed, from Mr. Gallatin's letter, that the meeting took place towards the latter end of June, and that we shall soon hear from you what will be its probable result.

By my letters of the 25th and 27th of June, of which another copy is now forwarded, the sentiments of the President, as to the conditions on which it will be proper for you to conclude a treaty of peace, are made known to you. It is presumed that either in the mode suggested in my letter of the 25th June, which is much preferred, or by permitting the treaty to be silent on the subject, as is authorized in the letter of the 27th of June, the question of impressment may be so disposed of as to form no obstacle to a pacification. This Government can go no further, because it will make no sacrifice of the rights or honor of the nation.

If Great Britain does not terminate the war on the conditions which you are authorized to adopt, she has other objects in it than those for which she has hitherto professed to contend. That such are entertained, there is much reason to presume. These, whatever they may be, must and will be resisted by the United States. The conflict may be severe, but it will be borne with firmness, and, as we confidently believe, be attended with success.

From the Commissioners Extraordinary and Plenipotentiary of the United States for treating of peace with Great Britain, to the Secretary of State, dated

SIR:

GHENT, August 12, 1814.

We have the honor to inform you that the British commissioners, Lord Gambier, Henry Goulburn, Esq., and William Adams, Esq. arrived in this city on Saturday evening, the sixth instant. The day after their arrival, Mr. Baker, their secretary, called upon us to give us notice of the fact, and to propose a meeting at a certain hour on the ensuing day. The place having been agreed upon, we accordingly met at one o'clock on Monday, the 8th instant.

We enclose, herewith, a copy of the full powers exhibited by the British commissioners at that conference, which was opened, on their part, by an expression of the sincere and earnest desire of their Government that the negotiation might result in a solid peace, honorable to both parties. They, at the same time, declared that no events which had occurred since the first proposal for this negotiation had altered the pacific disposition of their Government, or varied its views as to the terms upon which it was willing to conclude the peace.

We answered, that we heard these declarations with great satisfaction, and that our Government had acceded to the proposal of negotiation, with the most sincere desire to put an end to the differences which divided the two countries, and to lay, upon just and liberal grounds, the foundation of a peace which, securing the rights and interests of both nations, should unite them by lasting bonds of amity.

The British commissioners then stated the following subjects as those upon which it appeared to them that the discussions would be likely to turn, and on which they were instructed:

1st. The forcible seizure of mariners on board of merchant vessels, and, in connexion with it, the claim of His Britannic Majesty to the allegiance of all the native subjects of Great Britain.

We understood them to intimate that the British Government did not propose this point as one which they were particularly desirous of discussing; but that, as if it had occupied so prominent a place in the dispute between the two countries, it necessarily attracted notice, and was considered as a subject which would come under discussion.

2d. The Indian allies of Great Britain to be included in the pacification, and a definite boundary to be settled for their territory.

The British commissioners stated that an arrangement upon this point was a *sine qua non*; that they were not authorized to conclude a treaty of peace which did not embrace the Indians as allies of His Britannic Majesty; and that the establishment of a definite boundary of the Indian territory was necessary to secure a permanent peace, not only with the Indians, but also between the United States and Great Britain.

3d. A revision of the boundary line between the United States and the adjacent British colonies.

With respect to this point, they expressly disclaimed any intention, on the part of their Government, to acquire an increase of territory, and represented the proposed revision as intended merely for the purpose of preventing uncertainty and dispute.

After having stated these three points as subjects of discussion, the British commissioners added, that before they desired any answer from us, they felt it incumbent upon them to declare, that the British Government did not deny the right of the Americans to the fisheries generally, or in the open seas; but that the privileges formerly granted by treaty to the United States, of fishing within the limits of the British jurisdiction, and of landing and drying fish on the shores of the British territories, would not be renewed without an equivalent.

The extent of what was considered by them as waters peculiarly British, was not stated. From the manner in which they brought this subject into view, they seemed to wish us to understand that they were not anxious that it should be discussed, and that they only intended to give us notice that these privileges had ceased to exist, and would not be again granted without an equivalent, nor unless we thought proper to provide expressly in the treaty of peace for their renewal.

The British commissioners having stated that these were all the subjects which they intended to bring forward, or to suggest, requested to be informed whether we were instructed to enter into negotiation on these several points, and whether there was any amongst these which we thought it unnecessary to bring into the negotiation? and they desired us to state, on our part, such other subjects as we might intend to propose for discussion in the course of the negotiation. The meeting was then adjourned to the next day, in order to afford us the opportunity of a consultation among ourselves, before we gave an answer.

In the course of the evening of the same day, we received your letters of the 25th and 27th of June.

There could be no hesitation on our part in informing the British commissioners that we were not instructed on the subjects of Indian pacification or boundary, and of fisheries; nor did it seem probable, although neither of these points had been stated with sufficient precision in the first verbal conference, that they could be admitted in any shape. We did not wish, however, to prejudge the result, or, by any hasty proceeding, abruptly to break off the negotiation. It was not impossible that, on the subject of the Indians, the British Government had received erroneous impressions from the Indian traders in Canada, which our representations might remove. And it appeared, at all events, important to ascertain distinctly the precise intentions of Great Britain on both points. We, therefore, thought it advisable to invite the British commissioners to a general conversation on all the points; stating to them, at the same time, our want of instructions on two of them, and holding out no expectation of the probability of our agreeing to any article respecting these.

At our meeting on the ensuing day, we informed the British commissioners that, upon the first and third points proposed by them, we were provided with instructions; and we presented as further subjects considered by our Government as suitable for discussion—

1st. A definition of blockade, and, as far as might be mutually agreed, of other neutral and belligerent rights.

2d. Claims of indemnity in certain cases of capture and seizure.

We then stated that the two subjects, first, of Indian pacification and boundary; second, of fisheries, were not embraced by our instructions. We observed, that as these points had not been heretofore the grounds of any controversy between the Government of Great Britain and that of the United States, and had not been alluded to by Lord Castlereagh in his letter proposing the negotiation, it could not be expected that they should have been anticipated and made the subject of instructions by our Government. That it was natural to be supposed that our instructions were confined to those subjects upon which differences between the two countries were known to exist; and that the proposition to define, in the treaty between the United States and Great Britain the boundary of the Indian possessions within our own territories, was new and without example. No such provision had been inserted in the treaty of peace in 1783, nor in any other treaty between the two countries. No such provision had, to our knowledge, ever been inserted in any treaty made by Great Britain, or any other European Power, in relation to the same description of people, existing under like circumstances. We would say, however, that it could not be doubted that peace with the Indians would certainly follow a peace with Great Britain; that we had information that commissioners had already been appointed to treat with them; that a treaty to that effect might, perhaps, have been already concluded; and that the United States, having no interest nor any motive to continue a separate war against the Indians, there could never be a moment when our Government would not be disposed to make peace with them.

We then expressed our wish to receive from the British commissioners a statement of the views and objects of Great Britain upon all the points, and our willingness to discuss them all, in order that, even if no arrangement could be agreed on upon the points not included in our instructions, the Government of the United States might be possessed of the entire and precise intentions of that of Great Britain respecting these points; and that the British Government might be fully informed of the objections, on the part of the United States, to any such arrangement.

In answer to our remark, that these points had not been alluded to by Lord Castlereagh in his letter proposing the negotiation, it was said that it could not be expected that, in a letter merely intended to invite a negotiation, he should enumerate the topics of discussion, or state the pretensions of his Government, since these would depend upon ulterior events, and might arise out of a subsequent state of things.

In reply to our observation, that the proposed stipulation of an Indian boundary was without example in the practice of European nations, it was asserted that the Indians must in some sort be considered as an independent people, since treaties were made with them both by Great Britain and by the United States; upon which we pointed out the obvious and important difference between the treaties we might make with Indians living in our territory and such a treaty as was proposed to be made respecting them with a foreign Power, who had solemnly acknowledged the territory on which they resided to be part of the United States.

We were then asked by the British commissioners, whether, in case they should enter further upon the discussion of the several points which had been stated, we could expect that it would terminate by some provisional arrangement on the points on which we had no instructions, particularly on that respecting the Indians, which arrangement would be subject to the ratification of our Government.

We answered, that before the subjects were distinctly understood, and the objects in view more precisely disclosed, we could not decide whether it would be possible to form any satisfactory article on the subject, nor pledge ourselves as to the exercise of a discretion under our powers, even with respect to a provisional agreement. We added, that, as we should deeply deplore a rupture of the negotiation on any point, it was our anxious desire to employ all possible means to avert an event so serious in its consequences; and that we had not been without hopes that a discussion might correct the effect of any erroneous information which the British Government might have received on the subject which they had proposed as a preliminary basis.

We took this opportunity to remark, that no nation observed a policy more liberal and humane towards the Indians than that pursued by the United States; that our object had been, by all practicable means, to introduce civilization amongst them; that their possessions were secured to them by well defined boundaries; that their persons, lands, and other property, were now more effectually protected against violence or frauds, from any quarter, than they had been under any former Government; that even our citizens were not allowed to purchase their lands; that when they gave up their title to any portion of their country to the United States, it was by voluntary treaty with our Government, who gave them a satisfactory equivalent; and that through these means the United States had succeeded in preserving, since the treaty of Greenville of 1795, an uninterrupted peace of sixteen years with all the Indian tribes—a period of tranquillity much longer than they were known to have enjoyed heretofore.

It was then expressly stated on our part, that the proposition respecting the Indians was not distinctly understood. We asked whether the pacification and the settlement of a boundary for them were both made a *sine qua non*? which was answered in the affirmative. The question was then asked the British commissioners, whether the proposed Indian boundary was intended to preclude the United States from the right of purchasing by treaty from the Indians, without the consent of Great Britain, lands lying beyond that boundary, and as a restriction upon the Indians from selling, by amicable treaties, lands to the United States, as had been hitherto practised?

To this question it was first answered, by one of the commissioners, that the Indians would not be restricted from selling their lands, but that the United States would be restricted from purchasing them; and, on reflection, another of the commissioners stated that it was intended that the Indian territories should be a barrier between the British dominions and those of the United States; that both Great Britain and the United States should be restricted from purchasing their lands; but that the Indians might sell them to a third party.

The proposition respecting Indian boundaries, thus explained, and connected with the right of sovereignty ascribed to the Indians over the country, amounted to nothing less than a demand of the absolute cession of the rights both of sovereignty and of soil. We cannot abstain from remarking to you, that the subject of Indian

boundary was indistinctly stated when first proposed, and that the explanations were at first obscure, and always given with reluctance; and it was declared, from the first moment, to be a *sine qua non*, rendering any discussion unprofitable until it was admitted as a basis. Knowing that we had no power to cede to the Indians any part of our territory, we thought it unnecessary to ask, what probably would not have been answered till the principle was admitted, where the line of demarcation of the Indian country was proposed to be established.

The British commissioners, after having repeated that their instructions on the subject of the Indians were peremptory, stated that, unless we could give some assurance that our powers would allow us to make at least a provisional arrangement on the subject, any further discussion would be fruitless; and that they must consult their own Government on this state of things. They proposed, accordingly, a suspension of the conferences until they should have received an answer; it being understood that each party might call a meeting whenever they had any propositions to submit. They despatched a special messenger the same evening, and we are now waiting for the result.

Before the proposed adjournment took place, it was agreed that there should be a protocol of the conferences; that a statement should, for that purpose, be drawn up by each party; and that we should meet the next day to compare the statements. We accordingly met again on Wednesday, the 10th instant, and ultimately agreed on what should constitute the protocol of the conferences. A copy of this instrument we have the honor to transmit with this despatch; and we also enclose a copy of the statement originally drawn up on our part, for the purpose of making known to you the passages to which the British commissioners objected.

Their objection to some of the passages was, that they appeared to be argumentative; and that the object of the protocol was to contain a mere statement of facts. They, however, objected to the insertion of the answer which they had given to our question respecting the effect of the proposed Indian boundary; but they agreed to an alteration of their original proposition on that subject, which renders it much more explicit than as stated either in the first conference or in their proposed draught of the protocol. They also objected to the insertion of the fact, that they had proposed to adjourn the conferences until they could obtain further instructions from their Government. The return of their messenger may perhaps disclose the motive of their reluctance in that respect.

We have the honor to be, very respectfully, your obedient servants,

JOHN QUINCY ADAMS,
J. A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL.

Draught of original Protocol, made by the American Ministers, of the two first conferences held with the British Commissioners.

At a meeting between the commissioners of His Britannic Majesty and those of the United States of America, for negotiating and concluding a peace, held at Ghent, 8th August, 1814, the following points were presented, by the commissioners on the part of Great Britain, as subjects for discussion:

1. The forcible seizure of mariners on board of merchant vessels, and the claim of allegiance of His Britannic Majesty upon all the native born subjects of Great Britain.
2. The Indian allies of Great Britain to be included in the pacification, and a boundary to be settled between the dominions of the Indians and those of the United States. Both parts of this point are considered by the British Government as a *sine qua non* to the conclusion of the treaty.
3. The revision of the boundary line between the territories of the United States and those of Great Britain, adjoining them, in North America.
4. The fisheries, respecting which the British Government will not allow the people of the United States the privilege of landing and drying fish, within the territorial jurisdiction of Great Britain, without an equivalent.

The American commissioners were requested to say whether their instructions from their Government authorized them to treat upon these several points; and to state, on their part, such other points as they might be further instructed to propose for discussion.

The meeting was adjourned to Tuesday, the 9th August, on which day the commissioners met again.

The American commissioners, at this meeting, stated that upon the first and third points proposed by the British commissioners, they were provided with instructions from their Government; and that on the second and fourth of these points, there not having existed heretofore any differences between the two Governments, they had not been anticipated by the Government of the United States, and were, therefore, not provided for in their instructions. That in relation to an Indian pacification, they knew that the Government of the United States had appointed commissioners to treat of peace with the Indians; and that it was not improbable that peace had been made with them.

The American commissioners presented, as further points [subjects] considered by the Government of the United States as suitable for discussion—

1. A definition of blockade, and, as far as may be agreed, of other neutral and belligerent rights.
2. Certain claims of indemnity to individuals for captures and seizures preceding and subsequent to the war.
3. They further stated that there were various other points, to which their instructions extended, which might, with propriety, be objects of discussion, either in the negotiation of the peace, or in that of a treaty of commerce, which, in the case of a propitious termination of the present conferences, they were likewise authorized to conclude. That, for the purpose of facilitating the first and most essential object of peace, they had discarded every subject which was not considered as peculiarly connected with that, and presented only those points which appeared to be immediately relevant to this negotiation.

The American commissioners expressed their wish to receive from the British commissioners a statement of the views and objects of Great Britain upon all the points, and their willingness to discuss them all, in order that, if no arrangement could be agreed to upon the points not in their instructions, which would come within the scope of the powers committed to their discretion, the Government of the United States might be put in possession of the entire and precise intentions of that of Great Britain with regard to such points; and that the British Government might be fully informed of the objections, on the part of the United States, to any such arrangement.

They, the American commissioners, were asked whether, if those of Great Britain should enter further upon the discussion, particularly respecting the Indian boundary, the American commissioners could expect that it would terminate by some provisional arrangement, which they could conclude, subject to the ratification of their Government?

They answered that, as any arrangement to which they could agree upon the subject must be without specific authority from their Government, it was not possible for them, previous to discussion, to decide whether an article

on the subject could be formed, which would be mutually satisfactory, and to which they should think themselves, under their discretionary powers, justified in acceding.

The British commissioners declined entering upon the discussion, unless the American commissioners would say that they considered it within their discretion to make a provisional arrangement on the subject, conformable to the view of it prescribed by the British Government, and proposed to adjourn the conferences for the purpose of consulting their own Government on this state of things.

The British commissioners were asked whether it was understood, as an effect of the proposed boundary for the Indians, that the United States would be precluded from the right of purchasing territory from the Indians within that boundary, by amicable treaty with the Indians themselves, without the consent of Great Britain? And whether it was understood to operate as a restriction upon the Indians from selling, by such amicable treaties, lands to the United States, as has been hitherto practised?

They answered, that it was understood that the Indian territories should be a barrier between the British possessions and those of the United States; that the United States and Great Britain should both be restricted from such purchases of lands; but that the Indians would not be restricted from selling them to any third party.

The meeting was then adjourned to Wednesday, 10th August.

C. HUGHES, JUN.,
Secretary to the mission extraordinary.

Protocol of conference, August 8, 1814.

The British and American commissioners having met, their full powers were respectively produced, which were found satisfactory, and copies thereof were exchanged.

The British commissioners stated the following subjects, as those upon which it appeared to them that the discussions between themselves and the American commissioners would be likely to turn:

1st. The forcible seizure of mariners from on board merchant ships on the high seas, and, in connexion with it, the right of the King of Great Britain to the allegiance of all his native subjects.

2d. That the peace be extended to the Indian allies of Great Britain, and that the boundary of their territory be definitively marked out as a permanent barrier between the dominions of Great Britain and the United States. An arrangement on this subject to be a *sine qua non* of a treaty of peace.

3d. A revision of the boundary line between the British and American territories, with the view to prevent future uncertainty and dispute.

The British commissioners requested information whether the American commissioners were instructed to enter into negotiation on the above points. But before they desired any answer, they felt it right to communicate the intentions of their Government as to the North American fisheries, viz: that the British Government did not intend to grant to the United States gratuitously the privileges formerly granted by treaty to them of fishing within the limits of the British sovereignty, and of using the shores of the British territories for purposes connected with the fisheries.

AUGUST 9.

The meeting being adjourned to the 9th August, the commissioners met again on that day.

The American commissioners at this meeting stated that, upon the first and third points proposed by the British commissioners, they were provided with instructions from their Government; and that the second and fourth of these points were not provided for in their instructions. That, in relation to an Indian pacification, they knew that the Government of the United States had appointed commissioners to treat of peace with the Indians; and that it was not improbable peace had been made with them.

The American commissioners presented, as further subjects considered by the Government of the United States as suitable for discussion—

1st. A definition of blockade, and as far as may be agreed, of other neutral and belligerent rights.

2d. Certain claims of indemnity to individuals for captures and seizures preceding and subsequent to the war.

3d. They further stated that there were various other points to which their instructions extended, which might with propriety be objects of discussion, either in the negotiation of the peace, or in that of a treaty of commerce, which, in the case of a propitious termination of the present conferences, they were likewise authorized to conclude. That, for the purpose of facilitating the first and most essential object of peace, they had discarded every subject which was not considered as peculiarly connected with that, and presented only those points which appeared to be immediately relevant to this negotiation.

The American commissioners expressed their wish to receive from the British commissioners a statement of the views and objects of Great Britain upon all the points, and their willingness to discuss them all.

They, the American commissioners, were asked whether if those of Great Britain should enter further upon this discussion, particularly respecting the Indian boundary, the American commissioners could expect that it would terminate by some provisional arrangement which they could conclude, subject to the ratification of their Government.

They answered that, as any arrangement to which they could agree upon the subject must be without specific authority from their Government, it was not possible for them, previous to the discussion, to decide whether any article on the subject could be formed which would be mutually satisfactory, and to which they should think themselves, under their discretionary powers, justified in acceding.

The meeting was adjourned.

True copy:

CHRISTOPHER HUGHES, JUN.,
Secretary of Legation.

Messrs. Adams, Bayard, Clay, Russell, and Gallatin, to Mr. Monroe, Secretary of State.

SIR:

Ghent, August 19, 1814.

Mr. Baker, secretary to the British mission, called upon us to-day at one o'clock, and invited us to a conference to be held at three. This was agreed to, and the British commissioners opened it by saying that they had received their further instructions this morning, and had not lost a moment in requesting a meeting for the purpose of communicating the decision of their Government. It is proper to notice that Lord Castlereagh had arrived last night in this city, whence, it is said, he will depart to-morrow, on his way to Brussels and Vienna.

The British commissioners stated that their Government had felt some surprise that we were not instructed respecting the Indians, as it could not have been expected that they would leave their allies in their comparatively

weak situation, exposed to our resentment. Great Britain might justly have supposed that the American Government would have furnished us with instructions authorizing us to agree to a positive article on the subject; but the least she could demand was, that we should sign a provisional article, admitting the principle, subject to the ratification of our Government, so that if it should be ratified the treaty should take effect; and if not, that it should be null and void. On our assent or refusal to admit such an article would depend the continuance or suspension of the negotiation.

As we had represented that the proposition made by them on that subject was not sufficiently explicit, their Government had directed them to give us every necessary explanation, and to state distinctly the basis which must be considered as an indispensable preliminary.

It was a *sine qua non* that the Indians should be included in the pacification, and, as incident thereto, that the boundaries of their territory should be permanently established. Peace with the Indians was a subject so simple as to require no comment. With respect to the boundaries which were to divide their territory from that of the United States, the object of the British Government was, that the Indians should remain as a permanent barrier between our western settlements and the adjacent British provinces, to prevent them from being continuous to each other; and that neither the United States nor Great Britain should ever hereafter have the right to purchase or acquire any part of the territory thus recognised as belonging to the Indians. With regard to the extent of the Indian territory and the boundary line, the British Government would propose the lines of the Greenville treaty as a proper basis, subject, however, to discussion and modifications.

We stated that the Indian territory, according to these lines, would comprehend a great number of American citizens; not less, perhaps, than a hundred thousand; and asked what was the intention of the British Government respecting them, and under whose Government they would fall? It was answered that those settlements would be taken into consideration when the line became a subject of discussion; but that such of the inhabitants as would ultimately be included within the Indian territory must make their own arrangements, and provide for themselves.

The British commissioners here said that, considering the importance of the question we had to decide, (that of agreeing to a provisional article) their Government had thought it right that we should also be fully informed of its views with respect to the proposed revision of the boundary line between the dominions of Great Britain and the United States.

1st. Experience had proved that the joint possession of the lakes, and a right common to both nations to keep up a naval force on them, necessarily produced collisions, and rendered peace insecure. As Great Britain could not be supposed to expect to make conquests in that quarter, and as that province was essentially weaker than the United States, and exposed to invasion, it was necessary that Great Britain should require that the United States should hereafter keep no armed naval force on the western lakes from Lake Ontario to Lake Superior, both inclusive; that they should not erect any fortified or military post or establishment on the shores of those lakes; and that they should not maintain those which were already existing. This must, they said, be considered as a moderate demand, since Great Britain, if she had not disclaimed the intention of any increase of territory might, with propriety, have asked a cession of the adjacent American shores. The commercial navigation and intercourse would be left on the same footing as heretofore. It was expressly stated (in answer to a question we asked) that Great Britain was to retain the right of having an armed naval force on those lakes, and of holding military posts and establishments on their shores.

2d. The boundary line west of Lake Superior, and thence to the Mississippi, to be revised; and the treaty-right of Great Britain to the navigation of the Mississippi to be continued. When asked, whether they did not mean the line from the Lake of the Woods to the Mississippi? the British commissioners repeated, that they meant the line from Lake Superior to that river.

3d. A direct communication from Halifax, and the province of New Brunswick, to Quebec to be secured to Great Britain. In answer to our question, in what manner this was to be effected, we were told that it must be done by a cession to Great Britain of that portion of the district of Maine, in the State of Massachusetts, which intervenes between New Brunswick and Quebec, and prevents that direct communication.

Reverting to the proposed provisional article respecting the Indian pacification and boundary, the British commissioners concluded by stating to us, that if the conferences should be suspended by our refusal to agree to such an article, without having obtained further instructions from our Government, Great Britain would not consider herself bound to abide by the terms which she now offered, but would be at liberty to vary and regulate her demands according to subsequent events, and in such manner as the state of the war, at the time of renewing the negotiations, might warrant.

We asked whether the statement made, respecting the proposed revision of the boundary line between the United States and the dominions of Great Britain, embraced all the objects she meant to bring forward for discussion, and what were particularly her views with respect to Moose island, and such other islands in the bay of Passamaquoddy as had been in our possession till the present war, but had been lately captured? We were answered, that those islands, belonging of right to Great Britain, (as much so, one of the commissioners said, as Northamptonshire,) they would certainly be kept by her, and were not even supposed to be an object of discussion.

From the forcible manner in which the demand, that the United States should keep no naval armed force on the lakes, nor any military posts on their shores, had been brought forward, we were induced to inquire, whether this condition was also meant as a *sine qua non*? To this the British commissioners declined giving a positive answer. They said that they had been sufficiently explicit; that they had given us one *sine qua non*, and, when we had disposed of that, it would be time enough to give us an answer as to another.

We then stated that, considering the nature and importance of the communication made this day, we wished the British commissioners to reduce their proposals to writing before we gave them an answer. This they agreed to, and promised to send us an official note without delay.

We need hardly say, that the demands of Great Britain will receive from us an unanimous and decided negative. We do not deem it necessary to detain the John Adams for the purpose of transmitting to you the official notes which may pass on the subject and close the negotiation. And we have felt it our duty immediately to apprise you, by this hasty but correct sketch of our last conference, that there is not, at present, any hope of peace.

We have the honor to be, sir, with perfect respect, your obedient servants,

JOHN QUINCY ADAMS,
J. A. BAYARD,
H. CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

P. S. August 20, 1814. We have this moment received the note of the British commissioners, which had been promised to us, bearing date yesterday, a copy of which we have the honor to enclose.

Note of the British Commissioners.

GHENT, August 19, 1814.

The undersigned plenipotentiaries of His Britannic Majesty do themselves the honor of acquainting the plenipotentiaries of the United States, that they have communicated to their court the result of the conference which they had the honor of holding with them upon the 9th instant, in which they stated that they were unprovided with any specific instructions as to comprehending the Indian nations in a treaty of peace to be made with Great Britain, and as to defining a boundary to the Indian territory.

The undersigned are instructed to acquaint the plenipotentiaries of the United States, that His Majesty's Government having, at the outset of the negotiation, with a view to the speedy restoration of peace, reduced, as far as possible, the number of points to be discussed, and having professed themselves willing to forego, on some important topics, any stipulation to the advantage of Great Britain, cannot but feel some surprise that the Government of the United States should not have furnished their plenipotentiaries with instructions upon those points which could hardly fail to come under discussion.

Under the inability of the American plenipotentiaries to conclude any article upon the subject of Indian pacification and Indian boundary, which shall bind the Government of the United States, His Majesty's Government conceive that they cannot give a better proof of their sincere desire for the restoration of peace than by professing their willingness to accept a provisional article upon those heads, in the event of the American plenipotentiaries considering themselves authorized to accede to the general principles upon which such an article ought to be founded. With a view to enable the American plenipotentiaries to decide how far the conclusion of such an article is within the limit of their general discretion, the undersigned are directed to state fully and distinctly the basis upon which alone Great Britain sees any prospect of advantage in the continuance of the negotiation at the present time.

The undersigned have already had the honor of stating to the American plenipotentiaries that, in considering the points above referred to as a *sine qua non* of any treaty of peace, the view of the British Government is the permanent tranquillity and security of the Indian nations, and the prevention of those jealousies and irritations to which the frequent alteration of the Indian limits has heretofore given rise.

For this purpose it is indispensably necessary that the Indian nations who have been, during the war, in alliance with Great Britain, should, at the termination of the war, be included in the pacification.

It is equally necessary that a definite boundary should be assigned to the Indians, and that the contracting parties should guarantee the integrity of their territory by a mutual stipulation not to acquire, by purchase or otherwise, any territory within the specified limits. The British Government are willing to take as the basis of an article on this subject those stipulations of the treaty of Greenville, subject to modifications, which relate to a boundary line.

As the undersigned are desirous of stating every point in connexion with the subject which may reasonably influence the decision of the American plenipotentiaries in the exercise of their discretion, they avail themselves of this opportunity to repeat what they have already stated, that Great Britain desires the revision of the frontier between her North American dominions and those of the United States, not with any view to an acquisition of territory, as such, but for the purpose of securing her possessions and preventing future disputes.

The British Government consider the lakes from Lake Ontario to Lake Superior, both inclusive, to be the natural military frontier of the British possessions in North America. As the weaker Power on the North American continent, the least capable of acting offensively, and the most exposed to sudden invasion, Great Britain considers the military occupation of these lakes as necessary to the security of her dominions. A boundary line equally dividing these waters, with a right in each nation to arm, both upon the lakes and upon their shores, is calculated to create a contest for naval ascendancy in peace as well as in war. The Power which occupies these lakes should, as a necessary result, have the military occupation of both shores. In furtherance of this object, the British Government is prepared to propose a boundary. But as this might be misconstrued as an intention to extend their possessions to the southward of the lakes, (which is by no means the object they have in view,) they are disposed to leave the territorial limits undisturbed, and, as incident to them, the free commercial navigation of the lakes, provided that the American Government will stipulate not to maintain, or construct any fortifications upon, or within, a limited distance of the shores, or maintain or construct any armed vessels upon the lakes in question, or in the rivers which empty themselves into the same.

If this can be adjusted, there will then remain for discussion the arrangement of the northwestern boundary between Lake Superior and the Mississippi, the free navigation of that river, and such a variation of the line of frontier as may secure a direct communication between Quebec and Halifax.

The undersigned trust, that the full statement which they have made of the views and objects of the British Government, in requiring the pacification of the Indian nations, and a permanent limit to their territories, will enable the American plenipotentiaries to conclude a provisional article upon the basis above stated. Should they feel it necessary to refer to the Government of the United States for further instructions, the undersigned feel it incumbent upon them to acquaint the American plenipotentiaries that their Government cannot be precluded by any thing that has passed, from varying the terms at present proposed, in such a manner as the state of the war, at the time of resuming the conferences, may, in their judgment, render advisable.

The undersigned avail themselves of this occasion to renew to the plenipotentiaries of the United States the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

The Plenipotentiaries of the United States to the Secretary of State.

SIR:

GHENT, October 25, 1814.

We have the honor of transmitting herewith copies of all our correspondence with the British plenipotentiaries, since the departure of Mr. Dallas. Although the negotiation has not terminated so abruptly as we expected at that period that it would, we have no reason to retract the opinion which we then expressed, that no hopes of peace, as likely to result from it, could be entertained. It is true, that the terms which the British Government had so peremptorily prescribed at that time have been apparently abandoned, and that the *sine qua non* then required as a preliminary to all discussion upon other topics has been reduced to an article securing merely an Indian pacification, which we have agreed to accept, subject to the ratification or rejection of our Government.

But you will perceive that our request for the exchange of a project of a treaty has been eluded, and that in their last note the British plenipotentiaries have advanced a demand not only new and inadmissible, but totally incompatible with their uniform previous declarations that Great Britain had no view in this negotiation to any acquisition of territory. It will be perceived that this new pretension was brought forward immediately after the accounts had been received that a British force had taken possession of all that part of the State of Massachusetts situate east of Penobscot river. The British plenipotentiaries have invariably referred to their Government every note received from us, and waited the return of their messenger before they have transmitted to us their answer, and the whole tenor of the correspondence, as well as the manner in which it has been conducted on the part of the British Government, have concurred to convince us that their object has been delay; their motives for this policy we presume to have been to keep the alternative of peace, or of a protracted war in their own hands, until the general arrangement of European affairs should be accomplished at the Congress of Vienna, and until they could avail themselves of the advantages which they have anticipated from the success of their arms during the present campaign in America.

Although the Sovereigns who had determined to be present at the Congress of Vienna have been already several weeks assembled there, it does not appear by the last advices from that place that the Congress has been formally opened. On the contrary, by a declaration from the plenipotentiaries of the Powers, who were parties to the peace of Paris of 30th of May last, the opening of the Congress appears to have been postponed to the 1st of November. A memorial is said to have been presented by the French ambassador, Talleyrand, in which it is declared that France, having returned to her boundaries in 1792, can recognise none of the aggrandizements of the other great Powers of Europe since that period, although not intending to oppose them by war.

These circumstances indicate that the new basis for the political system of Europe will not be so speedily settled as had been expected. The principle thus assumed by France is very extensive in its effects, and opens a field for negotiation much wider than had been anticipated. We think it does not promise an aspect of immediate tranquillity to this continent, and that it will disconcert particularly the measures which Great Britain has been taking with regard to the future destination of this country, among others, and to which she has attached apparently much importance.

We have the honor to be, with great respect, sir, your very humble servants,

JOHN QUINCY ADAMS,
J. A. BAYARD,
H. CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

The Hon. JAMES MONROE, *Secretary of State of the United States.*

[Referred to in the despatch of October 25, 1814.]

The American to the British ministers.

Ghent, August 24, 1814.

The undersigned ministers plenipotentiary and extraordinary from the United States of America have given to the official note which they have had the honor of receiving from His Britannic Majesty's plenipotentiaries, the deliberate attention which the importance of its contents required, and have now that of transmitting to them their answer on the several points to which it refers.

They would present to the consideration of the British plenipotentiaries that Lord Castlereagh, in his letter of the 4th November, 1813, to the American Secretary of State, pledges the faith of the British Government, that "they were willing to enter into discussion with the Government of America for the conciliatory adjustment of the differences subsisting between the two States, with an earnest desire on their part to bring them to a favorable issue, upon principles of perfect reciprocity, not inconsistent with the established maxims of public law, and with the maritime rights of the British empire." This fact alone might suffice to show, that it ought not to have been expected that the American Government, in acceding to this proposition, should have exceeded its terms, and furnished the undersigned with instructions authorizing them to treat with the British plenipotentiaries respecting the Indians situated within the boundaries of the United States. That such expectation was not entertained by the British Government might also have been inferred from the explicit assurances which the British plenipotentiaries gave on the part of their Government, at the first conference which the undersigned had the honor of holding with them, that no events subsequent to the first proposals for this negotiation had, in any manner, varied either the disposition of the British Government, that it might terminate in a peace honorable to both parties, or the terms upon which they would be willing to conclude it.

It is well known that the differences which unhappily subsisted between Great Britain and the United States, and which ultimately led to the present war, were wholly of a maritime nature, arising principally from the British orders in council in relation to blockades, and from the impressment of mariners on board of American vessels. The boundary of the Indian territory had never been a subject of difference between the two countries. Neither the principles of reciprocity, the maxims of public law, nor the maritime rights of the British empire could require the permanent establishment of such boundary. The novel pretensions now advanced could no more have been anticipated by the Government of the United States, in forming instructions for this negotiation, than they seem to have been contemplated by that of Great Britain in November last in proposing it. Lord Castlereagh's note makes the termination of the war to depend on a conciliatory adjustment of the differences then subsisting between the two States, and on no other condition whatever.

Nor could the American Government have foreseen that Great Britain, in order to obtain peace for the Indians residing within the dominions of the United States, whom she had induced to take part with her in the war, would demand that they should be made parties to the treaty between the two nations; or that the boundaries of their lands should be permanently and irrevocably fixed by that treaty. Such a proposition is contrary to the acknowledged principles of public law, and to the practice of all civilized nations, particularly of Great Britain and of the United States. It is not founded on reciprocity: it is unnecessary for the attainment of the object which it professes to have in view.

No maxim of public law has hitherto been more universally established among the Powers of Europe possessing territories in America, and there is none to which Great Britain has more uniformly and inflexibly adhered, than that of suffering no interposition of a foreign Power in the relations between the acknowledged sovereign of the territory and the Indians situated upon it. Without the admission of this principle there would be no intelli-

gible meaning attached to stipulations establishing boundaries between the dominions in America of civilized nations, possessing territories inhabited by Indian tribes. Whatever may be the relations of Indians to the nation in whose territory they are thus acknowledged to reside, they cannot be considered as an independent Power by the nation which has made such an acknowledgment.

That the territory of which Great Britain wishes now to dispose is within the dominions of the United States was solemnly acknowledged by herself in the treaty of peace of 1783, which established their boundaries, and by which she relinquished all claims to the government, propriety, and territorial rights within those boundaries. No condition respecting the Indians residing there was inserted in that treaty. No stipulation, similar to that now proposed, is to be found in any treaty made by Great Britain, or, within the knowledge of the undersigned, by any other nation.

The Indian tribes for which Great Britain proposes now to stipulate, have themselves acknowledged this principle. By the Greenville treaty of 1795, to which the British plenipotentiaries have alluded, it is expressly stipulated, and the condition has been confirmed by every subsequent treaty, so late as the year 1810, "that the Indian tribes shall quietly enjoy their lands, hunting, planting, and dwelling thereon so long as they please, without any molestation from the United States; but that when those tribes, or any of them, shall be disposed to sell their lands, they are to be sold only to the United States; that, until such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude on the same; and that the said Indian tribes again acknowledge themselves to be under the protection of the said United States, and of no other Power whatever."

That there is no reciprocity in the proposed stipulation is evident. In prohibiting Great Britain and the United States from purchasing lands within a part of the dominions of the latter Power, while it professes to take from Great Britain a privilege which she had not, it actually deprives the United States of a right exclusively belonging to them.

The proposition is also utterly unnecessary for the purpose of obtaining a pacification for the Indians residing within the territories of the United States. The undersigned have already had the honor of informing the British plenipotentiaries that, under the system of liberal policy adopted by the United States in their relations with the Indians within their territories, an uninterrupted peace had subsisted from the year 1795, not only between the United States and all those tribes, but also amongst those tribes themselves, for a longer period of time than ever had been known since the first settlement of North America. Against those Indians the United States have neither interest nor inclination to continue the war. They have nothing to ask of them but peace. Commissioners on their part have been appointed to conclude it, and an armistice was actually made last autumn with most of those tribes. The British Government may again have induced some of them to take their side in the war; but peace with them will necessarily follow immediately a peace with Great Britain. To a provisional article, similar to what has been stipulated in some former treaties, engaging that each party will treat for the Indians within its territories, include them in the peace, and use its best endeavors to prevent them from committing hostilities against the citizens or subjects of the other party, the undersigned might assent, and rely on the approbation and ratification of their Government. They would also, for the purpose of securing the duration of peace, and to prevent collisions which might interrupt it, propose a stipulation which should preclude the subjects or citizens of each nation respectively from trading with the Indians residing in the territory of the other. But to surrender both the rights of sovereignty and of soil over nearly one-third of the territorial dominions of the United States to a number of Indians, not probably exceeding twenty thousand, the undersigned are so far from being instructed or authorized that they assure the British plenipotentiaries that any arrangement for that purpose would be instantaneously rejected by their Government.

Not only has this extraordinary demand been made a *sine qua non*, to be admitted without discussion, and as a preliminary basis, but it is accompanied by others equally inadmissible, which the British plenipotentiaries state to be so connected with it that they may reasonably influence the decision of the undersigned upon it, yet leaving them uninformed how far those other demands may also be insisted on as indispensable conditions of a peace.

As little are the undersigned instructed or empowered to accede to the propositions of the British Government in relation to the military occupation of the western lakes. If they have found the proposed interference of Great Britain in the concerns of the Indians residing within the United States utterly incompatible with any established maxim of public law, they are no less at a loss to discover by what rule of perfect reciprocity the United States can be required to renounce their equal right of maintaining a naval force upon those lakes, and of fortifying their own shores, while Great Britain reserves exclusively the corresponding rights to herself. That in point of military preparation, Great Britain, in her possessions in North America, ever has been in a condition to be termed with propriety the weaker Power in comparison with the United States, the undersigned believe to be incorrect in point of fact. In regard to the fortification of the shores, and to the forces actually kept on foot upon those frontiers, they believe the superiority to have always been on the side of Great Britain. If the proposal to dismantle the forts upon her shores, strike forever her military flag upon the lakes, and lay her whole frontier defenceless in the presence of her armed and fortified neighbor, had proceeded not from Great Britain to the United States, but from the United States to Great Britain, the undersigned may safely appeal to the bosoms of His Britannic Majesty's plenipotentiaries for the feelings with which, not only in regard to the interests but to the honor of their nation, they would have received such a proposal. What would Great Britain herself say, if, in relation to another frontier, where she has the acknowledged superiority of strength, it were proposed that she should be reduced to a condition even of equality with the United States?

The undersigned further perceive that, under the alleged purpose of opening a direct communication between two of the British provinces in America, the British Government require a cession of territory, forming a part of one of the States of the American Union; and that they propose, without purpose specifically alleged, to draw the boundary line westward, not from the Lake of the Woods, as it now is, but from Lake Superior. It must be perfectly immaterial to the United States whether the object of the British Government in demanding the dismemberment of the United States, is to acquire territory as such, or for purposes less liable in the eyes of the world to be ascribed to the desire of aggrandizement. Whatever the motive may be, and with whatever consistency views of conquest may be disclaimed, while demanding for herself or for the Indians a cession of territory more extensive than the whole island of Great Britain, the duty marked out for the undersigned is the same. They have no authority to cede any part of the territory of the United States, and to no stipulation to that effect will they subscribe.

The conditions proposed by Great Britain have no relation to the subsisting differences between the two countries; they are inconsistent with acknowledged principles of public law; they are founded neither on reciprocity, nor on any of the usual bases of negotiation, neither on that of *uti possidetis* nor of *status ante bellum*. They would inflict the most vital injury on the United States, by dismembering their territory, by arresting their natural growth and increase of population, and by leaving their northern and western frontier equally exposed to British

invasion and to Indian aggression; they are, above all, dishonorable to the United States, in demanding from them to abandon territory and a portion of their citizens; to admit a foreign interference in their domestic concerns, and to cease to exercise their natural rights on their own shores and in their own waters. A treaty concluded on such terms would be but an armistice. It cannot be supposed that America would long submit to conditions so injurious and degrading. It is impossible, in the natural course of events, that she should not, at the first favorable opportunity, to recur to arms for the recovery of her territory, of her rights, of her honor. Instead of settling existing differences such a peace would only create new causes of war, sow the seeds of a permanent hatred, and lay the foundation of hostilities for an indefinite period.

Essentially pacific, from her political institutions, from the habits of her citizens, from her physical situation, America reluctantly engaged in the war. She wishes for peace; but she wishes for it upon those terms of reciprocity honorable to both countries, which can alone render it permanent. The causes of the war between the United States and Great Britain, having disappeared by the maritime pacifications of Europe, the Government of the United States does not desire to continue it in defence of abstract principles, which have, for the present, ceased to have any practical effect. The undersigned have been accordingly instructed to agree to its termination, both parties restoring whatever territory they may have taken, and both reserving all their rights, in relation to their respective seamen. To make the peace between the two nations solid and permanent, the undersigned were also instructed, and have been prepared to enter into the most amicable discussion of all those points, on which differences or uncertainty had existed, and which might hereafter tend, in any degree whatever, to interrupt the harmony of the two countries, without, however, making the conclusion of the peace at all depend upon a successful result of the discussion.

It is, therefore, with deep regret, that the undersigned have seen that other views are entertained by the British Government, and that new and unexpected pretensions are raised, which, if persisted in, must oppose an insuperable obstacle to a pacification. It is not necessary to refer such demands to the American Government for its instruction. They will only be a fit subject of deliberation when it becomes necessary to decide upon the expediency of an absolute surrender of national independence.

The undersigned request the British Plenipotentiaries to accept the assurance of their high consideration.

JOHN QUINCY ADAMS,
JAMES A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

To the PLENIPOTENTIARIES of *His Britannic Majesty, &c. &c. &c.*

From the British to the American Ministers.

GHEENT, September 4, 1814.

The undersigned have the honor to acknowledge the receipt of the note of the American plenipotentiaries, dated the 24th ultimo.

It is with unfeigned regret that the undersigned observe, both in the tone and substance of the whole note, so little proof of any disposition on the part of the Government of the United States to enter into an amicable discussion of the several points submitted by the undersigned in their former communication. The undersigned are perfectly aware, that in bringing forward those points for consideration, and stating with so much frankness as they did, the views with which they were proposed, they departed from the usual course of negotiations, by disclosing all the objects of their Government while those which the American Government had in view were withheld; but in so doing they were principally actuated by a sincere desire of bringing the negotiation as soon as possible to a favorable termination, and, in some measure, by their willingness to comply with the wishes expressed by the American plenipotentiaries themselves.

It is perfectly true that the war between His Majesty and the United States was declared by the latter Power, upon the pretence of maritime rights, alleged to be asserted by Great Britain, and disputed by the United States.

If the war thus declared by the United States had been carried on by them for objects purely of a maritime nature, or if the attack which has been made on Canada, had been made for the purpose of diversion, or in the way of defence against the British forces in that quarter, any question as to the boundaries of Canada might have been considered as unnecessary; but it is notorious to the whole world that the conquest of Canada, and its permanent annexation to the United States, was the declared object of the American Government. If, in consequence of a different course of events on the continent of Europe His Majesty's Government had been unable to reinforce the British armies in Canada, and the United States had obtained a decided superiority in that quarter, is there any person who doubts that they would have availed themselves of their situation to obtain on the side of Canada important cessions of territory, if not the entire abandonment of that country by Great Britain? Is the American Government to be allowed to pursue, so far as its means will enable it, a system of acquisition and aggrandizement to the extent of annexing entire provinces to their dominions, and is His Majesty to be precluded from availing himself of his means, so far as they will enable him, to retain those points which the valor of British arms may have placed in his power, because they happen to be situated within the territories allotted under former treaties to the Government of the United States?

Such a principle of negotiation was never avowed at any period antecedent to that of the revolutionary Government of France.

If the policy of the United States had been essentially pacific, as the American plenipotentiaries assert it ought to be, from their political institutions, from the habits of their citizens, and from their physical situation, it might not have been necessary to propose the precautionary provisions now under discussion. That, of late years at least, the American Government have been influenced by a very different policy, by a spirit of aggrandizement not necessary to their own security, but increasing with the extent of their empire, has been too clearly manifested by their progressive occupation of the Indian territories, by the acquisition of Louisiana, by the more recent attempt to wrest by force of arms from a nation in amity the two Floridas, and, lastly, by the avowed intention of permanently annexing the Canadas to the United States.

If, then, the security of the British North American dominions requires any sacrifices on the part of the United States, they must be ascribed to the declared policy of that Government in making the war not one of self-defence, nor for the redress of grievances, real or pretended, but a part of a system of conquest and aggrandizement.

The British Government, in its present situation, is bound in duty to endeavor to secure its North American dominions against those attempts at conquest which the American Government have avowed to be a principle of their policy, and which, as such, will undoubtedly be renewed whenever any succeeding war between the two countries shall afford a prospect of renewing them with success.

The British plenipotentiaries proposed that the military possession of the lakes from Lake Ontario to Lake Superior should be secured to Great Britain, because the command of those lakes would afford to the American Government the means of commencing a war in the heart of Canada, and because the command of them, on the part of Great Britain, has been shown, by experience, to be attended with no insecurity to the United States.

When the relative strength of the two Powers in North America is considered, it should be recollected that the British dominions in that quarter do not contain a population of five hundred thousand souls, whereas the territory of the United States contains a population of more than seven millions; that the naval resources of the United States are at hand for attack, and that the naval resources of Great Britain are on the other side of the Atlantic.

The military possession of those lakes is not, therefore, necessary for the protection of the United States.

The proposal for allowing the territories on the southern banks of the lakes above mentioned to remain in the possession of the Government of the United States, provided no fortifications should be erected on the shores, and no armament permitted on the waters, has been made for the purpose of manifesting that security, and not acquisition of territory, is the object of the British Government, and that they have no desire to throw obstacles in the way of any commerce which the people of the United States may be desirous of carrying on upon the lakes, in time of peace.

The undersigned, with the anxious wish to rectify all misunderstanding, have thus more fully explained the grounds upon which they brought forward the propositions contained in their former note, respecting the boundaries of the British dominions in North America.

They do not wish to insist upon them beyond what the circumstances may fairly require. They are ready amicably to discuss the details of them, with a view to the adoption of any modifications which the American plenipotentiaries, or their Government, may have to suggest, if they are not incompatible with the object itself.

With respect to the boundary of the District of Maine, and that of the northwestern frontier of the United States, the undersigned were not prepared to anticipate the objections contained in the note of the American plenipotentiaries, "that they were instructed to treat for the revision of their boundary lines," with the statement which they have subsequently made, that they had no authority to cede any part, however insignificant, of the territory of the United States; although the proposal left it open to them to demand an equivalent for such cession, either in frontier or otherwise.

The American plenipotentiaries must be aware that the boundary of the District of Maine has never been correctly ascertained; that the one asserted at present by the American Government, by which the direct communication between Halifax and Quebec becomes interrupted, was not in contemplation of the British plenipotentiaries who concluded the treaty of 1783; and that the greater part of the territory in question is actually unoccupied.

The undersigned are persuaded that an arrangement on this point might be easily made, if entered into with the spirit of conciliation, without any prejudice to the interests of the district in question.

As the necessity for fixing some boundary for the northwestern frontier has been mutually acknowledged, a proposal for a discussion on that subject cannot be considered as a demand for a cession of territory, unless the United States are prepared to assert that there is no limit to their territories in that direction, and, that availing themselves of the geographical error upon which that part of the treaty of 1783 was formed, they will acknowledge no boundary whatever; then, unquestionably, any proposition to fix one, be it what it may, must be considered as demanding a large cession of territory from the United States.

Is the American Government prepared to assert such an unlimited right, so contrary to the evident intention of the treaty itself? Or is his Majesty's Government to understand that the American plenipotentiaries are willing to acknowledge the boundary from the Lake of the Woods to the Mississippi (the arrangement made by a convention in 1803, but not ratified,) as that by which their Government is ready to abide?

The British plenipotentiaries are instructed to accept favorably such a proposition, or to discuss any other line of boundary which may be submitted for consideration.

It is with equal astonishment and regret the undersigned find that the American plenipotentiaries have not only declined signing any provisional article by which the Indian nations who have taken part with Great Britain in the present contest may be included in the peace, and may have a boundary assigned to them, but have also thought proper to express surprise at any proposition on the subject having been advanced.

The American plenipotentiaries state that their Government could not have expected such a discussion, and appear resolved at once to reject any proposition on this head, representing it as a demand contrary to the acknowledged principles of public law, tantamount to a cession of one-third of the territorial dominions of the United States, and required to be admitted without discussion.

The proposition which is thus represented is, that the Indian nations which have been during the war in alliance with Great Britain, should, at its termination, be included in the pacification, and with a view to their permanent tranquillity and security, that the British Government is willing to take as a basis of an article on the subject of a boundary for those nations, the stipulations which the American Government contracted in 1795, subject, however, to modifications.

After the declaration publicly made to these Indian nations by the Governor General of Canada, that Great Britain would not desert them, could the American Government really persuade itself that no proposition relating to those nations would be advanced; and did Lord Castlereagh's note of the 4th November, 1813, imply so great a sacrifice of honor, or exclude from discussion every subject excepting what immediately related to the maritime questions referred to in it?

When the undersigned assured the American plenipotentiaries of the anxious wish of the British Government that the negotiation might terminate in a peace honorable to both parties, it could not have been imagined that the American plenipotentiaries would thence conclude that His Majesty's Government was prepared to abandon the Indian nations to their fate; nor could it have been foreseen that the American Government would have considered it as derogatory to its honor to admit a proposition by which the tranquillity of those nations might be secured.

The British plenipotentiaries have yet to learn that it is contrary to the acknowledged principles of public law to include allies in a negotiation for peace, or that it is contrary to the practice of all civilized nations to propose that a provision should be made for their future security.

The treaty of Greenville established the boundaries between the United States and the Indian nations. The American plenipotentiaries must be aware that the war, which has since broken out, has abrogated that treaty. Is it contrary to the established principles of public law for the British Government to propose, on behalf of its allies, that this treaty shall, on the pacification, be considered subject to such modifications as the case may render necessary? Or is it unreasonable to propose that this stipulation should be amended; and that, on that foundation, some

arrangement should be made which would provide for the existence of a neutral Power between Great Britain and the United States, calculated to secure to both a longer continuance of the blessings of peace?

So far was that specific proposition respecting the Indian boundaries from being insisted upon in the note, or in the conference which preceded it, as one to be admitted without discussion, that it would have been difficult to use terms of greater latitude, or which appeared more adapted not only not to preclude but to invite discussion.

If the basis proposed could convey away one-third of the territory of the United States, the American Government itself must have conveyed it away by the Greenville treaty of 1795.

It is impossible to read that treaty without remarking how inconsistent the present pretensions of the American Government are with its preamble and provisions. The boundary line between the lands of the United States and that of the Indian nations are therein expressly defined. The general character of the treaty is that of a treaty with independent nations, and the very stipulation which the American plenipotentiaries refer to, that the Indian nations should sell their lands only to the United States, tends to prove that, but for that stipulation the Indians had a general right to dispose of them.

The American Government has now, for the first time, in effect declared that all Indian nations within its line of demarcation are its subjects, living there upon sufferance on lands which it also claims the exclusive right of acquiring, thereby menacing the final extinction of those nations.

Against such a system the undersigned must formally protest. The undersigned repeat that the terms on which the proposition has been made for assigning to the Indian nations some boundary, manifest no unwillingness to discuss any other proposition directed to the same object, or even a modification of that which is offered. Great Britain is ready to enter into the same engagements with respect to the Indians living within her line of demarcation, as that which is proposed to the United States. It can, therefore, only be from a complete misapprehension of the proposition that it can be represented as being not reciprocal. Neither can it, with any truth, be represented as contrary to the acknowledged principles of public law, as derogatory to the honor, or inconsistent with the rights of the American Government, nor as a demand required to be admitted without discussion.

After this full exposition of the sentiments of His Majesty's Government on the points above stated, it will be for the American plenipotentiaries to determine whether they are ready now to continue the negotiations, whether they are disposed to refer to their Government for further instructions, or, lastly, whether they will take upon themselves the responsibility of breaking off the negotiation altogether.

The undersigned request the American plenipotentiaries to accept the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

From the American to the British Ministers.

GHEENT, September 9, 1814.

The undersigned have had the honor to receive the note of His Britannic Majesty's plenipotentiaries, dated the 4th instant. If, in the tone or substance of the former note of the undersigned, the British commissioners have perceived little proof of any disposition, on the part of the American Government, for a discussion of some of the propositions advanced in the first note, which the undersigned had the honor of receiving from them, they will ascribe it to the nature of the propositions themselves; to their apparent incompatibility with the assurances in Lord Castlereagh's letter to the American Secretary of State, proposing this negotiation, and with the solemn assurances of the British plenipotentiaries themselves, to the undersigned, at their first conferences with them.

The undersigned, in reference to an observation of the British plenipotentiaries, must be allowed to say that the objects which the Government of the United States had in view have not been withheld.

The subjects considered as suitable for discussion were fairly brought forward in the conference of the 9th ultimo, and the terms on which the United States were willing to conclude the peace were frankly and expressly declared in the note of the undersigned dated the 24th ultimo. It had been confidently hoped that the nature of those terms, so evidently framed in a sincere spirit of conciliation, would have induced Great Britain to adopt them as the basis of a treaty; and it is with deep regret that the undersigned, if they have rightly understood the meaning of the last note of the British plenipotentiaries, perceive that they still insist on the exclusive military possession of the lakes, and on a permanent boundary and independent territory for the Indians residing within the dominions of the United States.

The first demand is grounded on the supposition that the American Government has manifested by its proceedings towards Spain, by the acquisition of Louisiana, by purchases of Indian lands, and by an avowed intention of permanently annexing the Canadas to the United States, a spirit of aggrandizement and conquest which justifies the demand of extraordinary sacrifices from them to provide for the security of the British possessions in America.

In the observations which the undersigned felt it their duty to make on the new demands of the British Government, they confined their animadversions to the nature of the demands themselves; they did not seek for illustrations of the policy of Great Britain in her conduct, in various quarters of the globe, towards other nations, for she was not accountable to the United States. Yet the undersigned will say that their Government has ever been ready to arrange, in the most amicable manner with Spain, the questions respecting the boundaries of Louisiana and Florida, and that of indemnities acknowledged by Spain due to American citizens. How the peaceable acquisition of Louisiana, or the purchase of lands within the acknowledged territories of the United States, both made by fair and voluntary treaties for satisfactory equivalents, can be ascribed to a spirit of conquest dangerous to their neighbors, the undersigned are altogether at a loss to understand.

Nor has the conquest of Canada, and its permanent annexation to the United States, been the declared object of their Government. From the commencement of the war to the present time the American Government has been always willing to make peace, without obtaining any cession of territory, and on the sole condition that the maritime questions might be satisfactorily arranged. Such was their disposition in the month of July, 1812, when they instructed Mr. Russell to make the proposal of an armistice; in the month of October of the same year, when Mr. Monroe answered Admiral Warren's proposal to the same effect; in April, 1813, when instructions were given to three of the undersigned, then appointed to treat of peace, under the mediation of Russia; and in January, 1814, when the instructions, under which the undersigned are now acting, were prepared.

The proposition of the British plenipotentiaries is, that, in order to secure the frontier of Canada against attack, the United States should leave their own without defence; and it seems to be forgotten that if their superior population and the proximity of their resources give them any advantage in that quarter, it is balanced by the great difference between the military establishments of the two nations. No sudden invasion of Canada by the United States could be made, without leaving on their Atlantic shores and on the ocean, exposed to the great superiority

of British force, a mass of American property far more valuable than Canada. In her relative superior force to that of the United States, in every other quarter, Great Britain may find a pledge much more efficacious for the safety of a single vulnerable point than in stipulations ruinous to the interests and degrading to the honor of America. The best security for the possessions of both countries will, however, be found in an equal and solid peace, in a mutual respect for the rights of each other, and in the cultivation of a friendly understanding between them. If there be any source of jealousy in relation to Canada itself, it will be found to exist solely in the undue interference of traders and agents, which may be easily removed by proper restraints.

The only American forts on the lakes known to have been, at the commencement of the negotiation, held by British force, are Michilimackinac and Niagara. As the United States were at the same time in possession of Amherstburg and the adjacent country, it is not perceived that the mere occupation of these two forts could give any claim to His Britannic Majesty to large cessions of territory, founded upon the right of conquest; and the undersigned may be permitted to add that, even if the chances of war should yield to the British arms a momentary possession of other parts of the territories of the United States, such events would not alter their views with regard to the terms of peace to which they would give their consent. Without recurring to examples drawn from the revolutionary Governments of France, or to a more recent and illustrious triumph of fortitude in adversity, they have been taught by their own history that the occupation of their principal cities should produce no despondency, nor induce their submission to the dismemberment of their empire, or to the abandonment of any one of the rights which constitute a part of their national independence.

The general position that it was consistent with the principles of public law, and with the practice of civilized nations, to include allies in a treaty of peace, and to provide for their security, never was called in question by the undersigned. But they have denied the right of Great Britain, according to those principles and to her own practice, to interfere in any manner with Indian tribes residing within the territories of the United States, as acknowledged by herself, to consider such tribes as her allies, or to treat for them with the United States. They will not repeat the facts and arguments already brought forward by them in support of this position, and which remain unanswered. The observations made by the British plenipotentiaries on the treaty of Greenville, and their assertion that the United States now, for the first time, deny the absolute independence of the Indian tribes, and claim the exclusive right of purchasing their lands, require, however, some notice.

If the United States had now asserted that the Indians within their boundaries, who have acknowledged the United States as their only protectors, were their subjects, living only at sufferance on their lands, far from being the first in making that assertion, they would only have followed the example of the principles uniformly and invariably asserted, in substance, and frequently avowed, in express terms, by the British Government itself. What was the meaning of all the colonial charters granted by the British monarchs, from that of Virginia, by Elizabeth, to that of Georgia, by the immediate predecessor of the present King, if the Indians were the sovereigns and proprietors of the lands bestowed by those charters? What was the meaning of that article in the treaty of Utrecht, by which the five nations were described in terms as subject to the dominion of Great Britain? Or that of the treaty with the Cherokees, by which it was declared that the King of Great Britain granted them the privilege to live where they pleased, if those subjects were independent sovereigns, and if these tenants, at the license of the British King, were the rightful lords of the land where he granted them permission to live? What was the meaning of that proclamation of his present Britannic Majesty, issued in 1763, declaring all purchases of lands from the Indians null and void, unless made by treaties held under the sanction of His Majesty's Government, if the Indians had the right to sell their lands to whom they pleased? What was the meaning of boundary lines of American territories, in all the treaties of Great Britain with other European Powers having American possessions, particularly in the treaty of 1763, by which she acquired from France the sovereignty and possession of the Canadas; in her treaty of peace with the United States of 1783; nay, what is the meaning of the northwestern boundary line now proposed by the British commissioners themselves, if it is the rightful possession and sovereignty of independent Indians of which these boundaries dispose? Is it, indeed, necessary to ask whether Great Britain ever has permitted, or would permit, any foreign nation, or, without her consent, any of her subjects, to acquire lands from the Indians, in the territories of the Hudson's Bay Company, or in Canada? In formally protesting against this system, it is not against a novel pretension of the American Government, it is against the most solemn acts of their own Sovereigns, against the royal proclamations, charters, and treaties of Great Britain for more than two centuries, from the first settlement of North America to the present day, that the British plenipotentiaries protest.

From the rigor of this system, however, as practised by Great Britain and all the other European Powers in America, the humane and liberal policy of the United States has voluntarily relaxed. A celebrated writer on the law of nations, to whose authority British jurists have taken particular satisfaction in appealing, after stating, in the most explicit manner, the legitimacy of colonial settlements in America, to the exclusion of all rights of uncivilized Indian tribes, has taken occasion to praise the first settlers of New England, and of the founder of Pennsylvania, in having purchased of the Indians the lands they resolved to cultivate, notwithstanding their being furnished with a charter from their Sovereign. It is this example which the United States, since they became by their independence the sovereigns of the territory, have adopted and organized into a political system. Under that system the Indians residing within the United States are so far independent that they live under their own customs, and not under the laws of the United States; that their rights upon the lands where they inhabit or hunt, are secured to them by boundaries defined in amicable treaties between the United States and themselves; and that whenever those boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded by them. They are so far dependent as not to have the right to dispose of their lands to any private persons, nor to any Power other than the United States, and to be under their protection alone, and not under that of any other Power. Whether called subjects, or by whatever name designated, such is the relation between them and the United States. That relation is neither asserted now for the first time, nor did it originate with the treaty of Greenville. These principles have been uniformly recognised by the Indians themselves, not only by that treaty, but in all the other previous as well as subsequent treaties between them and the United States.

The treaty of Greenville neither took from the Indians the right, which they had not, of selling lands within the jurisdiction of the United States to foreign Governments or subjects, nor ceded to them the right of exercising exclusive jurisdiction within the boundary line assigned. It was merely declaratory of the public law, in relation to the parties, founded on principles previously and universally recognised. If left to the United States, the rights of exercising sovereignty and of acquiring soil bears no analogy to the proposition of Great Britain, which requires the abandonment of both.

The British plenipotentiaries state, in their last note, that Great Britain is ready to enter into the same engagement, with respect to the Indians living within her line of demarcation, as that which is proposed to the United States. The undersigned will not dwell on the immense inequality of value between the two territories, which, under such an arrangement, would be assigned by each nation respectively to the Indians, and which alone would

make the reciprocity merely nominal. The condition which would be thus imposed on Great Britain, not to acquire lands in Canada from the Indians, would be productive of no advantage to the United States, and is, therefore, no equivalent for the sacrifice required of them. They do not consider that it belongs to the United States in any respect to interfere with the concerns of Great Britain in her American possessions, or with her policy towards the Indians residing there; and they cannot consent to any interference on the part of Great Britain with their own concerns, and particularly with the Indians living within their territories. It may be the interest of Great Britain to limit her settlements in Canada to their present extent, and to leave the country to the west a perpetual wilderness, to be forever inhabited by scattered tribes of hunters; but it would inflict a vital injury on the United States to have a line run through their territory, beyond which their settlements should forever be precluded from extending; thereby arresting the natural growth of their population and strength; placing the Indians substantially, by virtue of the proposed guarantee, under the protection of Great Britain; dooming them to perpetual barbarism, and leaving an extensive frontier forever exposed to their savage incursions.

With respect to the mere question of peace with the Indians, the undersigned have already explicitly assured the British plenipotentiaries that, so far as it depended on the United States, it would immediately and necessarily follow a peace with Great Britain. If this be her sole object, no provision in the treaty to that effect is necessary. Provided the Indians will now consent to it, peace will immediately be made with them, and they will be reinstated in the same situation in which they stood before the commencement of hostilities. Should a continuance of the war compel the United States to alter their policy towards the Indians who may still take the part of Great Britain, they alone must be responsible for the consequences of her own act, in having induced them to withdraw themselves from the protection of the United States. The employment of savages, whose known rule of warfare is the indiscriminate torture and butchery of women, children, and prisoners, is itself a departure from the principles of humanity observed between all civilized and Christian nations, even in war. The United States have constantly protested, and still protest, against it, as an unjustifiable aggravation of the calamities and horrors of war. Of the peculiar atrocities of Indian warfare, the allies of Great Britain, in whose behalf she now demands sacrifices of the United States, have during the present war shown many deplorable examples. Among them, the massacre in cold blood of wounded prisoners, and the refusal of the rites of burial to the dead, under the eyes of British officers, who could only plead their inability to control these savage auxiliaries, have been repeated, and are notorious to the world. The United States might at all times have employed the same kind of force against Great Britain, and to a greater extent than it was in her power to employ it against them; but, from their reluctance to resort to means so abhorrent to the natural feelings of humanity, they abstained from the use of them until compelled to the alternative of employing themselves Indians, who would otherwise have been drawn into the ranks of their enemies. The undersigned, suggesting to the British plenipotentiaries the propriety of an article by which Great Britain and the United States should reciprocally stipulate never hereafter, if they should be again at war, to employ savages in it, believe that it would be infinitely more honorable to the humanity and Christian temper of both parties, more advantageous to the Indians themselves, and better adapted to secure their permanent peace, tranquillity, and progressive civilization, than the boundary proposed by the British plenipotentiaries.

With regard to the cession of a part of the District of Maine, as to which the British plenipotentiaries are unable to reconcile the objections made by the undersigned with their previous declaration, they have the honor to observe, that, at the conference of the 8th ultimo, the British plenipotentiaries stated, as one of the subjects suitable for discussion, a revision of the boundary line between the British and American territories, with a view to prevent uncertainty and dispute; and that it was on the point thus stated that the undersigned declared that they were provided with instructions from their Government; a declaration which did not imply that they were instructed to make any cession of territory in any quarter, or to agree to a revision of the line, or to any exchange of territory, where no uncertainty or dispute existed.

The undersigned perceive no uncertainty or matter of doubt in the treaty of 1783, with respect to that part of the boundary of the District of Maine which would be affected by the proposal of Great Britain on that subject. They never have understood that the British plenipotentiaries who signed that treaty had contemplated a boundary different from that fixed by the treaty, and which requires nothing more, in order to be definitely ascertained, than to be surveyed in conformity with its provisions. This subject not having been a matter of uncertainty or dispute, the undersigned are not instructed upon it; and they can have no authority to cede any part of the State of Massachusetts even for what the British Government might consider a fair equivalent.

In regard to the boundary of the northwestern frontier, so soon as the proposition of the Indian boundary is disposed of, the undersigned have no objection, with the explanation given by the British plenipotentiaries in their last note, to discuss the subject.

The undersigned, in their former note, stated with frankness, and will now repeat, that the two propositions—first, of assigning in the proposed treaty of peace a definite boundary to the Indians living within the limits of the United States, beyond which boundary they should stipulate not to acquire, by purchase or otherwise, any territory; secondly, of securing the exclusive military possession of the lakes to Great Britain—are both inadmissible; and that they cannot subscribe to, and would deem it useless to refer to their Government, any arrangement, even provisional, containing either of those propositions. With this understanding, the undersigned are now ready to continue the negotiation, and, as they have already expressed, to discuss all the points of difference, or which might hereafter tend in any degree to interrupt the harmony of the two countries.

The undersigned request the British plenipotentiaries to accept the assurance of their high consideration.

JOHN QUINCY ADAMS,
J. A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL,
A. GALLATIN.

From the British to the American ministers.

Ghent, September 19, 1814.

The undersigned have the honor to acknowledge the receipt of the note addressed to them by the American plenipotentiaries on the 9th instant.

On the greater part of that note the undersigned have no intention to make comments, having proposed to themselves throughout the negotiation to avoid all unnecessary discussions, more especially when tending to create irritation.

On the question of the northwestern frontiers, they are happy to find that no material difficulty is likely to arise.

With respect to the boundary of the District of Maine, the undersigned observe, with regret, that, although the American plenipotentiaries have acknowledged themselves to be instructed to discuss a revision of the boundary

line with a view to prevent uncertainty and disputes, yet, by assuming an exclusive right at once to decide what is, or is not, a subject of uncertainty and dispute, they have rendered their powers nugatory, or inadmissibly partial in their operation.

After the declaration made by the American plenipotentiaries that the United States will admit of no line of boundary between their territory and that of the Indian nations, because the natural growth and population of the United States would be thereby arrested, it becomes unnecessary further to insist on the proof of a spirit of aggrandizement afforded by the purchase of Louisiana from France, against the known conditions on which it had been ceded by Spain to that country, or the hostile seizure of a great part of the Floridas under the pretence of a dispute respecting the boundary.

The reason given by the American plenipotentiaries for this declaration, equally applies to the assignment of a boundary to the United States on any side, with whatever view proposed; and the unlimited nature of the pretension would alone have justified Great Britain in seeking more effectual securities against its application to Canada than any which the undersigned have had the honor to propose.

Had the American plenipotentiaries been instructed on the subject of Canada, they would not have asserted that its permanent annexation had not been the declared object of their Government. It has been distinctly avowed to be such at different times, particularly by two American generals on their respective invasions of Canada. If the declaration first made had been disapproved, it would not have been repeated. The declarations here referred to are to be found in the proclamation of General Hull, in July, 1812, and of General Smyth, in November, 1812, copies of which are hereunto annexed.

It must be also from the want of instructions that the American plenipotentiaries have been led to assert that Great Britain has induced the Indians to withdraw from the protection of the United States. The Government of the United States cannot have forgotten that Great Britain, so far from inducing the Indians to withdraw themselves from the protection of the United States, gave the earliest information of the intention of those nations to invade the United States, and exerted herself, though without success, to prevent and appease their hostility. The Indian nations, however, having experienced, as they thought, oppression, instead of protection, from the United States, declared war against them previously to the declaration of war by that country against Great Britain. The treaty by which the Indians placed themselves under the protection of the United States is now abrogated, and the American Government cannot be entitled to claim as a right the renewal of an article in a treaty which has no longer any existence. The Indian nations are, therefore, no longer to be considered as under the protection of the United States, (whatever may be the import of that term,) and it can only be on the ground that they are regarded as subjects that the American plenipotentiaries can be authorized to deny the right of Great Britain to interfere on their behalf in the negotiation for peace. To any such claim, it is repeated, that the treaties concluded with them, and particularly that of Greenville, are in direct opposition.

It is not necessary to recur to the manner in which the territory of the United States was at first settled, in order to decide whether the Indian nations, the original inhabitants of America, shall have some spot assigned to them where they may be permitted to live in tranquillity; nor whether their tranquillity can be secured without preventing an uninterrupted system of encroachment upon them under the pretence of purchases.

If the American plenipotentiaries are authorized peremptorily to deny the right of the British Government to interfere with the pacification of the Indian nations, and for that reason refuse all negotiation on the subject, the undersigned are at a loss to understand upon what principle it was that, at the conference of the 9th ultimo, the American plenipotentiaries invited discussion on the subject, and added, that it was not possible for them to decide, without discussion, whether an article could be framed which should be mutually satisfactory, and to which they should think themselves, under their discretionary powers, warranted in acceding.

The undersigned must further observe that, if the American Government has not furnished their plenipotentiaries with any instructions since January last, when the general pacification of Europe could not have been immediately in contemplation, this subsequent silence, after an event so calculated (even in the view which the American plenipotentiaries have taken of it, in their note of the 24th ultimo,) to influence the negotiation, is, to say the least, no proof of a sincere desire to bring it to a favorable conclusion. The British Government has entered into the negotiation with an anxious wish to effect an amicable arrangement. After convulsions, unexampled in their nature, extent, and duration, the civilized world has need of repose. To obtain this in Europe, Great Britain has made considerable sacrifices. To complete the work of general pacification, it is her earnest wish to establish a peace with the United States, and, in her endeavors to accomplish this object, to manifest the same principles of moderation and forbearance; but it is utterly inconsistent with her practice and her principles ever to abandon, in her negotiations for peace, those who have co-operated with her in war.

The undersigned therefore repeat that the British Government is willing to sign a treaty of peace with the United States on terms honorable to both parties. It has not offered any terms which the United States can justly represent as derogatory to their honor, nor can it be induced to accede to any which are injurious to its own. It is on this ground that the undersigned are authorized distinctly to declare that they are instructed not to sign a treaty of peace with the plenipotentiaries of the United States, unless the Indian nations are included in it, and restored to all the rights, privileges, and territories which they enjoyed in the year 1811, previous to the commencement of the war, by virtue of the treaty of Greenville, and the treaties subsequently concluded between them and the United States. From this point the British plenipotentiaries cannot depart.

They are further instructed to offer for discussion an article by which the contracting parties shall reciprocally bind themselves, according to boundaries to be agreed upon, not to purchase the lands occupied by the Indians within their respective lines of demarcation. By making this engagement subject to revision at the expiration of a given period, it is hoped that the objection to the establishment of a boundary, beyond which the settlements of the United States should be forever excluded, may be effectually obviated.

The undersigned have never stated that the exclusive military possession of the lakes, however conducive they are satisfied it would be to a good understanding between the two countries, without endangering the security of the United States, was to be considered as a *sine qua non* in the negotiation. Whenever the question relative to the pacification of the Indian nations (which, subject to the explanations already given, is a *sine qua non*,) shall be adjusted, the undersigned will be authorized to make a final proposition on the subject of Canadian boundaries, so entirely founded on principles of moderation and justice, that they feel confident it cannot be rejected. This proposition will be distinctly stated by the undersigned, upon receiving an assurance from the American plenipotentiaries that they consider themselves authorized to conclude a provisional article on the subject, and upon their previously consenting to include the Indian nations in the treaty, in the manner above described.

The undersigned avail themselves of this opportunity of renewing to the American plenipotentiaries the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

From the American to the British ministers.

GHEENT, September 26, 1814.

In replying to the note which the undersigned have had the honor of receiving from His Britannic Majesty's plenipotentiaries, dated on the 19th instant, they are happy to concur with them in the sentiment of avoiding unnecessary discussions, especially such as may have a tendency to create irritation. They had hoped that, in the same spirit, the British plenipotentiaries would not have thought allusions again necessary to transactions foreign to this negotiation, relating to the United States and other independent nations, and not suitable for discussion between the United States and Great Britain. The observation made with respect to Louisiana is the more extraordinary, as the cession of that province to the United States was, at the time, communicated to the British Government, who expressed their entire satisfaction with it, and as it has subsequently received the solemn sanction of Spain herself.

The undersigned will further say, that, whenever the transactions of the United States in relation to the boundaries of Louisiana and Florida shall be a proper subject of discussion, they will be found not only susceptible of complete justification, but will demonstrate the moderation and forbearance of the American Government, and their undeviating respect for the rights of their neighbors.

The undersigned are far from assuming the exclusive right to decide what is, or is not, a subject of uncertainty and dispute with regard to the boundary of the District of Maine. But until the British plenipotentiaries shall have shown in what respect the part of that boundary which would be affected by their proposal is such a subject, the undersigned may be permitted to assert that it is not.

The treaty of 1783 described the boundary as a line to be drawn along the middle of the river St. Croix, from its mouth, in the bay of Fundy, to its source, and from its source directly north to the Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence; and thence, along the said Highlands, to the northwesternmost head of Connecticut river.

Doubts having arisen as to the St. Croix, designated in the treaty of 1783, a provision was made by that of 1794 for ascertaining it; and it may be fairly inferred, from the limitation of the article to that sole object, that, even in the judgment of Great Britain, no other subject of controversy existed in relation to the extension of the boundary line from the source of that river. That river and its source having been accordingly ascertained, the undersigned are prepared to propose the appointment of commissioners by the two Governments to extend the line to the Highlands, conformably to the treaty of 1783. The proposal, however, of the British plenipotentiaries was not to ascertain, but to vary, those lines in such manner as to secure a direct communication between Quebec and Halifax; an alteration which could not be effected without a cession by the United States to Great Britain of all that portion of the State of Massachusetts intervening between the provinces of New Brunswick and Quebec, although unquestionably included within the boundary lines fixed by that treaty. Whether it was contemplated on the part of Great Britain to obtain the cession, with or without an equivalent, in frontier or otherwise, the undersigned, in stating that they were not instructed or authorized to treat on the subject of cession, have not declined to discuss any matter of uncertainty or dispute which the British plenipotentiaries may point out to exist respecting the boundaries in that or in any other quarter, and are, therefore, not liable to the imputation of having rendered their powers on the subject nugatory or inadmissibly partial in their operation.

The British plenipotentiaries consider the undersigned as having declared "that the United States will admit of no line of boundary between their territory and that of the Indian nations, because the natural growth and population of the United States would be thereby arrested." The undersigned, on the contrary, expressly stated in their last note, "that the lands inhabited by the Indians were secured to them by boundaries defined in amicable treaties between them and the United States;" but they did refuse to assign, in a treaty of peace with Great Britain, a definitive and permanent boundary to the Indians living within the limits of the United States. On this subject the undersigned have no hesitation in avowing that the United States, while intending never to acquire lands from the Indians otherwise than peaceably, and with their free consent, are fully determined, in that manner, progressively, and in proportion as their growing population may require, to reclaim from the state of nature, and to bring into cultivation every portion of the territory contained within their acknowledged boundaries. In thus providing for the support of millions of civilized beings, they will not violate any dictate of justice or of humanity; for they will not only give to the few thousand savages scattered over that territory an ample equivalent for any right they may surrender, but will always leave them the possession of lands more than they can cultivate, and more than adequate to their subsistence, comfort, and enjoyment, by cultivation. If this be a spirit of aggrandizement, the undersigned are prepared to admit, in that sense, its existence; but they must deny that it affords the slightest proof of an intention not to respect the boundaries between them and European nations, or of a desire to encroach upon the territories of Great Britain. If, in the progress of their increasing population, the American people must grow in strength proportioned to their number, the undersigned will hope that Great Britain, far from repining at the prospect, will contemplate it with satisfaction. They will not suppose that that Government will avow, as the basis of their policy towards the United States, the system of arresting their natural growth within their own territories, for the sake of preserving a perpetual desert for savages. If Great Britain has made sacrifices to give repose to the civilized world in Europe, no sacrifice is required from her by the United States to complete the work of general pacification. This negotiation at least evinces on their part no disposition to claim any other right than that of preserving their independence entire, and of governing their own territories without foreign interference.

Of the two proclamations, purported copies of which the British plenipotentiaries have thought proper to enclose with their last note, the undersigned might content themselves with remarking that neither of them is the act of the American Government. They are enabled, however, to add, with perfect confidence, that neither of them was authorized or approved by the Government. The undersigned are not disposed to consider as the act of the British Government the proclamation of Admiral Cochrane, herewith enclosed, exciting a portion of the population of the United States, under the promise of military employment, or of free settlement in the West Indies, to treachery and rebellion. The undersigned very sincerely regret to be obliged to say, that an irresistible mass of evidence, consisting principally of the correspondence of British officers and agents, part only of which has already been published in America, establishes beyond all rational doubt the fact that a constant system of excitement to those hostilities was pursued by the British traders and agents, who had access to the Indians, not only without being discountenanced, but with frequent encouragement by the British authorities; and that, if they ever dissuaded the Indians from commencing hostilities, it was only by urging them, as in prudence, to suspend their attacks until Great Britain could recognise them as her allies in the war.

When, in the conference of the 9th ultimo, the undersigned invited discussion upon the proposal of Indian pacification and boundary, as well as upon all the subjects presented by the British plenipotentiaries for discussion, they expressly stated their motives to be, 1st, to ascertain, by discussion, whether an article on the subject could be formed, to which they could subscribe, and which would be satisfactory to the British plenipotentiaries; and, 2dly,

that, if no such article could be formed, the American Government might be informed of the views of Great Britain upon that point, and the British Government of the objections, on the part of the United States, to any such arrangement. The undersigned have, in fact, already proposed no less than three articles on the subject, all of which they view as better calculated to secure peace and tranquillity to the Indians, than any of the proposals for that purpose made by the British plenipotentiaries.

The undersigned had repeated their assurances to the British plenipotentiaries that peace, so far as it depended on the United States, would immediately follow a peace with Great Britain; and added, that the Indians would thereby be reinstated in the same situation in which they stood before the commencement of hostilities. The British plenipotentiaries insist, in their last note, that the Indian nations shall be included in the treaty of peace between Great Britain and the United States, and be restored to all the rights, privileges, and territories, which they enjoyed in the year 1811, previous to their commencement of the war, by virtue of the treaty of Greenville, and the treaties subsequently concluded between them and the United States. Setting aside the subject of boundary, which is presented as for discussion only, there is no apparent difference with respect to the object in view, the pacification and tranquillity of the Indians, and placing them in the same situation in which they stood before the war; all which will be equally obtained in the manner proposed by the undersigned. And the only point of real difference is, the British plenipotentiaries insist that it should be done by including the Indians, as allies of Great Britain, in the treaty of peace between her and the United States.

The United States cannot consent that Indians residing within their boundaries, as acknowledged by Great Britain, shall be included in the treaty of peace in any manner which will recognise them as independent nations, whom Great Britain, having obtained this recognition, would hereafter have the right to consider, in every respect, as such. Thus, to recognise those Indians as independent and sovereign nations would take from the United States, and transfer to those Indians, all the rights of soil and sovereignty over the territory which they inhabit; and this being accomplished, through the agency of Great Britain, would place them effectually and exclusively under her protection, instead of being, as heretofore, under that of the United States. It is not perceived in what respect such a provision would differ from an absolute cession by the United States of the extensive territory in question.

The British plenipotentiaries have repeated the assertion, that the treaty by which the Indians placed themselves under the protection of the United States was abrogated by the war; and thence infer, that they are no longer to be considered as under the protection of the United States, whatever may be the import of the term, and that the right of Great Britain to interfere in their behalf in the negotiation for peace can only be denied on the ground that they are regarded as subjects. In point of fact, several of the tribes, parties to the treaty of Greenville, have constantly been, and still are, at peace with the United States. Whether that treaty be or be not abrogated, is a question not necessary to be now discussed. The right of the United States to the protection of the Indians within their boundaries was not acquired by that treaty; it was a necessary consequence of the sovereignty and independence of the United States. Previous to that time, the Indians living within the same territory, were under the protection of His Britannic Majesty, as its sovereign. The undersigned may refer the British plenipotentiaries to all the acts of their own Government relative to the subject, for proof that it has always considered this right of protection as one of the rights of sovereignty which it needed no Indian treaty to confer, and which the abrogation of no Indian treaty could divest. They will particularly bring to their recollection, that when a similar proposition was made of considering Indian tribes as independent nations, to serve as a barrier between the French and English territories, was made by France to England, it was immediately rejected by a minister to whom the British nation is accustomed to look back with veneration; and rejected on the express ground that the King would not renounce his right of protection over the Indians within his dominions. But whatever the relation of the Indians to the United States may be, and whether under their protection or not, Great Britain having, by the treaty of 1783, recognised the sovereignty of the United States, and agreed to certain limits as their boundaries, has no right to consider any persons or communities, whether Indians or others, residing within those boundaries, as nations independent of the United States.

The United States claim, of right, with respect to all European nations, and particularly with respect to Great Britain, the entire sovereignty over the whole territory, and all the persons embraced within the boundaries of their dominions; Great Britain has no right to take cognizance of the relations subsisting between the several communities or persons living therein; they form, as to her, only parts of the dominions of the United States, and it is altogether immaterial whether, or how far, under their political institutions and policy, these communities or persons are independent States, allies, or subjects. With respect to her, and all other foreign nations, they are parts of a whole, of which the United States are the sole and absolute sovereigns.

The allegation of the British plenipotentiaries that it is inconsistent with the practice or principles of Great Britain to abandon, in her negotiations for peace, those who have co-operated with her in war, is not applicable to the Indians, but on the erroneous assumption of their independence, which, so far as she is concerned, has been fully disproved. And although no power from these tribes to the British Government, to treat in their behalf, would, for the same reason, be admitted by the undersigned, they may nevertheless observe, that the British plenipotentiaries having produced no such powers, having no authority to bind the Indians, to engage for their assent to the pacification, or to secure the continuance of peace on their part, whilst speaking of them as allies, do really propose to treat for them, not as if they were independent nations, but as if they were the subjects of Great Britain. The undersigned, so far from asking that, in relation to the Indians, Great Britain should pursue a course inconsistent with her former practice and principles, only desire that she would follow her own example respecting them, in her former treaties with other European nations, and with the United States. No provision for the Indians is found in the treaty of 1763, by which France ceded Canada to Great Britain, although almost all the Indians living within the territory ceded, or acknowledged to belong to Great Britain, had taken part with France in the war. No such provision was inserted in the treaty of peace of 1783, between Great Britain and the United States, although almost all the Indian tribes living within the territory recognised by the treaty to belong to the United States, had, during the war, co-operated with Great Britain, and might have been considered as her allies more justly than on the present occasion. So far as concerns the relations between Great Britain and the United States, these Indians can be treated for only on the principles by which amnesties are stipulated in favor of disaffected persons, who, in times of war and invasion, co-operate with the enemy of the nation to which they belong. To go as far as possible in securing the benefit of the peace to the Indians, now the only object professed by the British Government in their present *sine qua non*, the undersigned offer a stipulation in general terms: that no person or persons, whether subjects, citizens, or Indians, residing within the dominions of either party, shall be molested or annoyed, either in their persons or their property, for any part they may have taken in the war between the United States and Great Britain; but shall retain all the rights, privileges, and possessions which they respectively had at the commencement of the war; they, on their part, demeaning themselves peaceably and conformably to their duties to the respective Governments. This, the undersigned have no doubt will effectually secure to the Indians peace, if they themselves

will observe it, and they will not suppose that Great Britain would wish them included in the peace, but upon that condition.

The undersigned have never intimated that their Government had not furnished them with any instructions since January last. On the contrary, they distinctly told the British plenipotentiaries in conference, though it appears to have escaped their recollection, that instructions had been received by the undersigned, dated at the close of the month of June. The undersigned will now add, that those instructions were drawn with a full knowledge of the general pacification in Europe, and with so liberal a consideration of its necessary bearing upon all the differences that had been until then subsisting between Great Britain and the United States, that the undersigned cannot doubt that peace would long since have been concluded, had not an insuperable bar against it been raised by the new and unprecedented demands of the British Government.

With respect to the proposition which the British plenipotentiaries inform them they will be prepared to make, in relation to the Canadian boundaries, which appears to them so entirely founded on principles of moderation and justice, but the nature of which they think proper, at present, to withhold, the undersigned can only pledge themselves to meet any proposition from the British plenipotentiaries characterized by moderation and justice, not only with a perfect reciprocity of those sentiments, but with a sincere and earnest desire to contribute to the restoration of peace, by every compliance with the wishes of Great Britain compatible with their duty to their country.

The undersigned have the honor of tendering to the British plenipotentiaries the renewed assurance of their high consideration.

JOHN QUINCY ADAMS,
JAMES A. BAYARD,
HENRY CLAY,
JONA. RUSSELL,
A. GALLATIN.

From the British to the American ministers.

Ghent, October 8, 1814.

The undersigned have the honor to acknowledge the receipt of the note of the plenipotentiaries of the United States dated on the 26th ultimo.

As the continuance of the negotiation exclusively depends upon the question relating to the pacification and rights of the Indian nations, the undersigned are unwilling to extend their observations to the other subjects brought forward in the note of the American plenipotentiaries further than may be required for necessary explanation.

In adverting for this purpose to the acquisition of Louisiana, the undersigned must observe that the instrument by which the consent of His Catholic Majesty is alleged to have been given to the cession of it has never been made public. His Catholic Majesty was no party to the treaty by which the cession was made, and if any sanction has been subsequently obtained from him, it must have been, like other contemporaneous acts of that monarch, involuntary, and, as such, cannot alter the character of the transaction. The Marquis of Yrujo, the minister of His Catholic Majesty at Washington, in a letter addressed to the President of the United States, formally protested against the cession, and the right of France to make it; yet, in the face of this protestation, so strongly evincing the decided opinion of Spain as to the illegality of the proceeding, the President of the United States ratified the treaty. Can it be contended that the annexation of Louisiana, under such circumstances, did not mark a spirit of territorial aggrandizement?

His Britannic Majesty did certainly express satisfaction when the American Government communicated the event that Louisiana, a valuable colony in the possession of France, with whom the war had just been renewed, instead of remaining in the hands of his enemy, had been ceded to the United States, at that time professing the most friendly disposition towards Great Britain, and an intention of providing for her interest in the acquisition. But the conditions under which France had acquired Louisiana from Spain were not communicated; the refusal of Spain to consent to its alienation was not known; the protest of her ambassador had not been made; and many other circumstances attending the transaction, on which it is now unnecessary to dilate, were, as there is good reason to believe, industriously concealed.

The proof of a spirit of aggrandizement which the undersigned had deduced from the hostile seizure of a great part of the Floridas, under the most frivolous pretences, remains unrefuted; and the undersigned are convinced that the occasion and circumstances under which that unwarrantable act of aggression took place have given rise throughout Europe to but one sentiment as to the character of the transaction.

After the previous communication which the undersigned have had the honor of receiving from the American plenipotentiaries, they could not but feel much surprise at the information contained in their last note, of their having received instructions dated subsequently to January, 1814. The undersigned have no recollection whatever of the American plenipotentiaries having communicated to them, either collectively or individually, at a conference or otherwise, the receipt of instructions from the Government of the United States dated at the close of the month of June; and they must remind the American plenipotentiaries that their note of the 9th ultimo distinctly stated that the instructions of January, 1814, were those under which they were acting. If, therefore, the American plenipotentiaries received instructions drawn up at the close of the month of June, with a liberal consideration of the late events in Europe, the undersigned have a right to complain that, while the American Government justly considered those events as having a necessary bearing on the existing differences between the two countries, the American plenipotentiaries should nevertheless have preferred acting under instructions which, from their date, must have been framed without the contemplation of such events.

The British Government never required that all that portion of the State of Massachusetts intervening between the province of New Brunswick and Quebec should be ceded to Great Britain, but only that small portion of unsettled country which intercepts the communication between Halifax and Quebec; there being much doubt whether it does not already belong to Great Britain.

The undersigned are at a loss to understand how Vice Admiral Cochrane's proclamation illustrates any topic connected with the present negotiation, or bears upon the conclusion which they contended was to be drawn from the two proclamations of the American generals. These proclamations, distinctly avowing the intention of the American Government permanently to annex the Canadas to the United States, were adduced not as matter of complaint, but simply for the purpose of proving what had been denied as a fact, viz: that such had been the declared intention of the American Government.

The undersigned observe that, although the American plenipotentiaries have taken upon themselves generally to deny that the proclamations were authorized or approved by their Government, without stating in what mode

that disapprobation was expressed, yet they avoid stating that the part of those proclamations containing the declaration in question had not been so authorized or approved. It is, indeed, impossible to imagine that, if the American Government had intimated any disapprobation of that part of General Hull's proclamation, the same declaration would have been as confidently repeated four months after by General Smyth.

His Majesty's Government have other and ample means of knowing that the conquest of the Canadas, and their annexation to the United States, was the object and policy of the American Government. For the present, the undersigned will content themselves with referring to the remonstrance of the Legislature of Massachusetts in June, 1813, in which this intention is announced as matter of notoriety.

The undersigned deny that the American Government have proved, or can prove, that, previous to the declaration of war by the United States, persons authorized by the British Government endeavored to excite the Indian nations against the United States; or that endeavors of that kind, if made by private persons, (which the undersigned have no reason to believe,) ever received the countenance or encouragement of His Majesty's Government.

The American plenipotentiaries have not denied that the Indian nations had been engaged in war against the United States before the war with Great Britain had commenced; and they have reluctantly confessed that, so far from His Majesty's having induced the Indian nations to begin the war, as charged against Great Britain in the notes of the 24th of August and 9th ultimo, the British Government actually exerted their endeavors to dissuade the Indian nations from commencing it.

As to the unworthy motive assigned by the American plenipotentiaries to this interference so amicably made on the part of Great Britain, its utter improbability is sufficiently apparent from considering by which party the war was declared. The undersigned, therefore, can only consider it as an additional indication of that hostile disposition which has led to the present unhappy war between the two countries. So long as that disposition continues, it cannot but render any effort on the part of Great Britain to terminate this contest utterly unavailing.

The American plenipotentiaries appear unprepared to state the precise ground upon which they resist the right of His Majesty to negotiate with the United States on behalf of the Indian nations, whose co-operation in the war His Majesty has found it expedient to accept.

The treaty of Greenville, to the words, stipulations, and spirit of which the undersigned have so frequently appealed, and all the treaties previously and subsequently made between the United States and the Indian nations, show beyond the possibility of doubt that the United States have been in the habit of treating with these tribes as independent nations, capable of maintaining the relations of peace and war, and exercising territorial rights.

If this be so, it will be difficult to point out the peculiar circumstances in the condition of these nations which should either exclude them from a treaty of general pacification, or prevent Great Britain, with whom they have co-operated as allies in the war, from proposing stipulations in their behalf at the peace. Unless the American plenipotentiaries are prepared to maintain what they have in effect advanced, that, although the Indian nations may be independent in their relations with the United States, yet the circumstance of living within the boundary of the United States disables them from forming such conditions of alliance with a foreign Power, as shall entitle that Power to negotiate for them in a treaty of peace.

The principle upon which this proposition is founded was advanced, but successfully resisted, so far back as the treaty of Munster. An attempt was then made to preclude France from negotiating in behalf of certain States and cities in Germany which had co-operated with her in the war, because, although those States and cities might be considered as independent for certain purposes, yet, being within the boundary of the German empire, they ought not to be allowed to become parties in the general pacification with the Emperor of Germany, nor ought France to be permitted in that negotiation to mix their rights and interests with her own.

The American plenipotentiaries, probably aware that the notion of such a qualified independence, for certain purposes and not for others, could not be maintained either by argument or precedent, have been compelled to advance the novel and alarming pretension that all the Indian nations living within the boundary of the United States must in effect be considered as their subjects, and consequently, if engaged in war against the United States, become liable to be treated as rebels or disaffected persons. They have further stated, that all the territory which these Indian nations occupy is at the disposal of the United States; that the United States have a right to dispossess them of it; to exercise that right whenever their policy or interests may seem to them to require it; and to confine them to such spots as may be selected, not by the Indian nations, but by the American Government. Pretensions such as these Great Britain can never recognise. However reluctant His Royal Highness the Prince Regent may be to continue the war, that evil must be preferred if peace can only be obtained on such conditions.

To support those pretensions, and at the same time to show that the present conduct of Great Britain is inconsistent with the former practice and principles, the American plenipotentiaries have referred to the treaty of peace of 1783, to that of 1763, and to the negotiations of 1761, during the administration of a minister whom the American plenipotentiaries have stated, and truly stated, to be high in the estimation of his country.

The omission to provide, in the treaty of 1783, for the pacification of the Indian nations which were to be included within the proposed boundary of the United States, cannot preclude Great Britain from now negotiating in behalf of such tribes or nations, unless it be assumed that the occasional non-exercise of a right is an abandonment of it. Nor can the right of protection, which the American plenipotentiaries have failed in showing to have been unclaimed by Great Britain, as incident to sovereignty, have been transferred by Great Britain to the United States, by a treaty to which the Indian nation were not parties.

In the peace of 1763, it was not necessary for Great Britain to treat for the pacification of the Indian nations, and the maintenance of their rights and privileges, because there had been no Indian nations living without the British boundaries who had co-operated with Great Britain in the war against France.

With respect to the negotiations of 1761, between Great Britain and France, on which the American plenipotentiaries more particularly rely, they appear, in the judgment of the undersigned, to have much misunderstood the whole course of that negotiation.

It is very true that the French Government brought forward, at one period of the negotiation, a proposition by which a certain territory lying between the dominions of the two contracting parties was to have been allotted to the Indian nations. But it does not appear that this formed a part of their ultimatums, and it is clear that Mr. Pitt, in his answer, did not object to the proposition. He objected, indeed, to the proposed line of demarcation between the countries belonging to the two contracting parties, upon two grounds: first, that the proposed northern line would have given to France what the French themselves had acknowledged to be part of Canada, the whole of which, as enjoyed by His Most Christian Majesty, it had been stipulated was to be ceded entirely to Great Britain. Secondly, that the southern part of the proposed line of demarcation would have included within the boundary of Louisiana the Cherokees, the Creeks, the Chicasaws, the Choctaws, and another nation who occupied territories which had never been included within the boundary of that settlement. So far was Mr. Pitt from rejecting, as alleged by the American plenipotentiaries, the proposition of considering Indian nations as a barrier, that, at one period of the negotiation, he complained that there was no provision for such a barrier; and he thus ener-

getically urges his objection in his letter to Mr. Stanley, the British plenipotentiary at Paris, dated on the 26th of June, 1761. "As to the fixation of new limits to Canada towards the Ohio, it is captious and insidious, thrown out in hope, if agreed to, to shorten thereby the extent of Canada, and to lengthen the boundaries of Louisiana, and in the view to establish, what must not be admitted, namely, that all which is not Canada is Louisiana, whereby all the intermediate nations and countries, the true barrier to each province, would be given up to France."

The undersigned confidently expect that the American plenipotentiaries will not again reproach the British Government with acting inconsistently with its former practice and principles, or repeat the assertion made in a former note, that a definition of Indian boundary, with a view to a neutral barrier, was a new and unprecedented demand by any European Power, and, most of all, by Great Britain. The very instance selected by the American plenipotentiaries undeniably proves, that such a proposition had been entertained both by Great Britain and France, and that Mr. Pitt, on the part of Great Britain, had more particularly enforced it.

It remains only to notice two objections, which the American plenipotentiaries have urged against the proposal of Indian pacification, advanced by the undersigned; first, that it is not reciprocal; secondly, that, as the United States could have no security that the Indian nations would conclude a peace on the terms proposed, the objection would be, in effect, unilateral.

The article now proposed by the undersigned, and herewith enclosed, is free from both objections, and appears to them so characterized by a spirit of moderation and peace, that they earnestly anticipate the concurrence of the American plenipotentiaries.

In making a last effort in this stage of the war, the undersigned are not apprehensive that the motives which have influenced His Royal Highness the Prince Regent to direct a renewal of the proposition, with its present modifications, can be misunderstood or misrepresented.

Whatever may be the result of the proposition thus offered, the undersigned deliver it as their ultimatum, and now await with anxiety the answer of the American plenipotentiaries, on which their continuance in this place will depend.

The undersigned avail themselves of this opportunity of renewing to the American plenipotentiaries the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore to such tribes or nations respectively, all the possessions, rights, and privileges, which they may have enjoyed, or been entitled to, in 1811, previous to such hostilities.

Provided, always, That such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

And His Britannic Majesty engages, on his part, to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom he may be at war at the time of such ratification, and forthwith to restore to such tribes or nations respectively, all the possessions, rights, and privileges, which they may have enjoyed, or been entitled to, in 1811, previous to such hostilities.

Provided, always, That such tribes or nations shall agree to desist from all hostilities against His Britannic Majesty and his subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

From the American to the British ministers.

GHEENT, October 13, 1814.

The undersigned have the honor to acknowledge the receipt of the note of the plenipotentiaries of His Britannic Majesty, dated on the 8th instant.

Satisfied of the impossibility of persuading the world that the Government of the United States was liable to any well grounded imputation of a spirit of conquest, or of injustice towards other nations, the undersigned, in affording explanations on several of the topics adverted to by the British plenipotentiaries during this negotiation, were actuated by the sole motive of removing erroneous impressions.

Still influenced by the same motive, they will now add, that at the time when the Spanish minister was remonstrating at Washington against the transfer of Louisiana, orders were given by his Government for its delivery to France; that it was, in fact, delivered a short time after that remonstrance; and that, if the treaty by which the United States acquired it had not been ratified, it would have become of course a French colony. The undersigned believe that the evidence of the assent of Spain to that transfer has been promulgated. They neither admit the alleged disability of the Spanish monarch, nor the inference which the British plenipotentiaries would seem to deduce from it; on the contrary, the assent was voluntarily given in the year 1804, by the same King, who, about the same time, ceded Trinidad to Great Britain, and prior to the time when he was again engaged in a war with her. The cession by France was immediately communicated to Great Britain, no circumstance affecting it, and then within the knowledge of the United States, being intentionally concealed from her. She expressed her satisfaction with it, and if in any possible state of the case, she would have had a right to question the transaction, it does not appear to the undersigned that she is now authorized to do so.

After stating, generally, that the proclamations of Generals Hull and Smyth were neither authorized nor approved by their Government, the undersigned could not have expected that the British plenipotentiaries would suppose that their statement did not embrace the only part of the proclamations which was a subject of consideration.

The undersigned had, indeed, hoped that, by stating in their note of the 9th ultimo that the Government of the United States, from the commencement of the war, had been disposed to make peace without obtaining any cession of territory, and by referring to their knowledge of that disposition, and to instructions accordingly given from July, 1812, to January, 1814, they would effectually remove the impression that the annexation of Canada to the United States was the declared object of their Government. Not only have the undersigned been disappointed in this expectation, but the only inference which the British plenipotentiaries have thought proper to draw from this explicit statement has been that, either the American Government, by not giving instructions subsequent to the pacification of Europe, or the undersigned, by not acting under such instructions, gave no proof of a sincere desire to bring the present negotiations to a favorable conclusion. The undersigned did not allude, in reference to the alleged intention

to annex Canada to the United States, to any instructions given by their Government subsequent to January last, because asking at this time for no accession of territory, it was only of its previous disposition that it appeared necessary to adduce any proof. So erroneous was the inference drawn by the British plenipotentiaries in both respects, that it was in virtue of the instructions of June last, that the undersigned were enabled, in their note of the 24th of August, to state that the causes of the war between the United States and Great Britain having disappeared by the maritime pacification of Europe, they had been authorized to agree to its termination upon a mutual restoration of territory, and without making the conclusion of peace to depend on a successful arrangement of those points on which differences had existed.

Considering the present state of the negotiation, the undersigned will abstain, at this time, from adducing any evidence or remarks upon the influence which has been exerted over the Indian tribes inhabiting the territories of the United States, and the nature of those excitements which have been employed by British traders and agents.

The arguments and facts already brought forward by the undersigned respecting the political condition of those tribes render it unnecessary for them to make many observations on those of the British plenipotentiaries on that subject. The treaties of 1763, and of 1783, were those principally alluded to by the undersigned to illustrate the practice of Great Britain. She did not admit in the first, nor require in the last, any stipulations respecting the Indians who, in one case, had been her enemies, and in the other her allies, and who, in both instances, fell by the peace within the dominions of that Power against whom they had been engaged in the preceding war.

The negotiation of 1761, was quoted for the purpose of proving what appears to be fully established by the answer of England to the ultimatum of France, delivered on the 1st of September of that year, that His Britannic Majesty would not renounce his right of protection over the Indian nations reputed to be within his dominions, that is to say, between the British settlements and the Mississippi. Mr. Pitt's letter, cited by the British plenipotentiaries, far from contradicting that position, goes still further. It states that "the fixation of the new limits to Canada, as proposed by France, is intended to shorten the extent of Canada, which was to be ceded to England, and to lengthen the boundaries of Louisiana, which France was to keep, and in the view to establish what must be not admitted, namely, that all which is not Canada is Louisiana, whereby all the intermediate nations and countries, the true barrier to each province, would be given up to France." This is precisely the principle uniformly supported by the undersigned, to wit, that the recognition of a boundary gives up to the nation in whose behalf it is made, all the Indian tribes and countries within that boundary. It was on this principle that the undersigned have confidently relied on the treaty of 1783, which fixes and recognises the boundary of the United States without making any reservation respecting Indian tribes.

But the British plenipotentiaries, unable to produce a solitary precedent of one European Power treating for the savages inhabiting within the dominions of another, have been compelled, in support of their principle, to refer to the German Empire, a body consisting of several independent States, recognised as such by the whole world, and separately maintaining, with foreign Powers, the relations belonging to such a condition. Can it be necessary to prove that there is no sort of analogy between the political situation of these civilized communities and that of the wandering tribes of North American savages?

In referring to what the British plenipotentiaries represent as alarming and novel pretensions, which Great Britain can never authorize, the undersigned might complain that these alleged pretensions have not been stated, either in terms or in substance, as expressed by themselves. This, however, is the less material as any further recognition of them by Great Britain is not necessary nor required. On the other hand, they can never admit nor recognise the principles or pretensions asserted in the course of this correspondence by the British plenipotentiaries, and which to them appear novel and alarming.

The article proposed by the British plenipotentiaries in their last note, not including the Indian tribes as parties in the peace, and leaving the United States free to effect its object in the mode consonant with the relations which they have constantly maintained with those tribes; partaking, also, of the nature of an amnesty, and being at the same time reciprocal, is not liable to that objection, and accords with the views uniformly professed by the undersigned of placing those tribes precisely, and in every respect in the same situation as that in which they stood before the commencement of hostilities. This article, thus proposing only what the undersigned have so often assured the British plenipotentiaries would necessarily follow, if, indeed, it has not already, as is highly probable, preceded, a peace between Great Britain and the United States, the undersigned agree to admit it in substance as a provisional article, subject, in the manner originally proposed by the British Government, to the approbation or rejection of the Government of the United States, which, having given no instructions to the undersigned on this point, cannot be bound by any article they may admit on the subject.

It will, of course, be understood that if, unhappily, peace should not be the result of the present negotiation, the article thus conditionally agreed to shall be of no effect, and shall not, in any future negotiation, be brought forward by either party by way of argument or precedent.

This article having been presented as an indispensable preliminary, and being now accepted, the undersigned request the British plenipotentiaries to communicate to them a project of a treaty embracing all the points deemed material by Great Britain; the undersigned engaging on their part, to deliver, immediately after, a counter project with respect to all the articles to which they may not agree, and on the subjects deemed material by the United States, and which may be admitted in the British project.

JOHN QUINCY ADAMS,
JAMES A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

From the British to the American ministers.

Ghent, October 21, 1814.

The undersigned have had the honor of receiving the note of the American plenipotentiaries of the 13th instant, communicating their acceptance of the article which the undersigned had proposed on the subject of the pacification and rights of the Indian nations.

The undersigned are happy in being thus relieved from the necessity of recurring to several topics which, though they arose in the course of their discussions, have only an incidental connexion with the differences remaining to be adjusted between the two countries.

With a view to this adjustment the undersigned, preferring in the present state of the negotiation a general statement to the formal arrangement of articles, are willing so far to comply with the request of the American

plenipotentiaries contained in their last note, as to waive the advantage to which they think they were fairly entitled, of requiring from them the first *projet* of a treaty.

The undersigned having stated, at the first conference, the points upon which His Majesty's Government considered the discussions between the two countries as likely to turn, cannot better satisfy the request of the American plenipotentiaries than by referring them to that conference for a statement of the points which, in the opinion of His Majesty's Government, yet remain to be adjusted.

With respect to the forcible seizure of mariners from on board merchant vessels on the high seas, and the right of the King of Great Britain to the allegiance of all his native subjects, and with respect to the maritime rights of the British empire, the undersigned conceive that, after the pretensions asserted by the Government of the United States, a more satisfactory proof of the conciliatory spirit of His Majesty's Government cannot be given than by not requiring any stipulation on those subjects, which, though most important in themselves, no longer, in consequence of the maritime pacification of Europe, produce the same practical results.

On the subject of the fisheries, the undersigned expressed, with so much frankness, at the conference already referred to, the views of their Government, that they consider any further observations on that topic as unnecessary at the present time.

On the question of the boundary between the dominions of His Majesty and those of the United States, the undersigned are led to expect, from the discussion which this subject has already undergone, that the northwestern boundary, from the Lake of the Woods to the Mississippi, (the intended arrangement of 1803,) will be admitted without objection.

In regard to other boundaries, the American plenipotentiaries, in their note of August 24th, appeared in some measure to object to the propositions then made by the undersigned, as not being on the basis of *uti possidetis*. The undersigned are willing to treat on that basis, subject to such modifications as mutual convenience may be found to require; and they trust that the American plenipotentiaries will show, by their ready acceptance of this basis, that they duly appreciate the moderation of His Majesty's Government in so far consulting the honor and fair pretensions of the United States as, in the relative situation of the two countries, to authorize such a proposition.

The undersigned avail themselves of this opportunity to renew to the American plenipotentiaries the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

From the American to the British ministers.

Ghent, October 24, 1814.

The undersigned have the honor to acknowledge the receipt of the note of the British plenipotentiaries of the 21st instant.

Amongst the general observations which the undersigned, in their note of the 24th August, made on the propositions then brought forward on the part of the British Government, they remarked that those propositions were founded neither on the basis of *uti possidetis* nor on that of *status ante bellum*. But so far were they from suggesting the *uti possidetis* as the basis on which they were disposed to treat, that, in the same note, they expressly stated that they had been instructed to conclude a peace on the principle of both parties restoring whatever territory they might have taken. The undersigned also declared in that note, that they had no authority to cede any part of the territory of the United States; and that to no stipulation to that effect would they subscribe. And in the note of the 9th September, after having shown that the basis of *uti possidetis*, such as it was known to exist at the commencement of the negotiation, gave no claim to His Britannic Majesty to cessions of territory founded upon the right of conquest; they added that, even if the chances of war should give to the British arms a momentary possession of other parts of the territory of the United States, such events would not alter their views with regard to the terms of peace, to which they would give their consent.

The undersigned can now only repeat those declarations, and decline treating upon the basis of *uti possidetis*, or upon any other principle involving a cession of any part of the territory of the United States. As they have uniformly stated, they can treat only upon the principle of a mutual restoration of whatever territory may have been taken by either party. From this principle they cannot recede; and the undersigned, after the repeated declarations of the British plenipotentiaries, that Great Britain had no view to acquisition of territory in this negotiation, deem it necessary to add, that the utility of its continuance depends on their adherence to this principle.

The undersigned having declared in their note of the 24th of August, that, although instructed and prepared to enter into an amicable discussion of all the points on which differences or uncertainty had existed, and which might hereafter tend to interrupt the harmony of the two countries, they would not make the conclusion of the peace at all depend upon a successful result of the discussion; and having since agreed to the preliminary article proposed by the British Government, had believed that the negotiations, already so long protracted, could not be brought to an early conclusion, otherwise than by a communication of a *projet*, embracing all the other specific propositions which Great Britain intended to offer. They repeat their request in that respect, and will have no objection to a simultaneous exchange of the *projet* of both parties. This course will bring fairly into discussion the other topics embraced in the last note of the British plenipotentiaries, to which the undersigned have thought it unnecessary to advert at the present time.

The undersigned renew to the British plenipotentiaries the assurance of their high consideration.

JOHN QUINCY ADAMS,
JAMES A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL,
A. GALLATIN.

To the PLENIPOTENTIARIES of His Britannic Majesty, &c., Ghent.

The American Plenipotentiaries to the Secretary of State.

SIR:

GHENT, October 31, 1814.

The detention of the Chauncey at Ostend enables us to send you the enclosed note from the British plenipotentiaries, which we have just received.

We have the honor to be, with perfect respect, your obedient servants,

JOHN QUINCY ADAMS,
J. A. BAYARD,
H. CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

To the Hon. JAMES MONROE, *Secretary of State.*

From the British to the American ministers.

GHENT, October 31, 1814.

The undersigned have the honor to acknowledge the receipt of the note addressed to them by the American plenipotentiaries on the 24th instant, in which they object to the basis of *uti possidetis*, proposed by the undersigned as that on which they were willing to treat, in regard to part of the boundaries between the dominions of His Majesty and those of the United States.

The American plenipotentiaries, in their note of the 13th instant, requested the undersigned to communicate to them the *projet* of a treaty embracing all the points insisted on by Great Britain, engaging, on their part, to deliver immediately after a *contre-projet*, as to all the articles to which they might not agree, and as to all the subjects deemed material by the United States, and omitted in the *projet* of the undersigned.

The undersigned were accordingly instructed to waive the question of etiquette, and the advantage which might result from receiving the first communication, and, confiding in the engagement of the American plenipotentiaries, communicated in their note of the 21st instant, all the points upon which they were instructed to insist.

The American plenipotentiaries have objected to one essential part of the *projet* thus communicated; but before the undersigned can enter into the discussion of this objection, they must require from the American plenipotentiaries that, pursuant to their engagement, they will deliver a *contre-projet*, containing all their objections to the points submitted by the undersigned, together with a statement of such further points as the Government of the United States consider to be material.

The undersigned are authorized to state distinctly that the article as to the pacification and right of the Indian nations having been accepted, they have brought forward in their note of the 21st instant all the propositions which they have to offer. They have no further demands to make, no other stipulations on which they are instructed to insist, and they are empowered to sign a treaty of peace forthwith, in conformity with those stated in their former note.

The undersigned trust, therefore, that the American plenipotentiaries will no longer hesitate to bring forward, in the form of articles, or otherwise, as they may prefer, those specific propositions upon which they are empowered to sign a treaty of peace between the two countries.

The undersigned avail themselves of the present opportunity to renew to the plenipotentiaries of the United States the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

[See No. 271.]

13th CONGRESS.]

No. 270.

[3d SESSION.]

GREAT BRITAIN—PRISONERS OF WAR.

COMMUNICATED TO CONGRESS, OCTOBER 28, 1814.

To the House of Representatives of the United States:

OCTOBER 28, 1814.

I transmit to the House of Representatives a report from the Department of State, complying with their resolution of the 15th instant.

JAMES MADISON.

DEPARTMENT OF STATE, October 27, 1814.

The acting Secretary of State, to whom was referred the resolution of the House of Representatives of the 15th instant, has the honor of submitting to the President the accompanying papers marked Nos. 1, 2, 3, and 4, as containing the information which is presumed to be called for by the said resolution.

Respectfully submitted.

JAMES MONROE.

The PRESIDENT of the United States.

No. 1.

Extract of a letter from Reuben G. Beasley, Esq., to the Commissary General of Prisoners.

LONDON, March 18, 1814.

Having had several conversations on the subject of retaliation, previous to the receipt of your letters of the 6th and 9th of January, I took the earliest occasion to communicate the information they contained. On the 9th ultimo, I addressed a letter to the Transport Board on the subject, a copy of which I have now the honor to enclose. Although I have received no reply to this letter, I have the satisfaction to inform you that I have been assured by the Secretary of the Board, and have found the fact confirmed by my own observation, that the treatment of the individuals sent to this country for trial, has in no respect been different from that of the other prisoners of war.

[Enclosed in the preceding.]

Mr. Beasley to the Secretary of the Transport Board.

Sir:

HARLEY STREET, February 19, 1814.

In consequence of the wish which you verbally expressed to me yesterday, I now present to the Board, in the form in which it has been communicated to me by the Commissary General of prisoners of the United States, a statement of the various measures of retaliation which have been forced on the American Government by the unwarrantable acts of British officers. I the more readily comply with this wish, because it will lead to a proper understanding on the subject, and I persuade myself it will be followed by measures on the part of the British Government which will not only relieve the suffering individuals but put an end to the proceedings, the very idea of which is so painful to every generous and humane feeling. I begin in the order in which they occurred.

[Here follows the statement extracted from General Mason's letter of the 6th January] 1814.*

To the foregoing I have to add, that information has been received by the Commissary General that the British commanding officer at Halifax had confined there sixty-four American officers, with intention to make the number ninety-two, in retaliation for the forty-six British officers confined by the American Government. As soon as this should be officially communicated to the Government, a correspondent and effectual measure would be adopted in the United States.

In this statement, and the documents which accompany it, will be found the disposition and sentiments of the American Government. It will be seen that the system was not begun by the United States. Prompt in the discharge of the duty they owe to their citizens, they have constantly lamented the necessity of the measures imposed on them, and have on every occasion shown, as you will see exemplified in the first, second, third, and fourth acts, above recited, that the moment the necessity of detention ceased to exist, the persons confined have been released.

The British agent in the United States, who has been regularly informed of every circumstance relative to this unpleasant subject, will no doubt have done the American Government the justice to say, that the sufferings of the individuals concerned have at all times been as little as the nature of the case would admit.

It has been thought extraordinary that, contrary to the stipulations of the cartel, American prisoners have been sent to this country from Canada. This measure was strongly remonstrated against to Colonel Barclay some time ago; but so far from having produced the desired effect, it has been continued under circumstances of the greatest hardship and suffering. About four hundred of these persons, many of whom had never before been at sea, were hurried on board ship, without the least previous notice to provide themselves with necessaries, and in that situation exposed to a boisterous winter passage. The Government of the United States has sought in vain for a legitimate motive for this conduct, which will necessarily lead to a corresponding measure of severity, if not satisfactorily explained.

I am instructed to make inquiry relative to the situation of all the prisoners who have from time to time been sent to this country; and to give information of the places of confinement and treatment of those who were sent here for trial.

I have to remark, that, while the British prisoners in the United States have been treated in exact conformity to the stipulations contained in the cartel, no change whatever has been made in the treatment of American prisoners in close confinement, nor has any satisfactory reason been given why they have not been placed on the same footing.

The situation of the British officers who are held in the United States as hostages to answer in their persons for the safety and proper treatment of the American prisoners, will be found described in the extract of a letter herewith transmitted, dated 13th December, 1813, and it will continue the same while it is understood that American officers, in the hands of the British Government, meet with similar treatment.

I am, sir, your most obedient servant,

R. G. BEASLEY.

ALEXANDER McLEAY, Esq., &c.

No. 2.

Extracts of a letter of instructions from the Secretary of State to Colonel Tobias Lear, appointed to negotiate, on the part of the United States, an exchange of prisoners of war with Sir George Prevost.

WASHINGTON, June 27, 1814.

On the subject of hostages, if any are retained on either side, it cannot be admitted that a number of prisoners shall be left in the hands of the enemy in that state, or in any other, different from the ordinary state of prisoners of war, greater than shall be held by us to answer for their proper treatment and safety.

You are not unacquainted with the cause which induced the Government to designate certain persons prisoners of war, in our possession, to abide the fate of such American prisoners of war as the enemy had thought proper to separate from their comrades, and to transport, under severe and ignominious confinement, to England, for trial as traitors. While this treatment continued, and while there was a probability of the threatened trial and punishment, this Government could not, and would not, have relaxed in the measures it had adopted. Information, however, having been recently received from Mr. Beasley, American agent for prisoners at London, dated on the 18th of March

* This statement contained the substance of the cases to be found in the report of the Secretary of State of the 14th April, 1814, printed by order of the Senate.

last, by which it is known that he had received assurances, and that he was satisfied of the fact, that the treatment of the individuals sent to that country, avowedly for trial, has been in no respect different from that of other prisoners of war, the President has been induced to hope, from this circumstance, as well as from the length of time which has elapsed since these persons have been in England, without having been brought to trial, that it is not the intention of the British Government to take a step which would inevitably involve consequences shocking to humanity; and sincerely desirous of lessening, as much as possible, the sufferings of individuals on both sides, he has determined that, reserving to the Government the full right of replacing the hostages, who may have been designated here, and retaining the power to do so, such of the prisoners taken from the command of Sir George Prevost, as have been so designated, may be now exchanged. You are accordingly authorized to stipulate that the proposed release and exchange shall be without distinction of hostages, taking care that it shall be reciprocal, and that a special reservation be made of the right, which may be common, to replace them, whenever it is deemed proper to do so.

No. 3.

Extracts of such parts of a convention for the exchange of prisoners of war, proposed on the 15th of April, 1814, and of the instrument by which it was modified, and finally agreed upon, on the 16th of July following, between agents duly authorized by the Secretary of State of the United States, on the one part, and Sir George Prevost, Commander-in-chief of the British forces in the Canadas, on the other, as relates to those who had been, on either side, confined under the system of retaliation.

Extracts of the convention of the 15th of April.

ARTICLE 1. It is mutually stipulated and agreed, that all the persons belonging to the army, navy, or militia, of the United Kingdom of Great Britain and Ireland, or the provinces or dependencies thereof, under the command, authority, and jurisdiction of his excellency Sir George Prevost, or any subjects or residents thereof, within the same command, authority, and jurisdiction, who may have been made captives during the present war, under and by the command and authority of the Government of the United States, and also all persons belonging to the navy, army, or militia, of the United States, or any of them, or the territories thereof, or citizens or residents of the same, or any of them, who may have been made captives during the present war, by and under the command and authority of Sir George Prevost, aforesaid; and which said persons, so respectively captured, are now held in confinement by the said respective parties either as prisoners of war, hostages, or otherwise, shall be mutually and respectively forthwith released from confinement, and sent, or permitted to proceed, to the United States or Canada, respectively, in the manner hereinafter pointed out, with as little delay as may be, saving and excepting always the first three-and-twenty men first put into confinement on principles of retaliation, as hostages, by the United States, and the officers and non-commissioned officers put into confinement by his excellency Sir George Prevost, in retaliation for the confinement of the said twenty-three men, private soldiers.

ART. 9. It is further mutually agreed, that all the persons thus released, and sent or permitted to return to their respective countries, who are now in Lower Canada, or on the eastern side of the Alleghany mountains in the United States, and also all prisoners of war who are now on parole, or otherwise in their respective countries, be, and the same are hereby, declared to be exchanged, and that they, and every of them, from and after the 15th of May next, shall be perfectly and entirely free to enter and engage in the military, naval, or other service of their respective countries, as if they never had been prisoners of war and hostages; and, in like manner, all the said persons who are on the western side of the Alleghany mountains, in the United States, and those who are in or near Halifax or in Nova Scotia, and who were captured by and under the command of Sir George Prevost, shall be, and are hereby, declared exchanged, and at liberty to enter into the naval, military, or other service of their respective countries, as if they had never been made prisoners of war and hostages.

ART. 12. It is further mutually agreed and expressly understood, that nothing herein contained is intended or shall in any manner prevent or hinder either party from resorting to retaliation, or replacing said hostages, whenever either may deem it proper, for the past or any future act or conduct of the opposite party.

Extracts of the instrument of modification and ratification of the 16th of July.

PREAMBLE.—The following modifications of the said convention of the 15th of April last have been agreed to; in consequence of which the same is hereby ratified and confirmed, on the part of the United States, in virtue of the full powers given to the aforesaid Tobias Lear, the same having been before ratified by his excellency Sir George Prevost, &c.

ARTICLE 1. The twenty-three British soldiers put into confinement as hostages by the United States, and the forty-six American commissioned and non-commissioned officers put into confinement by his excellency Sir George Prevost, in retaliation for the confinement of the said twenty-three soldiers, as mentioned in the 1st article of the aforesaid convention, are to be immediately released and exchanged, in the same manner as other prisoners of war mentioned in said article.

ART. 2. All accounts of exchange, relative to prisoners of war, officers, non-commissioned officers, and privates, of the army, navy, and militia, of the Government of Great Britain, and of the United States of America, and of all other persons, subjects or residents of the one, or citizens or residents of the other, captured by the forces under the command of Sir George Prevost, or from his command or authority, during the present war between Great Britain and the United States, prior to the 15th of April last, and for the release and exchange of whom it is stipulated, by the 9th article of the aforesaid convention of the 15th of April aforesaid, and the twenty-three and forty-six hostages, before mentioned, are by this present modification definitively liquidated and settled, without either party having any pretension or right to any claim therein hereafter.

No. 4.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

BLADENSBURG, June 14, 1814.

Should there be any British prisoners of war remaining in these States from New York eastward, permit me to recommend their being released, and sent in the Matilda (cartel) lately arrived at Salem, with American prisoners.

In the number I hope you will include all those now held as hostages, and beg leave to assure you, I have recommended to the admiral and general the release of all Americans held on similar principles, to the state of ordinary prisoners; and that Mr. Mitchell be informed he is at liberty to elect them to be sent to these States, in return for British prisoners received.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

JUNE 21, 1812.

On the subject of hostages, I will cheerfully direct to be released and sent to Halifax any such as we now hold on the maritime frontier of Massachusetts, if you will engage that the persons at Halifax, on whose account they were confined, shall be immediately released and returned to the United States. I believe there are but sixteen of that description, whose names are enclosed. The few then remaining, with the desire to meet the relaxation proposed by you, I will direct to be confined, with other non-paroled prisoners, on board the prison-ship at Salem.

Colonel Thomas Barclay to General Mason.

SIR:

BLADENSBURG, June 21, 1814.

I had hoped, in consequence of my having acquainted you I had recommended the naval and military commanders at Halifax to release to the state of ordinary prisoners all the Americans then held on retaliatory principles, that this Government would have been induced to adopt a similar conciliatory measure, and thereby relieve the unfortunate men who have been so unpleasantly situated. You will, by a re-perusal of my late letters on this subject, perceive the unpleasant consequences to which His Majesty's Government will be driven, if the acts above mentioned on the part of His Majesty do not meet a corresponding conduct on the part of this Government.

Mr. Prince, the marshal of Massachusetts, has informed Mr. Simpson, that you have directed him to retain eighteen British prisoners as hostages for a like number of men, part of the one hundred and one American prisoners sent last autumn to England.

On the 14th instant I requested you to inform me whether you would consent that all the British prisoners, who might remain in the Eastern States after the departure of the Perseverance cartel to Halifax, should be sent in the Matilda cartel for Halifax, for whom I would order an equivalent to be returned. A measure of this nature must prove equally advantageous to both nations. Permit me to request your answer, and if it is the determination of this Government to hold any British subjects as hostages, that you will favor me with a list of their names, the persons they are held for, and the places of confinement.

I have the honor to be, sir, your obedient servant,

THOMAS BARCLAY.

General MASON, &c.

Extract of a letter from Colonel Thomas Barclay to the Commissary General of Prisoners, dated

SIR:

BLADENSBURG, June 22, 1814.

I am this moment honored with your letter of yesterday.

I am pleased with your consenting to send all the British prisoners remaining in the Eastern States to Halifax, and that the hostages are to be included. I have repeatedly informed you, that I had requested every American prisoner, held as a hostage at Halifax, should be released to the state of ordinary prisoners, and that Mr. Mitchell should be at liberty to select whom he pleased in making up the equivalent to be sent from Halifax. I will be answerable that the above is carried into effect, and that an equivalent, under Mr. Mitchell's election, is immediately sent from Halifax to Salem, in return for the men whom the Matilda carries from Salem.

Extract of a letter from the Commissary General of Prisoners to Colonel Thomas Barclay, dated

WASHINGTON, June 22, 1814.

I have received your letters of this date, and of the 21st instant. I shall, in consequence of your engagement in that of the 22d instant, and in compliance with the terms of mine of yesterday, by the mail made up to-day, instruct Mr. Prince to collect all the prisoners he can, in a reasonable time, and send by the cartel Matilda, and such hostages as have been designated in retaliation against American prisoners confined at Halifax.

The other hostages designated for American prisoners sent to England will be placed in the ordinary state of non-paroled prisoners, and those at Fort Sewall removed to the prison-ship at Salem for that purpose.

Colonel Thomas Barclay to General Mason.

SIR:

BLADENSBURG, August 9, 1814.

I had hoped, in consequence of my several letters to you on the subject of retaliation, and the release of all the American prisoners held as hostages in His Majesty's dominions under retaliatory orders, of which I have given you notice, that this Government would have been induced to follow the example, and place in the ordinary state of prisoners, ready for release and exchange, the few British prisoners named at the foot of this letter, who are still held in confinement as hostages.

I request you will be pleased to inform me, whether it is the intention of this Government to continue these unfortunate men in prison as hostages, and to withhold their release and exchange; and I beg leave to add, that, if this is the case, double the number of American prisoners will once more be placed in a similar state of confinement in retaliation for these men.

I have the honor to be, sir, your most obedient servant,

THOMAS BARCLAY.

General MASON, &c.

List of prisoners referred to in the preceding letter.

IN MASSACHUSETTS.—John Price, R. Robertson, John Anderson, John Eagan, James Dawson, Henry Beddingfield, William Kitts.

IN RHODE ISLAND.—William Lincoln.

Extract of a letter from the Commissary General of Prisoners to Colonel Barclay, dated

SIR:

AUGUST 12, 1814.

In reply to your letter of the 9th instant, I shall pass over the terms in which you have thought proper to convey part of that letter, with the remark, that after the manner in which the subject of hostages had been treated in your letter of the 14th of June, and mine of the 21st and 22d of the same month, considering the information I had given you in my letter of the 20th of May, of the relaxation which had taken place in the condition of the twenty-three hostages in our power at Greenbush, and the cause of it, and the communication I had made you as late as the 28th ultimo, of the convention concluded with Sir George Prevost, by which these and all other hostages appertaining to the class of prisoners captured by or from his command, were released and finally exchanged, it could not have been expected, when you thought proper to make further inquiry as to the situation of those persons yet remaining in our possession, who had been hostages, and the intention of the Government toward them, you should have then resorted to the same declaration of consequences, conveyed in terms amounting to a threat, which you had been informed in a letter I addressed to you on the 11th of June, on a former occasion, was unavailing, and had been considered exceptionable.

In my letter of the 22d of June, I informed you, that those who had been hostages, and not sent for exchange by the cartel then in port, should be restored to the ordinary state of prisoners. Why, then, unless you were well assured that this had not been done, do you say in yours of the 9th instant, you had hoped that the American Government would have been induced to follow the example of your Government? The fact is, at this time, there is no British prisoner in this country in any other situation. The order to that effect went from this office on the 22d of June, as to the prisoners in Massachusetts; and on the 19th of July, as to one William Lincoln, in Rhode Island. The copy of my letter to the marshal of that State, now sent, will explain the cause of his confinement being thus much lengthened; namely, his attempt to escape.

The reasons which determined this Government to relax in the mode of treatment towards hostages are detailed in that letter, and were the same which induced it to accept a proposition, on the part of Sir George Prevost, to include all hostages on both sides in the general exchange of prisoners made with him, with the reservation of the right to replace them with others, should it, from any change of circumstances, be deemed necessary. These reasons, to wit: information from our agent in London that the American prisoners, sent to England for trial, were not then confined or treated otherwise than ordinary prisoners, operating generally, so soon as they had been acted on in the exchange of part of the hostages held by us in the quarter just mentioned, produced instructions from this office to put on the same footing "the persons heretofore designated as hostages of the maritime class, and to hold them ready for exchange." They are accordingly now so held.

13th CONGRESS.]

No. 271.

[3d SESSION.]

GREAT BRITAIN.

COMMUNICATED TO THE SENATE, BY THE MESSAGES OF FEBRUARY 15, 16, AND 20, 1815.

To the Senate of the United States:

FEBRUARY 15, 1815.

I have received from the American commissioners a treaty of peace and amity between His Britannic Majesty and the United States of America, signed by those commissioners and by the commissioners of His Britannic Majesty at Ghent on the 24th December, 1814. The termination of hostilities depends upon the time of the ratification of the treaty by both parties. I lose no time, therefore, in submitting the treaty to the Senate for their advice and approbation.

I transmit, also, a letter from the American commissioners which accompanied the treaty.

JAMES MADISON.

To the Senate of the United States:

FEBRUARY 16, 1815.

I transmit to the Senate a report of the acting Secretary of State, complying with their resolution of yesterday.

JAMES MADISON.

[Report of the Secretary of State, referred to in the preceding message.]

DEPARTMENT OF STATE, February 16, 1815.

The acting Secretary of State, to whom was referred the resolution of the Senate of the 15th instant, requesting the "President of the United States to cause to be laid before the Senate all instructions given to the envoys at Ghent, the correspondence between the said envoys and the Department of State, and the correspondence and

protocols of conference between the said envoys and the ministers of His Britannic Majesty, during the negotiation at Ghent, which have not before been communicated to the Senate," has the honor to state that the instructions to the envoys at Ghent have heretofore been communicated to the Senate, except those of which the accompanying papers marked A and B are copies.

The correspondence and protocols of conferences between the said envoys and the ministers of His Britannic Majesty which have been received at this Department, and which have not heretofore been communicated to the Senate will be found in the accompanying papers marked 1, 2, 3, 4, 5, 6, 7, 8, and 9.

All which is respectfully submitted.

JAMES MONROE.

WASHINGTON, February 18, 1815.

To the Senate and House of Representatives of the United States:

I lay before Congress copies of the treaty of peace and amity between the United States and His Britannic Majesty, which was signed by the commissioners of both parties, at Ghent, on the 24th of December, 1814, and the ratifications of which have been duly exchanged.

While performing this act, I congratulate you and our constituents upon an event which is highly honorable to the nation, and terminates, with peculiar felicity, a campaign signalized by the most brilliant successes.

The late war, although reluctantly declared by Congress, had become a necessary resort to assert the rights and independence of the nation. It has been waged with a success which is the natural result of the wisdom of the legislative councils, of the patriotism of the people, of the public spirit of the militia, and of the valor of the military and naval forces of the country. Peace, at all times a blessing, is peculiarly welcome, therefore, at a period when the causes for the war have ceased to operate; when the Government has demonstrated the efficiency of its powers of defence; and when the nation can review its conduct without regret and without reproach.

I recommend to your care and beneficence the gallant men, whose achievements in every department of military service, on the land and on the water, have so essentially contributed to the honor of the American name, and to the restoration of peace. The feelings of conscious patriotism and worth will animate such men under every change of fortune and pursuit; but their country performs a duty to itself, when it bestows those testimonials of approbation and applause which are at once the reward and the incentive to great actions.

The reduction of the public expenditures to the demands of a peace establishment, will doubtless engage the immediate attention of Congress. There are, however, important considerations which forbid a sudden and general revocation of the measures that have been produced by the war. Experience has taught us that neither the pacific dispositions of the American people, nor the pacific character of their political institutions, can altogether exempt them from that strife which appears, beyond the ordinary lot of nations, to be incident to the actual period of the world; and the same faithful monitor demonstrates that a certain degree of preparation for war is not only indispensable to avert disaster in the onset, but affords also the best security for the continuance of peace. The wisdom of Congress will, therefore, I am confident, provide for the maintenance of an adequate regular force; for the gradual advance of the naval establishment; for improving all the means of harbor defence; for adding discipline to the distinguished bravery of the militia; and for cultivating the military art, in its essential branches, under the liberal patronage of the Government.

The resources of our country were at all times competent to the attainment of every national object; but they will now be enriched and invigorated by the activity which peace will introduce into all the scenes of domestic enterprise and labor. The provision that has been made for the public creditors, during the present session of Congress, must have a decisive effect in the establishment of the public credit, both at home and abroad. The reviving interests of commerce will claim the legislative attention at the earliest opportunity, and such regulations will, I trust, be seasonably devised as shall secure to the United States their just proportion of the navigation of the world. The most liberal policy towards other nations, if met by corresponding dispositions, will, in this respect, be found the most beneficial policy towards ourselves. But there is no subject that can enter with greater force and merit into the deliberations of Congress than a consideration of the means to preserve and promote the manufactures which have sprung into existence, and attained an unparalleled maturity throughout the United States during the period of the European wars. This source of national independence and wealth I anxiously recommend to the prompt and constant guardianship of Congress.

The termination of the legislative sessions will soon separate you, fellow-citizens, from each other, and restore you to your constituents. I pray you to bear with you the expressions of my sanguine hope that the peace which has been just declared will not only be the foundation of the most friendly intercourse between the United States and Great Britain, but that it will also be productive of happiness and harmony in every section of our beloved country. The influence of your precept and example must be every where powerful, and while we accord in grateful acknowledgments for the protection which Providence has bestowed upon us, let us never cease to inculcate obedience to the laws, and fidelity to the Union, as constituting the palladium of the national independence and prosperity.

JAMES MADISON.

A.

The Secretary of State to the American Plenipotentiaries.

GENTLEMEN:

DEPARTMENT OF STATE, March 22, 1814.

Should a treaty be concluded with Great Britain, and a reciprocal restitution of territory be agreed on, you will have it in recollection that the United States had in their possession, at the commencement of the war, a post at the mouth of the river Columbia, which commanded the river, which ought to be comprised in the stipulation, should the possession have been wrested from us during the war. On no pretext can the British Government set up a claim to territory south of the northern boundary of the United States. It is not believed that they have any claim whatever to territory on the Pacific ocean. You will, however, be careful, should a definition of boundary be attempted, not to countenance, in any manner, or in any quarter, a pretension in the British Government to territory south of that line.

I have the honor to be, &c.

JAMES MONROE.

B.

The Secretary of State to the American Commissioners at Ghent.

GENTLEMEN:

DEPARTMENT OF STATE, *October 19, 1814.*

I have the honor to inform you that your despatches by the John Adams have been received, and that your determination to reject the terms proposed by the British commissioners is entirely approved by the President.

The importance of these despatches, and the great probability of your negotiation having been brought to a close, induced the President to determine on laying them before Congress immediately. This has been done, and there is every reason to believe that they are producing the best effect, in uniting all parties in a determined resistance to the extravagant pretensions of the enemy. It has also been judged proper to communicate to Congress so much of the instructions given to you by this Department as would show the terms on which you were authorized to make peace.

These, as well as your communications, have been printed, and several copies are now forwarded to you, as it is believed they may be usefully disposed of in Europe.

Should any circumstance have unexpectedly prolonged the negotiation, which it is inferred from your despatches will have been finally closed, and you find the British commissioners disposed to agree to the *status ante bellum*, you will understand that you are authorized to make it the basis of a treaty.

I have the honor to be, with great respect, gentlemen, your obedient servant,

JAMES MONROE.

The American Plenipotentiaries to the Secretary of State.

SIR:

GHENT, *December 25, 1814.*

We have the honor of transmitting herewith one of the three copies of the treaty of peace between Great Britain and the United States, signed last evening by the plenipotentiaries of His Britannic Majesty and by us.

The papers, of which copies are likewise now forwarded, will exhibit to you so fully the progress of the negotiation since the departure of the Chauncey, that few additional remarks from us will be necessary. It may be proper for us, however, to state that, in the interval between the time when our first *projet* of a treaty was sent to the British plenipotentiaries and that when they communicated to us the answer to it, the despatches which we had sent by Mr. Dallas, and the instructions to us, which had been published in the United States, were republished in England. In declining to insist on the articles respecting impressment and indemnities, we made a formal declaration that the rights of both parties on the subject of seamen and the claims to indemnities for losses and damages sustained prior to the commencement of the war should not be affected or impaired by the omission in the treaty of a specific provision on these two subjects.

From the time when the *projet* of the treaty presented by us was returned with the proposed alterations, it was apparent that, unless new pretensions on the part of Great Britain should be advanced, the only important differences remaining to be discussed were those relating to the mutual restoration of territory taken during the war, to the navigation of the Mississippi by British subjects, and to the right of the people of the United States to the fisheries within the British jurisdiction. Instead of a general restitution of captured territory, which we had proposed, the British Government at first wished to confine it to the territory taken by either party belonging to the other. On our objecting that this would make each party the judge whether territory taken did or did not belong to the other, and thereby occasion new disputes, they acknowledged it to be their object that each party should, until a decision had taken place with respect to the title, retain possession of all the territory claimed by both parties, which might have been taken by such party during the war. They proposed, however, to limit the exception from mutual restitution to the islands in the bay of Passamaquoddy. As it had been on both sides admitted that the title to these islands was disputed, and as a method of settling amicably those disputes was provided for in the treaty, we had not expected that the British Government would adhere to the demand of retaining the temporary possession of those islands. We insisted, therefore, on their being included in the general restoration, until we had reason to believe that our further perseverance would have hazarded the conclusion of the peace itself. We finally consented, as an alternative preferable to the continuance of the war, to this exception, upon condition that it should not be understood as impairing in any manner the right of the United States to these islands. We also urged for a stipulation requiring an ultimate decision upon the title within a limited time; but to this we also found opposed an insuperable objection, and we were finally induced to accept in its stead a declaration of the British plenipotentiaries, that no unnecessary delay of the decision should be interposed on the part of Great Britain.

At the first conference, on the 8th of August, the British plenipotentiaries had notified to us that the British Government did not intend henceforth to allow to the people of the United States, without an equivalent, the liberties to fish and to dry and cure fish within the exclusive British jurisdiction, stipulated in their favor by the latter part of the third article of the treaty of peace of 1783. And in their note of the 19th of August, the British plenipotentiaries had demanded a new stipulation, to secure to British subjects the right of navigating the Mississippi; a demand which, unless warranted by another article of that same treaty of 1783, we could not perceive that Great Britain had any colorable pretence for making. Our instructions had forbidden us to suffer our right to the fisheries to be brought into discussion, and had not authorized us to make any distinction in the several provisions of the third article of the treaty of 1783, or between that article and any other of the same treaty. We had no equivalent to offer for a new recognition of our right to any part of the fisheries, and we had no power to grant any equivalent which might be asked for it by the British Government. We contended that the whole treaty of 1783 must be considered as one entire and permanent compact, not liable, like ordinary treaties, to be abrogated by a subsequent war between the parties to it; as an instrument recognising the rights and liberties enjoyed by the people of the United States as an independent nation, and containing the terms and conditions on which the two parts of one empire had mutually agreed, thenceforth, to constitute two distinct and separate nations. In consenting, by that treaty, that a part of the North American continent should remain subject to the British jurisdiction, the people of the United States had reserved to themselves the liberty, which they had ever before enjoyed, of fishing upon that part of its coasts, and of drying and curing fish upon the shores, and this reservation had been agreed to by the other contracting party. We saw not why this liberty, then no new grant, but the mere recognition of a prior right always enjoyed, should be forfeited by war, any more than any other of the rights of our national independence; or why we should need a new stipulation for its enjoyment more than we needed a new article to declare that the King of Great Britain treated with us as free, sovereign, and independent States. We stated this principle in general terms to the British plenipotentiaries, in the note which we sent to them with our *projet* of the treaty, and we alleged it as the ground upon which no new stipulation was deemed by our Government necessary

to secure to the people of the United States all the rights and liberties stipulated in their favor by the treaty of 1783. No reply to that part of our note was given by the British plenipotentiaries, but, in returning our *projet* of a treaty, they added a clause to one of the articles, stipulating a right for British subjects to navigate the Mississippi. Without adverting to the ground of prior and immemorial usage, if the principle were just that the treaty of 1783, from its peculiar character, remained in force in all its parts, notwithstanding the war, no new stipulation was necessary to secure to the subjects of Great Britain the right of navigating the Mississippi, so far as that right was secured by the treaty of 1783, as, on the other hand, no stipulation was necessary to secure to the people of the United States the liberty to fish, and to dry and cure fish, within the exclusive jurisdiction of Great Britain. If they asked the navigation of the Mississippi as a new claim, they could not expect we should grant it without an equivalent; if they asked it because it had been granted in 1783, they must recognise the claim of the people of the United States to the liberty to fish and to dry and cure fish, in question. To place both points beyond all future controversy, a majority of us determined to offer to admit an article confirming both the rights, or we offered at the same time to be silent in the treaty upon both, and to leave out altogether the article defining the boundary from the Lake of the Woods westward. They finally agreed to this last proposal, but not until they had proposed an article stipulating for a future negotiation for an equivalent to be given by Great Britain for the navigation of the Mississippi, and by the United States for the liberty as to the fisheries within British jurisdiction. This article was unnecessary with regard to its professed object, since both Governments had it in their power, without it, to negotiate upon these subjects if they pleased. We rejected it, although its adoption would have secured the boundary of the forty-ninth degree of latitude west of the Lake of the Woods, because it would have been a formal abandonment, on our part, of our claim to the liberty as to the fisheries, recognised by the treaty of 1783.

You will perceive by the correspondence, that the ninth article was offered us as a *sine qua non* and an ultimatum. We accepted it, not without much hesitation, as the only alternative to a rupture of the negotiation, and with a perfect understanding that our Government was free to reject it, as we were not authorized to subscribe to it.

To guard against any accident which might happen in the transmission of a single copy of the treaty to the United States, the British plenipotentiaries have consented to execute it in triplicate; and, as the treaty with the British ratification may be exposed to the same danger, the times for the cessation of hostilities, the restoration of captures at sea, and the release of prisoners, have been fixed, not from the exchange of ratifications, but from the ratification on both sides, without alteration by either of the contracting parties. We consented to the introduction of this latter provision at the desire of the British plenipotentiaries, who were willing to take a full, but were unwilling to incur the risk of a partial, ratification, as the period from which the peace should be considered as concluded.

We are informed by them that Mr. Baker, their secretary, is to go out to America with the British ratification.

We have the honor to be, very respectfully, sir, your most humble and obedient servants,

JOHN QUINCY ADAMS,
J. A. BAYARD,
H. CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

The SECRETARY OF STATE of the United States.

No. 1.

The American to the British plenipotentiaries.

GHEENT, November 10, 1814.

The undersigned have the honor to acknowledge the receipt of the note addressed to them by His Britannic Majesty's plenipotentiaries on the 31st ultimo.

The undersigned had considered an interchange of the *projet* of a treaty as the course best calculated to exclude useless and desultory discussion, to confine the attention of both parties to the precise objects to be adjusted between the two nations, and to hasten the conclusion of the peace so desirable to both. Finding in the note of the British plenipotentiaries of the 21st ultimo a mere reference to the points proposed by them in the first conference, with the offer of assuming the basis of *uti possidetis*, on which the undersigned had, in substance, already declined to treat, they did not consider it as the *projet* of a treaty, presented in compliance with their request. They proposed, in their note of the 24th ultimo, that the exchange of the two *projets* should be made at the same time. And it is not without some surprise that the undersigned observe in the note to which they now have the honor of replying, that the British plenipotentiaries consider their note of the 21st ultimo as containing the *projet* of a treaty, to which the undersigned are supposed to be pledged to return a *contre-projet*.

Believing that where both parties are sincerely desirous of bringing a negotiation to a happy termination, the advantage of giving or of receiving the first draught is not of a magnitude to be made a subject of controversy, and convinced that their Government is too sincerely desirous of that auspicious result to approve of its being delayed for a moment upon any question of etiquette, the undersigned have the honor to enclose herewith the *projet* of a treaty, accompanied with some observations upon several of the articles, which may more fully elucidate their objects in proposing them.

The British plenipotentiaries stated in their last note that they had no other propositions to offer, nor other demands to make, than those contained in their note of the 21st ultimo, which, with the reference to their former declaration respecting the fisheries, contains only two propositions, viz: that of fixing the boundary from the Lake of the Woods to the Mississippi; and that of adopting, with respect to the other boundaries, the basis of *uti possidetis*.

In answer to the declaration made by the British plenipotentiaries respecting the fisheries, the undersigned, referring to what passed in the conference of the 9th August, can only state that they are not authorized to bring into discussion any of the rights or liberties which the United States have heretofore enjoyed in relation thereto. From their nature, and from the peculiar character of the treaty of 1783, by which they were recognised, no further stipulation has been deemed necessary by the Government of the United States to entitle them to the full enjoyment of all of them.

The undersigned have already, in their last note, explicitly declined treating on the basis of *uti possidetis*. They cannot agree to any other principle than that of a mutual restoration of territory, and have accordingly prepared an article founded on that basis. They are willing even to extend the same principle to the other objects in dispute between the two nations; and in proposing all the other articles included in this *projet*, they wish to be distinctly understood that they are ready to sign a treaty placing the two countries, in respect to all the subjects of

difference between them, in the same state they were in at the commencement of the present war; reserving to each party all its rights, and leaving whatever may remain of controversy between them for future and pacific negotiation.

The British plenipotentiaries having, in their note of the 4th of September, communicated the disposition of their Government to receive favorably a proposition which should acknowledge the boundary from the Lake of the Woods to the Mississippi, or to discuss any other line of boundary which might be submitted for consideration, the undersigned answered, that, as soon as the proposition of Indian boundary should be disposed of, they would have no objection, with the explanation given by the British plenipotentiaries, to discuss the subject.

The Government of the United States had, prior to the acquisition of Louisiana, been disposed to agree to the boundary from the Lake of the Woods to the Mississippi, from a wish, not only to arrange that subject, but also to settle, in a definitive manner, the differences respecting the boundary and islands in the bay of Passamaquoddy; and its assent to the proposed stipulation of that boundary was refused, on account of the acquisition of Louisiana, the boundaries of which might have been affected by it. The undersigned cannot agree to fix the boundary in that quarter, unless that of Louisiana be also provided for in the arrangement. They accordingly submit for consideration the article on that subject, which appears to have been agreed on between the British and American commissioners in the *projet* of convention of the year 1807.

In respect to the intended revision of the other boundaries between the British and American territories, with the view to prevent future uncertainty and dispute, the undersigned propose the reference of the whole subject to commissioners; and they present, accordingly, five articles, drawn on the principle formerly adopted by the two Powers for settling the question respecting the river St. Croix.

The article already agreed on respecting the Indian pacification is included in the *projet* of the undersigned. In conformity with their former suggestions, they offer another, intended to restrain the hostilities, and to prevent the employment of the savages in war, and one reciprocally granting a general amnesty.

The only other subjects which had been presented by the undersigned as suitable for discussion, were those respecting seamen, blockades, and indemnities.

Keeping in view the declarations made by Lord Castlereagh, in his note of the 29th of August, 1812, to Mr. Russell, and in his letter of the 4th November, 1813, to Mr. Monroe, the undersigned propose only a temporary article, intended, without affecting the rights or pretensions of either country, to attempt to accomplish by means less liable to vexation, the object for which impressment has hitherto been thought necessary by Great Britain. The proposed agreement being purely conditional, and limited in duration, each party will be bound only so far, and so long as the other shall fulfil its conditions, and at the end of the term fixed for the duration of the article, or whenever either party may fail to perform his engagement, the rights of both will be as valid and entire as they were before the agreement.

The article respecting blockades is believed to be in perfect conformity with the principles of the law of nations, as acknowledged by both nations. The definition is borrowed from the treaty of 1801, between Great Britain and Russia, and the residue of the article from the unratified treaty of 1806, between Great Britain and the United States.

That relating to indemnities consists of two parts: the first for irregular seizures, captures, and condemnations, of American property, contrary to the established laws and usages of nations, previous to the commencement of the war; and the second, for similar irregularities, committed during the war, and contrary to the known and established usages of war, between civilized nations. The cases of the first apply exclusively to claims of the citizens of the United States, because the causes for such claims were then confined, by the relative situation of the parties, to one side. It is presumed that the British Government will itself be sensible of the justice of making indemnity for injuries committed by its officers, in violation of principles avowed and recognised by itself, particularly in the letter from Lord Hawkesbury to Mr. King of the 11th of April, 1801; and in that from Mr. Merry to Mr. Madison of the 12th April, 1804; and that the same justice will be admitted in cases where the territorial jurisdiction of the United States was violated; and where the injury was occasioned by the retrospective effects of the British orders in council of June, 1803, as to the return from contraband voyages, and of the orders in council of January 7, 1807.

With regard to the orders in council of November, 1803, and of April, 1809, the undersigned will observe, that these orders having been issued solely on the ground of retaliation against France, and their object having altogether ceased, it is just to indemnify the citizens of the United States for losses now experienced by the effect of measures intended to operate against the enemy of Great Britain, and which fell almost exclusively on a country, which was no party to the war. The United States have never ceased, and at this time continue to demand from France, indemnity for the losses they have experienced by the effect of the decrees of her Government, in violation of the law of nations.

The cases of the second part of this article apply equally to both the belligerent parties. They have been, during the war, subjects of crimination on both sides. The American Government can give no stronger and more signal proof of its disapprobation of every departure, under color of its authority, from the established usages of legitimate warfare between civilized nations, than by the offer of mutual reparation.

The article fixing a limitation for captures at sea does not seem to require any comment.

The undersigned present their entire *projet* in this specific form, with the full expectation of receiving from the British plenipotentiaries their explicit answer respecting all the articles embraced in it, and a *projet* also reduced to specific propositions and embracing all the objects which they intend to bring forward.

The undersigned renew to the British plenipotentiaries the assurances of their high consideration.

JOHN QUINCY ADAMS,
J. A. BAYARD,
H. CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

To the PLENIPOTENTIARIES of His Britannic Majesty, &c. &c. &c.

No. 2.

Copy of projet of a treaty of peace submitted by the American to the British plenipotentiaries at Ghent, on the 10th day of November, 1814, and of the alterations and propositions made by the latter in the margin of the said projet, returned by them to the American plenipotentiaries.

Treaty of peace and amity between His Britannic Majesty and the United States of America.

His Britannic Majesty and the United States of America, desirous of terminating the war which has unhappily subsisted between the two countries, and of restoring, upon principles of perfect reciprocity, peace, friendship, and good understanding between them, have, for that purpose, appointed their respective plenipotentiaries, that is to say, His Britannic Majesty, on his part, has appointed the Right Honorable James Lord Gambier, Admiral of the White Squadron of His Majesty's fleet; Henry Goulburn, Esq., a member of the Imperial Parliament, and under Secretary of State, and William Adams, Esq., Doctor of Civil Laws; and the President of the United States, by and with the advice and consent of the Senate thereof, has appointed John Quincy Adams, James A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin, citizens of the United States, who, after a reciprocal communication of their respective full powers, have agreed upon the following articles.

ARTICLE 1.

There shall be a firm and universal peace between His Britannic Majesty and the United States, and between their respective countries, territories, cities, towns, and people, of every degree, without exception of (1) persons or places. All hostilities, both by sea and land, shall *immediately* cease; (2) *all prisoners on both sides shall be set at liberty.** All territory, places, and possessions, without exception, *taken by* (3) either party *from* (4) the other during the war, or which may be taken after the signing of this treaty, shall be restored without delay and without causing any destruction, or carrying away any artillery or other public property, or any slaves (5) or other private property; (6) and all archives, records, deeds, and papers, either of a public nature or belonging to private persons, which, in the course of the war, may have fallen into the hands of the officers of either party, shall be (7) forthwith restored, and delivered to the proper authorities and persons to whom they respectively belong.

ARTICLE 2.

Immediately after the *respective* ratifications of this treaty, (2) orders shall be sent to the armies, squadrons, officers, subjects and citizens of the two Powers, to cease from all hostilities; and to prevent all causes of complaint which might arise on account of the prizes which may be taken at sea, after the (3) *signing* of this treaty, it is reciprocally agreed that the vessels and effects which may be taken in the channel, and in the North seas after the space of ———, from (1) *that of the signature* hereof, shall be restored on each side; that the term shall be ———, from the channel and the North seas to the Canary islands inclusively, (2) *whether in the ocean or the Mediterranean*, of ——— from the said Canary islands to the Equinoctial line, or Equator, and of ——— in all other parts of the world without exception.

ARTICLE 3.

Whereas that portion of the boundary between the dominions of His Britannic Majesty in North America and those of the United States, from the mouth of the river St. Croix (as the said mouth was ascertained by the commissioners appointed for that purpose,) to the bay of Fundy, has not yet been regulated and determined; and whereas the respective rights and claims of His Britannic Majesty and of the United States to the several islands in the bay of Passamaquoddy and to the island of Grand Menan, have never been finally adjusted and determined, the said islands being claimed on the part of the United States as lying within twenty leagues of their shores, and south of a line drawn due east from the mouth of the river St. Croix; and on the part of His Britannic Majesty as having been, at or before the former treaty of peace between the two countries, within the limits of the province of Nova Scotia. In order, therefore, finally to decide these several questions, it is agreed that they shall be referred to three commissioners, to be appointed in the fol-

British alterations.

The following marginal remarks and alterations were made and proposed by the British plenipotentiaries.

Note.—It is proposed to omit altogether the words that are underlined.

- (1) Places or
- (2) after the exchange of the ratifications as hereafter mentioned.

* It is thought more advisable that the provision respecting prisoners of war should be the subject of a separate article. The draught of an article on this subject is subjoined.

- (3) belonging to
- (4) and taken by
- (5) of the
- (6) originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty.
- (7) as far as may be practicable,

- (2) shall be exchanged,

- (3) exchange of ratifications,

- (1) the period of the exchange of the ratifications,
- (2) The same term of ——— for all parts of the Mediterranean.

ARTICLE 3.

Whereas it was stipulated by the second article in the treaty of peace of 1783, between His Britannic Majesty and the United States of America, that the boundary of the United States should comprehend, "all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries, between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the bay of Fundy and the Atlantic ocean, excepting such islands as now or heretofore have been within the limits of Nova Scotia." And whereas claims have been made by the Government of the United States to certain islands in the bay of Fundy, which said islands are claimed as belonging to His Britannic Majesty, as having been at the time and previous to the aforesaid treaty of 1783, within the limits of the pro

lowing manner, viz: one commissioner shall be appointed by His Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners shall have power to choose a third; and, if they cannot agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot, in the presence of the two original commissioners. And the three commissioners so appointed, shall be sworn impartially to examine and decide the said questions, according to such evidence as shall respectively be laid before them, on the part of the British Government and of the United States. The said commissioners shall meet at —, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners, or a majority of them, shall, by a declaration under their hands and seals, determine the boundary aforesaid, from the mouth of the river St. Croix to the bay of Fundy, and decide to which of the two contracting parties the several islands aforesaid do respectively belong, in conformity with the true intent of the former treaty of peace. And both parties agree to consider such decision as final and conclusive.

vince of Nova Scotia. In order, therefore, finally to decide upon these claims, it is agreed that they shall be referred to two commissioners to be appointed in the following manner, viz: one commissioner shall be appointed by His Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners so appointed shall be sworn impartially to examine and decide upon the said claims according to such evidence as shall be laid before them on the part of His Britannic Majesty and of the United States, respectively. The said commissioners shall meet at —, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall, by a declaration or report under their hands and seals, decide to which of the two contracting parties the several islands aforesaid do respectively belong, in conformity with the true intent of the said treaty of peace of 1783; and if the said commissioners shall agree in their decision, both parties shall consider such decision final and conclusive.

It is further agreed that, in the event of the two commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said commissioners refusing or declining, or wilfully omitting to act as such, they shall make, jointly or separately, a report or reports, as well to the Government of His Britannic Majesty as to that of the United States, stating in detail the points on which they differ, and the grounds upon which their respective opinions have been formed, or the grounds upon which they, or either of them, have so refused, declined, or omitted to act. And His Britannic Majesty and the Government of the United States hereby agree to refer the report or reports of the said commissioners to some friendly Sovereign or State to be then named for that purpose, and who shall be requested to decide on the differences which may be stated in the said report or reports, or upon the report of one commissioner, together with the grounds upon which the other commissioner shall have so refused, declined, or omitted to act, as the case may be. And if the commissioner so refusing, declining, or omitting to act, shall also wilfully omit to state the grounds upon which he has so done, in such manner that the said statement may be referred to such friendly Sovereign or State, together with the report of such other commissioner, then such Sovereign or State shall decide *ex parte* upon the said report alone, and His Britannic Majesty and the Government of the United States engage to consider the decision of such friendly Sovereign or State to be final and conclusive on all the matters so referred.

ARTICLE 4.

Whereas, neither that point of the Highlands, lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two Powers, as the northwest angle of Nova Scotia, nor the northwesternmost head of Connecticut river, has yet been ascertained; and whereas that part of the boundary line between the dominions of the two Powers, which extends from the source of the river St. Croix, directly, north to the abovementioned northwest angle of Nova Scotia, thence along the said Highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude, thence by a line due west on said latitude, until it strikes the river Iroquois, or Cataraguy, has not yet been surveyed; it is agreed that for these several purposes (1) three commissioners shall be appointed, sworn, (*mutatis mutandis*,) and authorized to act exactly in the manner directed, with respect to those mentioned in the next preceding article. (2) The said commissioners shall meet at —, and shall have power to adjourn to such other place or places as they

ARTICLE 4.

(1) Two

(2) unless otherwise specified in the present article.

shall think fit. The said commissioners, or a majority of them, shall have power to ascertain and determine the points above mentioned, in conformity with the provisions of the said treaty of peace, (3) and shall cause the boundary aforesaid, from the source of the river St. Croix to the river Iroquois, or Cataraguay, to be surveyed and marked according to the said provisions. The said commissioners, or a majority of them, shall make a map of the said boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the northwest angle of Nova Scotia, of the northwesternmost head of Connecticut river, and of such other points of the said boundary as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary. (4)

ARTICLE 5.

Whereas, by the former treaty of peace, that portion of the boundary of the United States, from the point where the forty-fifth degree of north latitude strikes the river Iroquois, or Cataraguay, to the Lake Superior was declared to be. "Along the middle of said river into Lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and Lake Erie, thence, along the middle of said communication, into Lake Erie through the middle of said lake, until it arrives at the water communication into the lake Huron; thence, through the middle of said lake to the water communication between that lake and Lake Superior." And whereas doubts have arisen what was the middle of said river, lakes, and water communications, and whether certain islands lying in the same were within the dominions of His Britannic Majesty or of the United States: in order, therefore, finally to decide these questions, (1) they shall be referred to (2) three commissioners to be appointed, sworn, (*mutatis mutandis*) and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article. (3) The said commissioners shall meet, in the first instance, at — and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners, or a majority of them, shall, by a (4) declaration, under their hands and seals, designate the boundary through the said river, lakes, and water communications, and decide to which of the two contracting parties, the several islands lying within the said rivers, lakes, and water communications, do respectively belong, in conformity with the true intent of the (5) former treaty of peace. And both parties agree to consider such (6) decision as final and conclusive. (7)

ARTICLE 6.

It is further agreed that the said (1) last mentioned commissioners, after they shall have executed the duties assigned to them, in the preceding article, shall be, and they, or a majority of them, are hereby, authorized, upon their oaths, impartially to fix and determine, according to the true intent of the said former (2) treaty of peace, that part of the boundary between the dominions of the two Powers, which extends from the water communication between Lake Huron and Lake Superior to the most northwestern point of the Lake of the Woods; to decide to which of the two parties the several islands lying in the lakes, water communications, and rivers, forming the said boundary, do respectively belong, in conformity with the true intent of the said former treaty of peace (3) and to cause such parts of the said boundary as require it to be surveyed and marked. The said commissioners, or a majority of them, shall, by a (4) declaration under their hands and seals, designate the boundary aforesaid, state their decisions on the (5) questions thus referred to them, and particularize the latitude and longitude, of the most northwestern point of the Lake of the Woods, and of such other (6) points on the said boundary, as they may deem proper. And both parties agree to consider such (7) decision as final and conclusive. (8)

ARTICLE 7.

The several Boards of (1) Commissioners mentioned in the four preceding articles shall respectively have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. Duplicates of (2) their respective (3) declarations (4) and decisions of the statement (5) of their

(3) 1783

(4) And in the event of the said two commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements, shall be made by them, or either of them, and such reference to a friendly Sovereign or State, shall be made in all respects as in the latter part of the third article is contained, and in as full a manner as if the same was herein repeated.

ARTICLE 5.

(1) doubts (2) two
(3) unless otherwise specified in this present article.
(4) report or
(5) said treaty of 1783.
(6) designation and
(7) And in the event of the said two commissioners differing, or both, or either of them, refusing, declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made, in all respects, as in the latter part of the third article is contained, and in as full a manner as if the same was herein repeated.

ARTICLE 6.

(1) two
(2) of 1783
(3) of 1783
(4) report or
(5) points
(6) parts of
(7) designation and
(8) And in the event of the said two commissioners differing, or both, or either, of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements, shall be made by them or either of them, and such reference to a friendly Sovereign or State, shall be made, in all respects, as in the latter part of the third article is contained, and in as full a manner as if the same was herein repeated.

ARTICLE 7.

(1) two
(2) all
(3) reports (4) statements (5) and

accounts and of the journal of their proceedings, shall be delivered by them to the agents of His Britannic Majesty and the agents of the United States, who may be respectively appointed and authorized to manage the business on behalf of their respective Governments. The said commissioners shall be respectively paid in such manner as shall be agreed between the two (6) parties, such agreement being to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the said commissions shall be defrayed (7) jointly by the two parties, the same being previously ascertained and allowed by the majority of the commissioners. And in the case of death, sickness, resignation, or necessary absence, the place of every such commissioner respectively shall be supplied in the same manner as such commissioner was first appointed; and the new commissioner shall take the same oath or affirmation, and do the same duties.

It is further agreed between the two (8) parties, that in case any of the islands mentioned in any of the preceding articles which were in the possession of one of the parties prior to the commencement of the present war between the two countries, should, by the decision of any of the Boards of Commissioners aforesaid, (9) fall within the dominions of the other party, all grants of land made previous to that time by the party having had such possession, shall be as valid as if such island or islands had, by such decision, or decisions, been adjudged to be within the dominions of the party having had such possession.

ARTICLE 8.

It is agreed that a line drawn due north or south, (as the case may be) from the most northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and from the point of such intersection due west along and with the said parallel, shall be the dividing line between His Majesty's territories and those of the United States to the westward of the said lake, as far as the said respective territories extend in that quarter, and that the said line shall to that extent form the southern boundary of His Majesty's said territories, and the northern boundary of the said territories of the United States: provided that nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to, or claimed by, either party on the continent of America to the westward of the Stony Mountains.

ARTICLE 9.

The United States of America engage to put an end immediately after the ratification of the present treaty to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore to such tribes or nations respectively all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in 1811 previous to such hostilities.

Provided, always, That such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

And His Britannic Majesty engages on his part to put an end immediately after the ratification of the present treaty to hostilities with all the tribes or nations of Indians with whom he may be at war at the time of such ratification, and forthwith to restore to such tribes or nations respectively all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in 1811, previous to such hostilities.

Provided, always, That such tribes or nations shall agree to desist from all hostilities against His Britannic Majesty and his subjects upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

(6) contracting

(7) equally

(8) contracting

(9) or of the Sovereign or State so referred to as in many of the preceding articles contained.

ARTICLE 8.

It is agreed that a line drawn due west from the Lake of the Woods, along forty-ninth parallel of north latitude, shall be the line of demarcation between His Britannic Majesty's territories and those of the United States to the westward of the said lake, so far as the territories of the United States extend in that quarter, and the said line shall, to that extent, form the southern boundary of His Britannic Majesty's territories and the northern boundary of the territories of the United States. It being always distinctly understood that nothing in the present article shall be construed to extend to the northwest coast of America, or to territories belonging to, or claimed by, either party on the continent of America westward of the Stony Mountains, (and it is further agreed the subjects of His Britannic Majesty shall at all times have access) from His Britannic Majesty's territories, by land or inland navigation, into the aforesaid territories of the United States to the river Mississippi, with their goods, effects, and merchandise, and that His Britannic Majesty's subjects shall have and enjoy the free navigation of the said river.

ARTICLE 9.

Approved.

ARTICLE 10.

His Britannic Majesty and the United States shall, by all the means in their power, restrain the Indians living within their respective dominions from committing hostilities against the territory, citizens, or subjects of the other party. And both Powers also agree, and mutually pledge themselves, if at any time war should unhappily break out between them, not to employ any Indians, nor to admit of their aid and co-operation in the prosecution of the war against the other party.

ARTICLE 10.

Inadmissible.

ARTICLE 11.

Each party shall effectually exclude from its naval and commercial service all seamen, seafaring or other persons, subjects or citizens of the other party, not naturalized by the respective Governments of the two parties before the _____ day of _____.

ARTICLE 11.

Seamen or other persons, subjects of either party, who shall desert from public or private ships or vessels, shall, when found within the jurisdiction of the other party, be surrendered, provided they be demanded within _____ from the time of their desertion.

Inadmissible.

No person whatever shall, upon the high seas, and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the subjects or citizens of one of the parties by the public or private armed ships or vessels belonging to, or in the service of the other, unless such person be at the time in the actual employment of an enemy of such other party.

This article shall continue in force for the term of _____ years. Nothing in this article contained shall be construed thereafter to affect or impair the rights of either party.

ARTICLE 12.

If either of the contracting parties shall hereafter be engaged in war against any third Power, to which war the other of the parties shall remain neutral, it is agreed that every vessel of the neutral party sailing for a port or place belonging to the enemy of the belligerent, without knowing that the same is besieged, blockaded, or invested, may be turned away from such port or place, but shall not be detained, nor her cargo, if not contraband, be confiscated, unless, after such notice, she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel or goods of either party that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the proprietors thereof: and in order to determine what characterizes a blockaded port, that denomination is given only to a port where there is, by the disposition of the Power which attacks it with ships stationary or sufficiently near, an evident danger in entering.

ARTICLE 12.

Inadmissible.

ARTICLE 13.

It is agreed that indemnity shall be made by His Britannic Majesty to the citizens of the United States for all losses and damage sustained by them during the late war between Great Britain and France, and prior to the commencement of the present war by reason of irregular or illegal captures, seizures, or condemnations of vessels and other property, under color of authority contrary to the known and established rules of the law of nations.

ARTICLE 13.

And it is also agreed that indemnity shall be made by each of the contracting parties to the subjects or citizens of the other party for all losses and damages sustained subsequent to the commencement of the present war, by reason of the seizure or condemnation of the vessels or cargoes belonging to the subjects or citizens of the one party, which, in the ordinary course of commerce, happened, at the commencement of hostilities, to be in the ports of the other party, and by reason of the destruction of unfortified towns, and the pillage or destruction of private property, and the enticement and carrying away of negroes contrary to the known and established rules and usages of war between civilized nations.

Inadmissible.

It is agreed that, for the purpose of determining the indemnities due by each contracting party, in conformity with the provisions of this article, commissioners shall be appointed in

the following manner, viz: one commissioner shall be named by His Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners shall agree in the choice of a third; or, if they cannot agree, they shall each propose one person, and of the two names so proposed one shall be taken by lot, in the presence of the two original commissioners, and the three commissioners thus appointed shall be sworn and authorized, and empowered impartially to examine into all such claims and complaints, and to determine the indemnities which may be justly due for the same.

The said commissioners shall meet at ———, and shall have power to adjourn to such other place or places as they shall think fit: they shall also have power to appoint a secretary, swear and examine witnesses, and have all assistance and facilities necessary to affect the object of their appointment.

The award of the said commissioners, or a majority of them, shall in all cases be final and conclusive, both as to the justice of the claim, and as to the amount of the sum to be paid to the claimant and claimants.

And His Britannic Majesty and the United States agree and undertake to cause the sums so awarded to be due by them respectively to be paid in specie to such claimant and claimants without deduction, and at such place or places, time or times, as shall be awarded by the commissioners.

ARTICLE 14.

It is also agreed that no person or persons residing within the dominions of one of the parties who may have taken part with the other party in the war between Great Britain and the United States, shall on that account be prosecuted, molested, or annoyed, either in his person or property, and that all such persons disposed to remove into the dominions of the other party, shall be allowed the term of ——— months freely to sell their property of every nature and description whatever, and to remove accordingly.

ARTICLE 15.

This treaty, when the same shall have been ratified on both sides, and the *respective* ratifications mutually exchanged, shall be binding on both parties, and the ratifications shall be exchanged at (1) ——— in the space of ——— months from this day, or sooner if *possible*. (2)

In faith whereof, we, the respective plenipotentiaries, have signed this treaty, and have thereunto affixed our seals.

Done at Ghent, this ——— day of ———, one thousand eight hundred and fourteen.

Draught of article to be inserted immediately after article 2 of the American projet.

All prisoners of war, taken on either side as well by land as by sea, shall be restored as soon as practicable after the ratifications of this treaty shall have been exchanged, on their paying the debts which they may have contracted during their captivity. The two contracting parties respectively engage to discharge in specie the advances which may have been made by the other for the sustenance and maintenance of such prisoners.

True copy of the *projet* submitted by the American to the British ministers; and also of the marginal changes, propositions, and remarks made by the latter on returning their answer to the American minister's note communicating said *projet* of a treaty.

CHRISTOPHER HUGHES, JUN.,
Secretary of American mission extraordinary.

No. 3.

The British to the American ministers.

Ghent, November 26, 1814.

The undersigned have had the honor to receive the note and *projet* of a treaty of peace presented by the American plenipotentiaries on the 10th instant.

The undersigned are of opinion that the most convenient course for them to adopt will be to return this *projet* with their marginal alterations and suggestions on the several articles of which it is composed. The existing differences between the two Governments will thus be brought more immediately in view, and it is hoped that by confining the discussions to one *projet*, the negotiations may sooner be brought to a favorable conclusion. The first part of the tenth article appears to be unnecessary, and the stipulation contained in the whole of it altogether inadmissible. Though His Majesty's Government sincerely hopes that a renewal of the war between His Majesty

ARTICLE 14.

Inadmissible.

ARTICLE 15.

- (1) Washington with all practicable despatch,
- (2) practicable

and the United States may be far distant, yet the undersigned cannot consent to enter into any engagement as to what shall be the conduct of their Government if such a war should unfortunately occur.

With respect to the eleventh and twelfth articles, His Majesty's Government has strongly manifested its sincere disposition to the speedy restoration of peace, by agreeing, under all the present circumstances, to conclude the treaty without any stipulation on the points to which these articles relate. No advantage can arise from entering into discussions, upon a successful result of which the American plenipotentiaries have stated more than once that they will not make the conclusion of the peace at all to depend.

With respect to the thirteenth article, the indemnifications proposed by it, as applied to the actual circumstances of the war, are so unprecedented and objectionable, that any further perseverance of the American plenipotentiaries in requiring them is not anticipated by the undersigned: if, however, contrary to expectation, indemnifications of this kind should be required, all hope of bringing the negotiations to a favorable issue must prove abortive. The undersigned are instructed explicitly to declare that as their Government makes no claim on account of losses sustained by British subjects arising out of a war declared by the United States, so neither can their Government agree to make compensation for losses sustained in such a war by the American people.

The undersigned are, however, willing to agree to a stipulation by which it shall be provided that the courts of justice in each country shall be open to the just demands of the respective people, and that no obstruction be thrown in the way of their recovery of the rights, claims, or debts of any kind, respectively due or belonging to them.

With respect to the fourteenth article, the undersigned do not concur in the necessity for any such stipulation as is there proposed.

The undersigned think proper to add that, with respect to the particular alterations suggested by them in various articles of the *projet*, they are ready to enter into such explanations as may be required of them, with the sincere desire of endeavoring to reconcile the pretensions brought forward on the part of their respective Governments.

The undersigned have forborne to insist upon the basis of *uti possidetis*, to the advantage of which they consider their country fully entitled. But should this negotiation terminate in a way contrary to their hopes and just expectations, they must protest against any claim or demand being urged by the American Government in any future negotiation, in consequence of the facilities which His Majesty's Government have now shown themselves willing to afford to the speedy restoration of peace.

The undersigned avail themselves of the present opportunity to renew to the plenipotentiaries of the United States the assurances of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

No. 4.

The American to the British ministers.

GHEAT, November 30, 1814.

The undersigned have had the honor to receive the note of the British plenipotentiaries of the 26th instant, together with their marginal alterations and suggestions on the several articles of the *projet* of a treaty of peace proposed by the undersigned.

The undersigned consent that the day of the exchange of the ratifications be substituted to that of the signature of the treaty as the time for the cessation of hostilities, and for regulating the periods after which prizes at sea shall be restored: it being understood that measures shall be adopted for a speedy exchange of ratifications, and that the periods in the second article shall be fixed in a manner corresponding with this alteration.

The undersigned will also agree to the new article respecting prisoners, and to the mode of reference proposed by the British plenipotentiaries in the third, fourth, fifth, sixth, and seventh articles, instead of that which had been proposed by the undersigned. But in order to prevent delay, they will suggest that a time be fixed within which the commissioners shall make their decisions and reports.

They will decline insisting upon the tenth, twelfth, and fourteenth articles, and upon so much of the thirteenth article as relates to indemnities for losses and damages sustained subsequent to the commencement of the present war. They wish to discuss the cases of vessels and property in port when war was declared or known; and have the honor to enclose a copy of the provision made in that respect by the United States. They will also waive the residue of that (the thirteenth) article, and the eleventh article, it being understood that the rights of both Powers on the subject of seamen, and the claims of the citizens and subjects of the two contracting parties to indemnities for losses and damages sustained prior to the commencement of the war, shall not be affected or impaired by the omission in the treaty of any specific provision with respect to those two subjects.

In forbearing to insist upon the discussion of subjects deeply involving interests important to their country, and upon which the undersigned view the proposals offered by them for consideration as founded on principles the most moderate and conciliatory, they give the strongest evidence of the anxious wish of their Government that the negotiation should be brought to a happy issue.

Sincerely participating in the desire expressed by the British plenipotentiaries of endeavoring to reconcile the pretensions of both Governments, on the few subjects remaining for discussion, the undersigned have also assented to most of the alterations proposed by the British plenipotentiaries to those parts of the *projet* which they have not entirely rejected. To some of these alterations the undersigned are compelled, by their duty, to object. They have already stated, and now repeat, that, whilst requiring of Great Britain no sacrifice whatever, the Government of the United States has not authorized the undersigned to agree to any stipulation involving any cession of territory, or the dereliction of any of the essential rights of the people of the United States.

The objections of the undersigned are to one of the alterations suggested by the British plenipotentiaries in the first article; to some parts of the preamble of the third article, and to the eighth article; and they have also some other verbal alterations to suggest. They request a conference, at such time and place as may suit the British plenipotentiaries, for the purpose of discussing those points, and of agreeing on the places and time left in blank in several of the articles.

The undersigned renew to the British plenipotentiaries the assurance of their high consideration.

JOHN QUINCY ADAMS,
JAMES A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

Extract of a law of the United States, passed July 6, 1812.

Section 6. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to give, at any time within six months after the passage of this act, passports for the safe transportation of any ship, or other property, belonging to British subjects, and which is now within the limits of the United States.

No. 5.

The British to the American ministers.

GHENT, November 30, 1814.

The undersigned have the honor to acknowledge the receipt of the note addressed to them by the American plenipotentiaries, and, in compliance with their request for a conference, shall be happy to receive them at the Chartreux to-morrow at 12 o'clock.

The undersigned request the American plenipotentiaries to accept the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

No. 6.

Protocol of a conference held the 1st December, 1814, at Ghent.

At a conference held this day, the American plenipotentiaries proposed the following alterations in their *projet*, as amended by the British plenipotentiaries.

1st. In article 1, strike out the alteration consisting of the words "belonging to," and "taken by," and preserve the original reading, viz: "taken by either party from the other."

This alteration was objected to by the British plenipotentiaries, and, after some discussion, reserved by them for the consideration of their Government.

2d. Transpose alteration consisting of the words "originally captured in the said ports or places, and which shall remain therein upon the exchange of the ratifications of this treaty," after the words "public property."—Agreed to by the British plenipotentiaries.

3d. Article 2d. The term to be fifteen days in the Channel, in the North seas, in all parts of the Atlantic ocean to the equinoctial line or equator, and in all parts of the Mediterranean. Two months in the Atlantic ocean to the latitude of the Cape of Good Hope, and three months in all other parts of the world.

In lieu of this alteration, the British plenipotentiaries proposed the following, viz. That all vessels and effects, which may be taken after the space of twelve days from the period of the exchange of the said ratifications, upon all parts of the coasts of North America, from the latitude of twenty-three degrees north, to the latitude of forty-seven degrees north, and as far eastward in the Atlantic ocean as the sixty-third degree of west longitude from the meridian of Greenwich, shall be restored on each side. That the time shall be thirty days in all other parts of the Atlantic ocean, as far eastward as the entrance of the British channel, and southward, as far as the equinoctial line or equator, and the same time for the Gulf of Mexico and all parts of the West Indies. Forty days for the British channel and the North seas. The same time for all parts of the Mediterranean, and one hundred and fifty days for all other parts of the world without exception." Which was reserved by the American plenipotentiaries for consideration.

4th. Article 3d. After the words "all islands within twenty leagues of," insert "any part of," and substitute "points" for "point" after the words "to be drawn due east from the."—Agreed to by the British plenipotentiaries.

5th. Article 3d. Strike out the words "whereas claims have been made by the Government of the United States to certain islands in the bay of Fundy," and insert, "whereas the several islands in the bay of Passamaquoddy, which is part of the bay of Fundy, and the island of Grand Menan, in the said bay of Fundy, are claimed by the United States as being comprehended within their aforesaid boundaries."—Agreed to by the British plenipotentiaries.

6th. Article 7th. In the alteration consisting of the words "or of the Sovereign or State so referred to as in many of the preceding articles contained," substitute "any" to "many."

Not insisted on, the British plenipotentiaries consenting to substitute the words, "the four next," for the marginal words, "many of the."

7th. Articles 3, 4, 5, and 6, provide that the decisions of the commissioners shall be made within a limited time.—Objected to by the British plenipotentiaries.

8th. Article 8th. Substitute after the words "to the westward of the said lake so far as," the words "their said respective territories," instead of the words "the territories of the United States."—Agreed to by the British plenipotentiaries.

9th. Article 8th. Strike out from the words "and it is further agreed" to the end.—Reserved by the British plenipotentiaries for the consideration of their Government.

10th. The American plenipotentiaries also proposed the following amendment to article 8th, viz: "The inhabitants of the United States shall continue to enjoy the liberty to take, dry, and cure fish in places within the exclusive jurisdiction of Great-Britain, as secured by the former treaty of peace; and the navigation of the river Mississippi within the exclusive jurisdiction of the United States shall remain free and open to the subjects of Great Britain, in the manner secured by the said treaty; and it is further agreed, that the subjects of His Britannic Majesty shall, at all times, have access from such place as may be selected for that purpose in His Britannic Majesty's aforesaid territories, west, and within three hundred miles of the Lake of the Woods, in the aforesaid territories of the United States, to the river Mississippi, in order to enjoy the benefit of the navigation of that river with their goods, effects, and merchandise, whose importation into the said States shall not be entirely prohibited, on the payment of the same duties as would be payable on the importation of the same into the Atlantic ports of the said States, and on conforming with the usual custom-house regulations."

This amendment was left with the British plenipotentiaries for consideration.

The American plenipotentiaries also intimated their willingness to omit article 8 altogether, if that course should appear more advisable to the British plenipotentiaries.

The American plenipotentiaries further proposed, in conformity with their note of November 30, indemnification for ships detained in British ports on the breaking out of the war, and afterwards condemned; which was resisted by the British plenipotentiaries.

After much discussion on this point, the conference was adjourned.

CHRISTOPHER HUGHES, JUN.

Secretary of American Mission Extraordinary.

Protocol of conference on December 10, 1814.

The protocol of the preceding conference held on the 1st instant was settled.

The British plenipotentiaries stated that their Government could not consent to omit the words in article 1st, "belonging to either party and taken by the other," unless some modification should be introduced, either by excepting from mutual restitution all those territories which are made by any articles of the treaty the subject of reference to commissioners, or by excepting the Passamaquoddy islands alone.—Received by the American plenipotentiaries for consideration.

The British plenipotentiaries then stated that with respect to the 8th article, their Government offered in lieu of the American proposals to retain the amended article as far as the words, "Stony mountains," and insert the following stipulation:

"His Britannic Majesty agrees to enter into negotiation with the United States of America, respecting the terms, conditions, and regulations under which the inhabitants of the said United States shall have the liberty of taking fish on certain parts of the coast of Newfoundland, and other of His Britannic Majesty's dominions in North America, and of drying and curing fish, in the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen islands, and Labrador; as stipulated in the latter part of the third article of the treaty of 1783, in consideration of a fair equivalent to be agreed upon between His Majesty and the said United States, and granted by the said United States, for such liberty as aforesaid."

"The United States of America agree to enter into negotiation with His Britannic Majesty respecting the terms, conditions, and regulations under which the navigation of the river Mississippi from its source to the ocean, as stipulated in the eighth article of the treaty of 1783, shall remain free and open to the subjects of Great Britain, in consideration of a fair equivalent, to be agreed upon between His Majesty and the United States, and granted by His Majesty."—Received by the American plenipotentiaries for consideration.

In the 7th article the British plenipotentiaries proposed after the words "all grants of land made previous to," to omit the words "to that time," and insert "previous to the commencement of the war;" so that the line would read, "all grants of land made previous to the commencement of the war."—Agreed to.

The British plenipotentiaries proposed the insertion of the following article relative to the slave trade:

"Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice, and whereas both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the contracting parties shall exert every means in their power to accomplish so desirable an object."—Received for consideration.

The British plenipotentiaries proposed the following provision:

"That the citizens or subjects of each of the contracting parties may reciprocally sue in the courts of the other, and shall meet with no impediment to the recovery of all such estates, rights, properties or securities as may be due to them by the laws of the country in whose courts they shall sue."—Received for consideration.

The British plenipotentiaries proposed in the preamble to the *projet* of the treaty, to omit the words "Admiral of the White squadron" and insert "late Admiral of the White, now Admiral of the Red" in lieu of them. Agreed to.

The American plenipotentiaries stated that possibly doubts might arise as to the geographical accuracy of the words at the beginning of the eighth article, "a line drawn due west from the Lake of the Woods along the forty-ninth parallel of north latitude."

It was agreed that an alteration should be made to guard against such possible inaccuracy.

The American plenipotentiaries proposed the following alteration in the draught delivered to them by the British plenipotentiaries, relative to the manner of filling up the blanks in article 2d; "extend the term of twelve days to fifty-six degrees north latitude, and to the thirty-sixth west longitude."

Include the British and Irish channels in the term of thirty days. Include the Baltic in the term of forty days. Instead of the term of one hundred and fifty days, insert sixty days for the Atlantic as far as the latitude of Cape of Good Hope; ninety days for every other part of the world south of the equator; one hundred and twenty days for all other parts of the world."

The conference then ended.

CHRISTOPHER HUGHES, JUN.
Secretary of American Mission Extraordinary.

Protocol of conference on December 12, 1814.

The protocol of the preceding conference held on the 10th instant was settled.

After much discussion relative to the first and eighth articles, the conference ended by the American plenipotentiaries undertaking to return an answer in writing to the propositions brought forward by the British plenipotentiaries at the last conference.

C. HUGHES, JUN.
Secretary of American Mission Extraordinary.

No. 7.

American note, written after the conference of the 12th December.

GHEENT, December 14, 1814.

The undersigned having considered the propositions offered in the conference of the 10th instant by the British plenipotentiaries on the few subjects which remain to be adjusted, now have the honor of making the communication which they promised.

The first of them relates to the mutual restoration of the territory taken by either party from the other during the war. In admitting this principle, which the undersigned had repeatedly declared to be the only one upon which they were authorized to treat, the British plenipotentiaries had at first proposed an alteration in the article offered by the undersigned, limiting the stipulation of restoring territory taken during the war to territory belonging to the party from which it was taken. The objection of the undersigned to this alteration was, that a part of the territory thus taken being claimed by both parties, and made a subject of reference by the treaty, the alteration would leave it in the power of one party to judge whether any portion of territory taken by him during the war did or did not belong to the other party, laying thereby in the very instrument of pacification the foundation of an immediate misunderstanding the moment that instrument should be carried into execution.

The British plenipotentiaries have now proposed to omit the words originally offered by them, provided that the Passamaquoddy islands should alone be excepted from the mutual restitution of territory.

The consent of the undersigned to this solitary exception, if founded on the alleged right of Great Britain to those islands, might be construed as an implied admission of a better title on her part than on that of the United States, and would necessarily affect their claim. The only ground for the exception consists in the allegation of the British plenipotentiaries, that Great Britain had, during some period subsequent to the treaty of peace of 1783, exercised jurisdiction over those islands, and that the United States had subsequently occupied them contrary to the remonstrances of the British Government, and before the question of title had been adjusted.

Under these considerations the undersigned, unwilling to prevent the conclusion of the treaty of peace, will take upon themselves the responsibility of agreeing to the exception proposed, with a provision that the claim of the United States shall not thereby in any manner be affected. The undersigned have accordingly prepared a clause to that effect, and which provides, also, that the temporary possession may not be converted into permanent occupancy. They had agreed to the alteration proposed by the British plenipotentiaries in the mode of reference of the several boundaries and country in dispute, under the expectation that the proposed exception to a general restoration would not be insisted on; and they will add, that the objection to the temporary possession by Great Britain of the Passamaquoddy islands would be considerably lessened by adopting a mode of reference, which would insure a speedy and certain decision.

To the stipulation now proposed by the British plenipotentiaries as a substitute for the last paragraph of the eighth article, the undersigned cannot accede.

The proposition made respecting the navigation of the Mississippi, in the alteration first proposed by the British plenipotentiaries to that article, was unexpected. In their note of the 31st of October they had stated that they had brought forward, in their note of the 21st of the same month, all the propositions which they had to offer; and that subject was not mentioned either in this last mentioned note, or in the first conference to which it referred. In order to obviate any difficulty arising from a presumed connexion between that subject and that of the boundary proposed by the eighth article, the undersigned expressed their willingness to omit the article altogether. For the purpose of meeting what they believed to be the wishes of the British Government, they proposed the insertion of an article which should recognise the right of Great Britain to the navigation of that river, and that of the United States to a liberty in certain fisheries, which the British Government considered as abrogated by the war. To such an article, which they viewed as merely declaratory, the undersigned had no objection, and have offered to accede. They do not, however, want any new article on either of those subjects; they have offered to be silent with regard to both. To the stipulation now proposed, or to any other, abandoning, or implying the abandonment of any right in the fisheries claimed by the United States, they cannot subscribe. As a stipulation merely that the parties will hereafter negotiate concerning the subjects in question, it appears also unnecessary. Yet to an engagement, couched in general terms, so as to embrace all the subjects of difference not yet adjusted, or so expressed as to imply in no manner whatever an abandonment of any right claimed by the United States, the undersigned are ready to agree.

Since neither of the two additional articles proposed by the British plenipotentiaries was included amongst, or is connected with, the subjects previously brought forward by them, it is presumed they are offered only for consideration, as embracing objects of common and equal interest to both parties. The undersigned will accede to the substance of the article to promote the abolition of the slave trade. They cannot admit the other article, which to them appears unnecessary; the courts of the United States will without it be equally open to the claims of British subjects, and they rely that without it the British courts will be equally open to the claims of the citizens of the United States.

The undersigned renew to the British plenipotentiaries the assurance of their high consideration.

JOHN QUINCY ADAMS,
JAMES A. BAYARD,
HENRY CLAY,
JONATHAN RUSSELL,
ALBERT GALLATIN.

To the PLENIPOTENTIARIES of *His Britannic Majesty, &c.*

Such of the islands in the bay of Passamaquoddy as are claimed by both parties, shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratifications of this treaty, until the decision respecting the title to the said islands shall have been made in conformity with the — article of this treaty. But if such decision shall not have taken place within — years after the exchange of the ratifications of this treaty, such islands shall be restored to, and, until such decision may take place, shall be retained by, the party who had possession of the same at the commencement of the war. No disposition made by this treaty of the intermediate possession of the islands and territories claimed by both parties shall, in any manner whatever, be construed to effect the right of either.

No. 8.

The British to the American ministers.

Ghent, December 22, 1814.

The undersigned have had the honor to receive the note of the American plenipotentiaries, dated on the 14th instant, stating their consent to except the Passamaquoddy islands from the mutual restitution of territory captured during the war, provided the claim of the United States shall not be in any manner affected thereby.

To the article proposed by the American plenipotentiaries, so far as it is adapted to this object, the undersigned are willing to agree; but they object, as before intimated by them, to that part of the proposed article which would make it imperative on the commissioners to decide the question within any fixed time, trusting that, on this head, the American plenipotentiaries will be satisfied with their declaration, that it is the intention of His Majesty's Government to do all that belongs to them to obtain a decision without loss of time. The *projet* of the article subjoined will be found to omit the clause intended to enforce a decision within some limited time, and to contain a slight alteration in the 3d clause by substituting in the place of the words "intermediate possession" the words "as to such possession."

So far as regards the substitution proposed by the undersigned for the last clause of the 5th article, as it was offered solely with the hope of attaining the object of the amendment tendered by the American plenipotentiaries at the conference of the 1st instant, no difficulty will be made in withdrawing it.

The undersigned, returning to the declaration made by them at the conference of the 8th of August, that the privileges of fishing within the limits of the British sovereignty, and of using the British territories for purposes connected with the fisheries, were what Great Britain did not intend to grant without equivalent, are not desirous of introducing any article upon the subject.

With a view of removing what they consider as the only objection to the immediate conclusion of the treaty, the undersigned agree to adopt the proposal made by the American plenipotentiaries at the conference of the 1st instant, and repeated in their last note, of omitting the 8th article altogether.

The undersigned avail themselves of the opportunity to renew to the plenipotentiaries of the United States the assurance of their high consideration.

GAMBIER,
HENRY GOULBURN,
WILLIAM ADAMS.

[Referred to in the preceding note from the British ministers.]

Such of the islands in the bay of Passamaquoddy as are claimed by both parties shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratifications of this treaty, until the decision respecting the title to the said islands, shall have been made in conformity with the 4th article of this treaty.

No disposition made by this treaty as to such possession of the islands and territories claimed by both parties shall, in any manner whatever, be construed to affect the right of either.

No. 9.

Protocol of conference.

GHEENT, December 23, 1814.

At a conference held this day, the protocol of the preceding conference was settled.

The American plenipotentiaries intimated their readiness to accede to the propositions contained in the note of the British plenipotentiaries of the 22d instant.

The following alterations were then agreed to:

In the first article, after the word "cease," omit the words "after the exchange of the ratifications," and insert "as soon as the treaty shall have been ratified by both parties." Substitute the word "whatsoever" for the words "without exception;" restore the words "taken by either party from the other," in the room of the words "belonging to either party and taken by;" after the words "signing of this treaty," insert the words "excepting only the islands hereinafter mentioned;" after the words "respectively belong," insert, "verbatim," the words of the amendment enclosed in the note of the British plenipotentiaries of the 23d instant, filling up the blank with the word "fourth."

The second article was altered, so as to read as follows:

ART. 2. Immediately after the ratification of this treaty by both parties, as hereinafter mentioned, orders shall be sent to the armies, squadrons, officers, subjects, and citizens of the two Powers, to cease from all hostilities, and so prevent all causes of complaint which might arise on account of the prizes which may be taken at sea, after the said ratifications of this treaty. It is reciprocally agreed, that all vessels and effects, which may be taken after the space of twelve days from the said ratifications upon all parts of the coast of North America, from the latitude of twenty-three degrees north to the latitude of fifty degrees north; and as far eastward in the Atlantic ocean, as the thirty-sixth degree of west longitude, from the meridian of Greenwich, shall be restored on each side: that the time shall be thirty days in all other parts of the Atlantic ocean north of the equinoctial line or equator, and the same time for the British and Irish channels, for the Gulf of Mexico, and all parts of the West Indies; forty days for the North seas, for the Baltic, and for all parts of the Mediterranean; sixty days for the Atlantic ocean, south of the equator, as far as the Cape of Good Hope; ninety days for every other part of the world, south of the equator, and one hundred and twenty days, for all other parts of the world, without exception.

It was agreed that the article respecting prisoners of war, should be the third article, and that the words "as hereinafter mentioned," should be substituted for the words "shall have been exchanged."

The articles numbered in the original *projet* 3, 4, 5, 6, 7, to be respectively numbered 4, 5, 6, 7, 8.

In the fourth article, it was agreed that the blank should be filled up with the words "St. Andrews, in the province of New Brunswick."

In the fifth article, it was agreed that the blank should be filled up with the words "St. Andrews, in the province of New Brunswick."

Near the end of the fifth article, substitute the word "fourth" for "third."

In the sixth article it was agreed to fill up the blank with the words "Albany, in the State of New York," and to substitute the word "fourth" for "third," in the concluding paragraph.

In the seventh article, substitute the word "fourth" for "third," in the last paragraph.

It was agreed that the article respecting the African slave trade, should be the tenth article, and that the words "use their best endeavors" should be substituted for the words "exert every means in their power."

The fifteenth article of the *projet* to be numbered 11: it was agreed to insert in it, after the words "on both sides," the words "without alteration by either of the contracting parties."

Omit the words "with all practicable despatch;" fill up the blank with the word "four;" insert after the word "done" the words "in triplicate." The British plenipotentiaries urged the article formally proposed by them, as to suits of law to be prosecuted by the citizens or subjects of one nation in the courts of justice of the other.

Resisted by the American plenipotentiaries.

The conference was adjourned to the 24th instant, for the purpose of signing the treaty.

Treaty of peace and amity between His Britannic Majesty and the United States of America.

His Britannic Majesty and the United States of America, desirous of terminating the war which has unhappily subsisted between the two countries, and of restoring, upon principles of perfect reciprocity, peace, friendship, and good understanding between them, have for that purpose appointed their respective plenipotentiaries; that is to say, His Britannic Majesty, on his part, has appointed the right honorable James Lord Gambier, late admiral of the white, now admiral of the red squadron of His Majesty's fleet, Henry Goulburn, Esquire, a member of the Impe-

rial Parliament, and Under Secretary of State, and William Adams, Esquire, doctor of civil laws: and the President of the United States, by and with the advice and consent of the Senate thereof, has appointed John Quincy Adams, James A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin, citizens of the United States, who, after a reciprocal communication of their respective full powers, have agreed upon the following articles:

ARTICLE 1. There shall be a firm and universal peace between His Britannic Majesty and the United States, and between their respective countries, territories, cities, towns, and people of every degree, without exception of places or persons. All hostilities, both by sea and land, shall cease as soon as this treaty shall have been ratified by both parties, as hereinafter mentioned. All territory, places, and possessions whatsoever taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property. And all archives, records, deeds, and papers, either of a public nature or belonging to private persons, which in the course of the war may have fallen into the hands of the officers of either party, shall be, as far as may be practicable, forthwith restored and delivered to the proper authorities and persons to whom they respectively belong. Such of the islands in the bay of Passamaquoddy as are claimed by both parties shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratifications of this treaty, until the decision respecting the title to the said islands shall have been made, in conformity with the fourth article of this treaty. No disposition made by this treaty, as to such possession of the islands and territories claimed by both parties, shall in any manner whatever be construed to affect the right of either.

ART. 2. Immediately after the ratifications of this treaty by both parties, as hereinafter mentioned, orders shall be sent to the armies, squadrons, officers, subjects, and citizens of the two Powers to cease from all hostilities; and to prevent all causes of complaint which might arise on account of the prizes which may be taken at sea after the said ratifications of this treaty, it is reciprocally agreed that all vessels and effects which may be taken after the space of twelve days from the said ratifications, upon all parts of the coast of North America, from the latitude of twenty-three degrees north to the latitude of fifty degrees north, and as far eastward in the Atlantic ocean as the thirty-sixth degree of west longitude from the meridian of Greenwich, shall be restored on each side; that the time shall be thirty days in all other parts of the Atlantic ocean north of the equinoctial line or equator, and the same time for the British and Irish channels, for the Gulf of Mexico, and all parts of the West Indies; forty days for the North seas, for the Baltic, and for all parts of the Mediterranean; sixty days for the Atlantic ocean south of the equator as far as the latitude of the Cape of Good Hope; ninety days for every part of the world south of the equator; and one hundred and twenty days for all other parts of the world, without exception.

ART. 3. All prisoners of war taken on either side, as well by land as by sea, shall be restored as soon as practicable after the ratifications of this treaty, as hereinafter mentioned, on their paying the debts which they may have contracted during their captivity. The two contracting parties respectively engage to discharge, in specie, the advances which may have been made by the other for the sustenance and maintenance of such prisoners.

ART. 4. Whereas it was stipulated by the second article in the treaty of peace of one thousand seven hundred and eighty-three between His Britannic Majesty and the United States of America, that the boundary of the United States should comprehend all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the bay of Fundy and the Atlantic ocean, excepting such islands as now are, or heretofore have been, within the limits of Nova Scotia; and whereas several islands in the bay of Passamaquoddy, which is part of the bay of Fundy, and the island of Grand Manan, in the said bay of Fundy, are claimed by the United States as being comprehended within their aforesaid boundaries, which said islands are claimed as belonging to His Britannic Majesty, as having been at the time of, and previous to, the aforesaid treaty of one thousand seven hundred and eighty-three within the limits of the province of Nova Scotia: in order, therefore, finally to decide upon these claims, it is agreed that they shall be referred to two commissioners, to be appointed in the following manner, viz: One commissioner shall be appointed by His Britannic Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said two commissioners so appointed shall be sworn impartially to examine and decide upon the said claims according to such evidence as shall be laid before them, on the part of His Britannic Majesty and of the United States, respectively. The said commissioners shall meet at St. Andrew's, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall, by a declaration or report under their hands and seals, decide to which of the two contracting parties the several islands aforesaid do respectively belong, in conformity with the true intent of the said treaty of peace of one thousand seven hundred and eighty-three; and if the said commissioners shall agree in their decision, both parties shall consider such decision as final and conclusive. It is further agreed, that in the event of the two commissioners differing upon all or any of the matters so referred to them, or in the event of both or either of the said commissioners refusing, or declining, or wilfully omitting to act as such, they shall make, jointly or separately, a report or reports, as well to the Government of His Britannic Majesty as to that of the United States, stating in detail the points on which they differ, and the grounds upon which their respective opinions have been formed, or the grounds upon which they, or either of them, have so refused, declined, or omitted to act. And His Britannic Majesty and the Government of the United States hereby agree to refer the report or reports of the said commissioners to some friendly Sovereign or State, to be then named for that purpose, and who shall be requested to decide on the differences which may be stated in the said report or reports, or upon the report of one commissioner, together with the grounds upon which the other commissioner shall have refused, declined, or omitted to act, as the case may be; and if the commissioner so refusing, declining, or omitting to act, shall also wilfully omit to state the grounds upon which he has so done, in such manner that the said statement may be referred to such friendly sovereign or state, together with the report of such other commissioner, then such sovereign or state shall decide *ex parte* upon the said report alone. And His Britannic Majesty and the Government of the United States engage to consider the decision of some friendly Power or state to be such and conclusive on all the matters so referred.

ART. 5. Whereas neither that point of the highlands lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two Powers as the northwest angle of Nova Scotia, now the northwesternmost head of Connecticut river, has yet been ascertained; and whereas that part of the boundary line between the dominions of the two Powers which extends from the source of the river St. Croix, directly north, to the above-mentioned northwest angle of Nova Scotia; thence along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; thence by a line due west on said latitude, until it strikes the river Iroquois or Cataraguy, which has not yet been surveyed: it is agreed that, for these several purposes, two commissioners shall be appointed, sworn, and

authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in the present article. The said commissioners shall meet at St. Andrew's, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall have power to ascertain and determine the points above mentioned, in conformity with the provisions of the said treaty of peace of one thousand seven hundred and eighty-three, and shall cause the boundary aforesaid, from the source of the river St. Croix to the river Iroquois or Cataraguy, to be surveyed and marked according to the said provisions. The said commissioners shall make a map of the said boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the northwest angle of Nova Scotia, of the northwesternmost head of Connecticut river, and of such other points of the said boundary as they may deem proper; and both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary. And in the event of the said two commissioners differing, or both or either of them refusing, or declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made in all respects as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

ART. 6. Whereas, by the former treaty of peace, that portion of the boundary of the United States from the point where the forty-fifth degree of north latitude strikes the river Iroquois or Cataraguy to the Lake Superior was declared to be "along the middle of said river into Lake Ontario; through the middle of said lake, until it strikes the communication by water between that lake and Lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake, until it arrives at the water communication into the Lake Huron; thence through the middle of said lake, to the water communication between that lake and Lake Superior;" and whereas doubts have arisen what was the middle of the said river, lakes, and water communications, and whether certain islands lying in the same were within the dominions of His Britannic Majesty or of the United States: in order, therefore, finally to decide these doubts, they shall be referred to two commissioners to be appointed, sworn, and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in this present article. The said commissioners shall meet in the first instance at Albany, in the State of New York, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall, by a report or declaration under their hands and seals, designate the boundary through the said river, lakes, and water communications, and decide to which of the two contracting parties the several islands lying within the said river, lakes, and water communications do respectively belong, in conformity with the true intent of the said treaty of one thousand seven hundred and eighty-three; and both parties agree to consider such designation and decision as final and conclusive. And in the event of the said two commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made in all respects as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

ART. 7. It is further agreed that the said two last mentioned commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they are hereby, authorized upon their oaths impartially to fix and determine, according to the true intent of the said treaty of peace of one thousand seven hundred and eighty-three, that part of the boundary between the dominions of the two Powers, which extends from the water communication between Lake Huron, and Lake Superior, to the most northwestern point of the Lake of the Woods, to decide to which of the two parties the several islands lying in the lakes, water communications, and rivers, forming the said boundary, do respectively belong, in conformity with the true intent of the said treaty of peace of one thousand seven hundred and eighty-three, and to cause such parts of the said boundary as require it to be surveyed and marked. The said commissioners shall, by a report or declaration under their hands and seals, designate the boundary aforesaid, state their decision on the points thus referred to them, and particularize the latitude and longitude of the most northwestern point of the Lake of the Woods, and of such other parts of the said boundary as they may deem proper; and both parties agree to consider such designation and decision as final and conclusive. And in the event of the said two commissioners differing, or both or either of them refusing, declining, or wilfully omitting to act, such reports, declarations, or statements shall be made by them, or either of them, and such reference to a friendly Sovereign or State shall be made in all respects as in the latter part of the fourth article is contained, and in as full a manner as if the same was herein repeated.

ART. 8. The several Boards of two commissioners mentioned in the four preceding articles shall respectively have power to appoint a secretary, and to employ such surveyors or other persons as they shall judge necessary. Duplicates of all their respective reports, declarations, statements, and decisions, and of their accounts, and of the journal of their proceedings, shall be delivered by them to the agents of His Britannic Majesty, and to the agents of the United States, who may be respectively appointed and authorized to manage the business on behalf of their respective Governments. The said commissioners shall be respectively paid in such manner as shall be agreed between the two contracting parties, such agreement being to be settled at the time of the exchange of the ratifications of this treaty; and all other expenses attending the said commission shall be defrayed equally by the two parties. And in the case of death, sickness, resignation, or necessary absence, the place of every such commissioner respectively shall be supplied in the same manner as such commissioner was first appointed; and the new commissioner shall take the same oath or affirmation, and do the same duties. It is further agreed between the two contracting parties, that in case any of the islands mentioned in any of the preceding articles, which ere in the possession of one of the parties prior to the commencement of the present war between the two countries, should, by the decision of any of the boards of commissioners aforesaid, or of the Sovereign or State so referred to, as in the four next preceding articles contained, fall within the dominions of the other party, all grants of land made previous to the commencement of the war by the party having had such possession shall be as valid as if such island or islands had, by such decision or decisions, been adjudged to be within the dominions of the party having had such possession.

ART. 9. The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification, and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges which they may have enjoyed, or been entitled to, in one thousand eight hundred and eleven, previous to such hostilities: provided always, that such tribes or nations shall agree to desist from all hostilities against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly. And His Britannic Majesty engages, on his part, to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom he may be at war at the time of such ratification, and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges, which they may have enjoyed, or been entitled to, in one thou-

sand eight hundred and eleven, previous to such hostilities: provided always, that such tribes or nations shall agree to desist from all hostilities against His Britannic Majesty and his subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

ART. 10. Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice; and whereas both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object.

ART. 11. This treaty, when the same shall have been ratified on both sides, without alteration by either of the contracting parties, and the ratifications mutually exchanged, shall be binding on both parties, and the ratifications shall be exchanged at Washington in the space of four months from this day, or sooner if practicable.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty, and have hereunto affixed our seals.

Done, in triplicate, at Ghent, the twenty-fourth day of December, one thousand eight hundred and fourteen.

GAMBIER.	[L. S.]
HENRY GOULBURN.	[L. S.]
WILLIAM ADAMS.	[L. S.]
JOHN QUINCY ADAMS.	[L. S.]
J. A. BAYARD.	[L. S.]
HENRY CLAY.	[L. S.]
JONATHAN RUSSELL.	[L. S.]
ALBERT GALLATIN.	[L. S.]

13th CONGRESS.]

No. 272.

[3d SESSION.]

ALGIERS.

COMMUNICATED TO CONGRESS, FEBRUARY 23, 1815, AND REPORTED ON, FEBRUARY 28, 1818.

WASHINGTON, February 23, 1815.

To the Senate and House of Representatives of the United States:

Congress will have seen, by the communication from the consul general of the United States at Algiers, laid before them on the 17th of November, 1812, the hostile proceedings of the Dey against that functionary. These have been followed by acts of more overt and direct warfare against the citizens of the United States trading in the Mediterranean, some of whom are still detained in captivity, notwithstanding the attempts which have been made to ransom them, and are treated with the rigor usual on the coast of Barbary.

The considerations which rendered it unnecessary and unimportant to commence hostile operations on the part of the United States being now terminated by the peace with Great Britain, which opens the prospect of an active and valuable trade of their citizens within the range of the Algerine cruisers, I recommend to Congress the expediency of an act declaring the existence of a state of war between the United States and the Dey and Regency of Algiers, and of such provisions as may be requisite for a vigorous prosecution of it to a successful issue.

JAMES MADISON.

The committee to whom has been referred the bill entitled "An act for the protection of the commerce of the United States against the Algerine cruisers," with instructions to inquire, and report, in detail, the facts upon which the measure contemplated by the bill is predicated, report:

That, in the month of July, 1812, the Dey of Algiers, taking offence, or pretending to take offence, at the quality and quantity of a shipment of military stores made by the United States, in pursuance of the stipulation in the treaty of 1795, and, refusing to receive the stores, extorted from the American consul general at Algiers, by threats of personal imprisonment, and of reducing to slavery all Americans within his power, a sum of money, claimed as the arrearages of treaty stipulations, and denied by the United States to be due; and then compelled the consul, and all the citizens of the United States at Algiers, abruptly to quit his dominions. It further appears to the committee, that, on the 25th of August following, the American brig Edwin, of Salem, owned by Nathaniel Silsbee, of that place, while on a voyage from Malta to Gibraltar, was taken by an Algerine corsair, and carried into Algiers as prize. The commander of the brig, Captain George Campbell Smith, and the crew, ten in number, have ever since been detained in captivity, with the exception of two of them, whose release has been effected, under circumstances not indicating any change of hostile temper on the part of the Dey. It also appears that a vessel, sailing under the Spanish flag, has been condemned in Algiers as laying a false claim to that flag, and concealing her true American character. In this vessel was taken a Mr. Pollard, who claims to be an American citizen, and is believed to be of Norfolk, Virginia, and who, as an American citizen, is kept in captivity. The Government, justly solicitous to relieve these unfortunate captives, caused an agent (whose connexion with the Government was not disclosed) to be sent to Algiers, with the means and with instructions to effect their ransom, if it could be done at a price not exceeding three thousand dollars per man. The effort did not succeed, because of the Dey's avowed policy to increase the number of his American slaves, in order to be able to compel a renewal of his treaty with the United States on terms suited to his rapacity. Captain Smith, Mr. Pollard, and the mate of the Edwin, are not confined, nor kept at hard labor; but the rest of the captives are subjected to the well known horrors of Algerine slavery. The committee have not been apprized of any other specific outrages upon the persons or property of American citizens besides those stated; and they apprehend that the fewness of *these* is attributable to the want of opportunity, and

not of inclination, in the Dey to prey upon our commerce and to enslave our citizens. The war with Great Britain has hitherto shut the Mediterranean against American vessels, which it may be presumed will now shortly venture upon it. The committee are all of opinion, upon the evidence which has been laid before them, that the Dey of Algiers considers his treaty with the United States as at an end, and is waging war against them. The evidence upon which this opinion is founded, and from which are extracted the facts above stated, accompanies this report,* and with it is respectfully submitted.

13th CONGRESS.]

No. 273.

[3d SESSION.]

BARBARY POWERS.

COMMUNICATED TO CONGRESS, FEBRUARY 24, 1815.

To the House of Representatives of the United States:

FEBRUARY 23, 1815.

I transmit to the House of Representatives a report from the acting Secretary of State, complying with their resolution of the 15th instant.

JAMES MADISON.

DEPARTMENT OF STATE, February 20, 1815.

The acting Secretary of State, to whom was referred the resolution of the House of Representatives of the 15th instant, requesting the President of the United States to cause to be laid before that House such information as he shall deem necessary to be communicated, touching the state of relations existing between the United States and the Barbary Powers, has the honor to state:

That, according to the latest accounts from Morocco, Tunis, and Tripoli, our relations with those Powers remained upon their former footing, nor is there any particular reason to believe that any change has since taken place.

It will appear by the documents accompanying the message of the President to Congress on the 17th of November, 1812, that the Dey of Algiers had violently, and without just cause, obliged the consul of the United States, and all American citizens then in Algiers, to leave that place, in a manner highly offensive to their country and injurious to themselves, and in violation of the treaty then subsisting between the two nations. It appears, moreover, that he exacted from the consul, under pain of immediate imprisonment, a large sum of money, to which he had no claim but what originated in his own injustice.

These acts of violence and outrage have been followed by the capture of at least one American vessel, and by the seizure of an American citizen on board a neutral vessel. The unfortunate persons thus captured are yet held in captivity, with the exception of two of them, who have been ransomed. Every effort to obtain the release of the others has proved abortive; and there is some reason to believe that they are held by the Dey as a means by which he calculates to extort from the United States a degrading treaty.

JAMES MONROE.

13th CONGRESS.]

No. 274.

[3d SESSION.]

AMERICAN SEAMEN.

COMMUNICATED TO CONGRESS, FEBRUARY 25, 1815, AND REPORTED ON FEBRUARY 23, 1815.

WASHINGTON, February 25, 1815.

To the Senate and House of Representatives of the United States:

Peace having happily taken place between the United States and Great Britain, it is desirable to guard against incidents, which, during periods of war in Europe, might tend to interrupt it; and, it is believed, in particular, that the navigation of American vessels exclusively by American seamen, either natives or such as are already naturalized, would not only conduce to the attainment of that object, but also to increase the number of our seamen, and, consequently, to render our commerce and navigation independent of the service of foreigners, who might be recalled by their Governments, under circumstances the most inconvenient to the United States. I recommend the subject, therefore, to the consideration of Congress, and, in deciding upon it, I am persuaded that they will sufficiently estimate the policy of manifesting to the world a desire, on all occasions, to cultivate harmony with other nations, by any reasonable accommodations which do not impair the enjoyment of any of the essential rights of a free and independent people. The example on the part of the American Government will merit, and may be expected to receive, a reciprocal attention from all the friendly Powers of Europe.

JAMES MADISON.

* These documents are omitted in this publication, the material facts having been condensed in the report.

[The following report, on the subject of the preceding message, was made to the Senate February 28, 1815.]

IN SENATE UNITED STATES, *February 28, 1815.*

The Committee on Foreign Relations, to whom was referred the message of the President recommending certain regulations respecting American seamen, report:

That they fully accord in the policy recommended, of avoiding, by prudent regulations, the occurrence of circumstances which may disturb a liberal intercourse with foreign nations. They are, moreover, persuaded that the navigation of American vessels exclusively by American seamen, either natives or such as are already naturalized, would not only have the tendency to render our commerce and navigation independent of the service of foreigners, but that it would be calculated to remove the pretext under which the American navigation has heretofore been interrupted.

But while the committee consider the subject of the President's message highly important, they regret that the session of Congress is so near its close that questions affecting the foreign as well as the domestic policy of the nation cannot now receive the deliberate and full examination to which they are entitled.

The committee, therefore, submit the following resolution:

Resolved, That the further consideration of the message be postponed until the next session of Congress.

13th CONGRESS.]

No. 275.

[3d SESSION.]

GREAT BRITAIN.

COMMUNICATED TO THE SENATE, MARCH 2, 1815.

To the Senate of the United States:

FEBRUARY 28, 1815.

I transmit to the Senate a report from the acting Secretary of State, complying with their resolution of the 24th of October last.

JAMES MADISON.

DEPARTMENT OF STATE, *February 28, 1815.*

The undersigned, acting as Secretary of State, to whom was referred the resolution of the Senate of the 24th of October last, requesting the President of the United States to lay before the Senate (provided he shall not consider the same improper to be communicated) the proof of any traffic carried on in the West Indies by the sale of negroes taken from the United States by the British forces since the present war, has the honor to state that such proof was transmitted to the Executive by the honorable St. George Tucker, in the form of an affidavit of Captain Williams, from which it appeared that he had been a prisoner in the Bahama Islands, and that, whilst there, he had been present at the sale of negroes taken from the vicinity of Norfolk and Hampton. This affidavit, voluntarily given, and strengthened and corroborated by a variety of circumstances, was considered at the time as full proof of the fact, and was transmitted to our ministers at Ghent. When the resolution of the Senate was transmitted to this Department, application was made to Judge Tucker, and subsequently to Major Griffin, for the original affidavit, or for an authenticated copy. As neither have yet been received, and as it is deemed improper longer to delay this report, the undersigned begs leave to refer to the accompanying papers, marked 1, 2, 3, and 4, from which the material facts stated in the affidavit may be collected, and the circumstances which have prevented its transmission to this Department explained. This subject will be further investigated, with a view to place it, in all its circumstances, in the most satisfactory light.

All which is respectfully submitted.

JAMES MONROE.

No. 1.

SIR:

RICHMOND, *November 24, 1814.*

I do myself the honor to enclose you a letter from my friend, Mr. Cabell, and one from Mr. John Tabb Smith, the magistrate before whom the affidavit was made, a copy of which I transmitted to the President. Mr. Cabell has written to Major Griffin to endeavor to procure the original, and, if he should fortunately obtain it, I will lose no time in forwarding it to you.

I have the honor to be, very respectfully, sir, your most obedient servant,

ST. G. TUCKER.

JOHN GRAHAM, Esq., *Department of State, Washington.*

No. 2.

[Enclosed in the preceding.]

Copy of a letter from Joseph C. Cabell, Esq., to the Honorable St. George Tucker, dated

MY DEAR SIR:

RICHMOND, *November 22, 1814.*

I have received your favor of the 14th instant, embracing an extract from the letter recently written to you by Mr. Graham, of the Department of State, on the subject of the resolution of the Senate of the United States of the 24th ultimo.

I distinctly recollect all the material circumstances in regard to the copy of the affidavit which you forwarded to the President. About the period that Major Thomas Griffin, of York, went on board the British squadron in Lynnhaven bay, for the purpose of endeavoring to recover his negroes, who had gone off to the enemy, I happened to be in Williamsburg. The destination of the slaves that had been taken or received by the British was then a subject of curiosity and concern throughout the lower country. I understood that a sea-faring man, of the name of Williams, who had been a prisoner with the enemy, and had recently arrived at Hampton, had gone, in company with Major Thomas Griffin, of York, before John Tabb Smith, a respectable magistrate of the county of Elizabeth city, and had made oath that, while a prisoner in one of the Bahama Islands, he had been present at the sale of the negroes that had been carried off from the vicinity of Hampton and Norfolk; that the negroes were sold at a high price; and that a negro carpenter, from Norfolk, was purchased for a thousand dollars. Several gentlemen, of the first respectability, who had conversed with Major Griffin, informed me that he spoke of Williams as a man whose appearance entitled him to credit, and that he had accordingly published the affidavit in the town of York. Through the medium of Mr. Coke, of Williamsburg, I procured a copy of this paper, which I handed to you, and was forwarded by you to the President. This affidavit was a subject of general conversation about that time. The circumstances under which Williams arrived at Hampton, the manner in which he described the negroes sold in the Bahamas, and particularly the carpenter from Norfolk, and the appearance of entire sincerity in his narrative, left no doubt, I was assured, on the mind of either Mr. Smith or Major Griffin, that the alleged sale had actually taken place. I did not see Major Griffin, nor did I inquire what he intended to do with the original affidavit of Williams. My conjecture was, that he would send it on to the committee of Congress charged with the business of collecting proofs of the barbarous conduct of the war by the enemy. As it seems he has not done so, I presume it remains in his possession. I will write immediately to him, with the view of ascertaining whether this be the fact, and, if it be, to request the favor of him to enclose me the affidavit. The result of my inquiries of that gentleman shall be made known to you, without delay. In the interim,

I remain, most respectfully and sincerely, yours, &c.

JOSEPH C. CABELL.

No. 3.

Copy of a letter from John Tabb Smith, Esq., to Judge Tucker, dated

SIR:

HAMPTON, *November 21, 1814.*

Your favor I have now before me. Some time in the year 1813, there came before me a Captain Williams, (I think his name was,) in company with Major Thomas Griffin, of York, with the affidavit you speak of in your letter, which he swore to before me, and I gave my certificate thereto. I then gave the affidavit to Major Griffin, and expected to see it published in one of the Richmond papers, but never heard of it since; but, from your letter, I expect the original can be got from Major Griffin. But if it is mislaid, I well recollect the substance of the affidavit, and will render you any service in my power.

I am, with respect, &c.

JOHN TABB SMITH.

If it can be got from Major Griffin, it had better be in the captain's own words, with my certificate.

J. T. S.

ST. GEORGE TUCKER, Esq., &c.

No. 4.

SIR:

YORK, VIRGINIA, *February 16, 1815.*

Your favor of the 6th instant has been received. I have examined my papers, and cannot find the original affidavit of Captain Williams, therein alluded to. The copy I gave Mr. Cabell was literally correct. The original has been mislaid, or, I fear, lost, in the bustle of moving papers from hence so frequently as has been done, to place them without the reach of the enemy, during the war. I will again examine, and endeavor to recover the affidavit, and will forward the same to the Department of State so soon as it shall be recovered.

Very respectfully, I am, sir, your obedient servant,

THOMAS GRIFFIN.

JOHN GRAHAM, Esq., *Department of State, Washington.*

13th CONGRESS.]

No. 276.

[3d SESSION.]

GREAT BRITAIN.

REPORTED TO THE SENATE, MARCH 3, 1815.

IN SENATE UNITED STATES, *March 3, 1815.*

The Committee on Foreign Relations, to whom was referred the message of the President of the United States, of the 26th of September last, respecting the unauthorized mode of warfare adopted by the enemy on the plea of retaliation, report:

That, although the war has happily terminated, they deem it important to rescue the American Government from unworthy imputations with which it has been assailed during its progress. They have, therefore, endeavored to ascertain whether the destruction of York in Upper Canada, and the other cases assumed by our late enemy as

authorizing a departure from the settled rules of civilized warfare, were of a character to justify or extenuate their conduct.

The result of the inquiries of the committee, manifesting to the world that the plea which has been advanced for the destruction of the American capitol, and the plunder of private property, is without foundation, will be found in the communications of the Secretaries of the Departments of War and Navy, and of General Dearborn, commander of the American forces in the attack on York, herewith submitted.

The Secretary of State to the Chairman of the Committee on Foreign Relations.

SIR:

DEPARTMENT OF STATE, February 28, 1815.

I have had the honor to receive your letter, requesting, on behalf of the Committee of Foreign Relations, any information which this Department possesses relative to the misconduct that has been imputed to the American troops in Upper Canada during the late war, and, in reply, I have the honor to state that the charges appear to be confined to three: 1st. The alleged burning of York; 2d. The burning of Newark; and 3d. The burning of the Indian villages, usually called the Moravian towns.

1st. The burning of York, or of any of its public edifices, or of any of its private houses, has never been presented to the view of the American Government, by its own officers, as matter of information, and it never was exhibited by the British Government, or any of its officers, as a matter of complaint, until it was asserted, in the address of the Governor-in-chief to the Provincial Parliament of Canada, on the 24th of January, 1815, "that, as a just retribution, the proud capitol at Washington has experienced a similar fate to that inflicted by an American force on the seat of Government in Upper Canada." This assertion having led to an inquiry, I am enabled, from official documents and general information, to state the following facts of the case, for the information of the committee.

The town of York, in Upper Canada, was taken by the American army, under the command of General Dearborn, on the 27th of April, 1813, and it was evacuated on the succeeding 1st of May, although it was again visited for a day by an American squadron, under the command of Commodore Chauncey, on the 4th of August. At the time of the capture, the British troops, on their retreat, set fire to their magazine, and great injury was done by the explosion to property as well as to persons, within the range of its effects. At the time of the capture, as well as at the time of Commodore Chauncey's visit, the public stores were seized, and the public store-houses were destroyed, but the destruction of public edifices for civil uses, or of private property, was not only unauthorized, but positively forbidden by the American commanders, and it is understood that no private house was destroyed by the American troops. It has recently, however, appeared that a public building, of little value, called the Parliament House, (not the Government House) in which it is said that an American scalp was found as a part of the decoration of the Speaker's chair, had been burnt; "whether it was so, and, if it was, whether it was an accidental consequence of the confusion in which the explosion of the magazine involved the town, or the unauthorized act of some exasperated individual, has not been ascertained. The silence of the military and civil officers of the provincial Government of Canada seems to indicate that the transaction was not deemed, when it occurred, a cause either for retaliation or reproach.

2d. The burning of Newark, adjacent to Fort George, occurred on the 10th of December, 1813. The act was vindicated by the American General as necessary to his military operations, but, as soon as the American Government heard of it, instructions, dated the 6th of January, 1814, were given by the Department of War to Major General Wilkinson "to disavow the conduct of the officer who committed it, and to transmit to Governor Prevost a copy of the orders under color of which that officer had acted." This disavowal was accordingly communicated, and, on the 10th of February, 1814, Governor Prevost answered "that it had been with great satisfaction he had received the assurance that the perpetration of the burning of the town of Newark was both unauthorized by the American Government and abhorrent to every American feeling; that, if any outrages had ensued, the wanton and unjustifiable destruction of Newark, passing the bounds of just retaliation, they were to be attributed to the influence of irritated passions on the part of the unfortunate sufferers by that event, which, in a state of active warfare, it had not been possible altogether to restrain; and that it was as little congenial to the disposition of His Majesty's Government, as it was to that of the Government of the United States, deliberately to adopt any plan of policy which had for its object the devastation of private property."

But the disavowal of the American Government was not the only expiation of the unauthorized offence committed by its officer; for the British Government undertook itself to redress the wrong. A few days after the burning of Newark, the British and Indian troops crossed the Niagara for this purpose; they surprised and seized Fort Niagara; they burnt the villages of Lewistown, Manchester, Tuscarora, Buffalo, and Black Rock, desolating the whole of the Niagara frontier, and dispersing the inhabitants in the extremity of winter. Sir George Prevost himself appears to have been satisfied with the vengeance that had been inflicted; and, in his proclamation of the 12th of January, 1814, he expressly declared that, for the burning of Newark, "the opportunity of punishment had occurred; that a full measure of retaliation had taken place, and that it was not his intention to pursue further a system of warfare so revolting to his own feelings, and so little congenial to the British character, unless the future measures of the enemy should compel him again to resort to it." With his answer to Major General Wilkinson, which has been already noticed, he transmitted a copy of the proclamation, "as expressive of the determination as to his future line of conduct," and added, "that he was happy to learn that there was no probability that any measures on the part of the American Government would oblige him to depart from it."

3d. The places usually called the Moravian towns were mere collections of Indian huts and cabins on the river Retrench or Thames, not probably worth, in the whole, one thousand dollars. The Indians who inhabited them, among whom were some notoriously hostile to the United States, had made incursions the most cruel into their territory. When, therefore, the American army, under General Harrison, invaded Canada, on the — day of —, 18—, the huts and cabins of the hostile Indians were destroyed. But this species of warfare has been invariably pursued by every nation engaged in war with the Indians of the American continent. However it may be regretted on the score of humanity, it appears to be the necessary means of averting the still greater calamities of savage hostilities; and it is believed that the occurrence would never have been made the subject of a charge against the American troops, if the fact had not been misrepresented or misunderstood. Many people at home, and most people abroad, have been led to suppose that the Moravian towns were the peaceable settlements of a religious sect of Christians, and not the abode of a hostile tribe of savages.

I have the honor to be, with the highest respect, your most obedient servant,

JAS. MONROE.

Hon. WILLIAM W. BIBB, *Chairman of the Committee on Foreign Relations.*

The Secretary of the Navy to the Chairman of the Committee on Foreign Relations.

SIR:

NAVY DEPARTMENT, *February 18, 1815.*

In compliance with the request of the committee of the Senate, communicated to me by your note of the 14th current, I have the honor to transmit to you, herewith, *extracts* from the letters of Commodore Chauncey to the Secretary of the Navy on the subject of destroying the public store-houses and stores at York, in Upper Canada, and which is all the information in this Department on that subject.

I have the honor to be, very respectfully, sir, your obedient servant,

B. W. CROWNINSHIELD.

HON. WILLIAM W. BIBB, *Chairman of a Committee of the Senate.*

[Enclosed in the above.]

*Extract of a letter from Commodore Isaac Chauncey to the Secretary of the Navy.*OFF YORK, U. C., *April 28, 1813.*

The enemy set fire to some of his principal stores, containing large quantities of naval and military stores, as well as a large ship upon the stocks nearly finished.

*From the same to the same.*OFF NIAGARA, *August 4, 1813.*

In the evening of the 30th ultimo, we weighed and stood for York; arrived and anchored in that harbor; at about three, P. M. on the 31st, ran the schooners into the upper harbor; landed the marines and soldiers, under command of Colonel Scott, without opposition; found several hundred barrels of flour and provisions in the public store-houses, five pieces of cannon, eleven boats, and a quantity of shot, shells, and other stores, all which was either destroyed or brought away. On the 1st instant, after having received on board all that the vessels could take, I directed the barracks and the public store-houses to be burnt; we then re-embarked the men, and proceeded to this place, where I arrived yesterday.

General Dearborn to the Hon. J. B. Varnum.

DEAR SIR:

BOSTON, *October 17, 1814.*

In reply to your letter of the 11th instant, I assure you, in the most explicit manner, that no public or private buildings were burnt or destroyed by the troops under my command at York, in Upper Canada, excepting two block-houses, and one or two sleds belonging to the navy yard. I placed a strong guard in the town, with positive orders to prevent any plunder or depredation on the inhabitants, and, when leaving the place, a letter was received from Judge Scott, Chief Justice of the Superior Court, in which he expressed his thanks for the humane treatment the inhabitants had experienced from our troops, and for my particular attention to the safety of their persons and property. A frigate on the stocks, and a large store-house containing their naval stores, were set on fire by the enemy subsequent to their offer of surrendering the troops and public property; several of the most valuable public buildings, connected with their principal military position, were destroyed by the explosion of their magazines, which proved so fatal to our troops; and, although there were strong provocations for burning or destroying the town, nothing of the kind took place, more than I have already mentioned, either by the army or navy.

Yours, with respectful esteem,

H. DEARBORN.

HON. JOSEPH B. VARNUM.

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