

DOCUMENTS
ACCOMPANYING
THE MESSAGE OF THE PRESIDENT
OF THE
UNITED STATES,
TO THE
TWO HOUSES OF CONGRESS,
AT THE
COMMENCEMENT OF THE THIRD SESSION
OF THE
ELEVENTH CONGRESS.

DECEMBER 5, 1810

Read and ordered to be printed.

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.....
1810.

DOCUMENTS.

*Extract of a letter from Mr. Smith to Mr.
Pinkney, dated*

DEPARTMENT OF STATE,
January 20, 1810.

“ IN my letter to you of the 11th Nov. 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 U. 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

* Letter annexed.

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.”



[Inclosed in the foregoing letter.]

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

January 20, 1810.

SIR,

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, &c. &c.

R. SMITH.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

May 22, 1810.

SIR,

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 charge d'affairs, 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 contempla-

tion, 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 charge d'affairs 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 inclosed, 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. &c.

(Signed)

R. SMITH.

Wm. Pinkney, esq. &c. &c. &c. London.



Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

July 2, 1810.

SIR,

Your several letters of the 8th and 9th of 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 govern-

ment, 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 abortiveness 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 of 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 1,000 miles, pro-

claimed 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 formally 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 shew 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

* Letter annexed.

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, &c. &c.

(Signed)

R. SMITH.

Wm. Pinkney, Esq. &c. &c. &c.

Mr. Madison to Mr. Thornton, charge des affaires of his Britannic majesty.

DEPARTMENT OF STATE,

October 27, 1803.

SIR,

The letters of which copies are inclosed, 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 Guadaloupe 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 those 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 conside-

ration 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 these circumstances, however important it 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 of 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 4th article of the convention, of June 1801, between Great Britain and Russia, which having been entered into for the avowed purpose "*of settling an invariable determina-*

tion 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 characterises 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 Guadaloupe, the latter not less than 250, and the former nearly 150 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 di-

minish 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, &c. &c.

(Signed)

JAMES MADISON.

Edward Thornton, esq. &c. &c. &c.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

July 5, 1810.

SIR.

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 repeal 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 laws 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 im-

mediate 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. &c.

(Signed)

R. SMITH.

Wm. Pinkney, esq. &c. &c. &c.

Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

July 17, 1810.

SIR,

You will herewith receive duplicates of my letters to you of the 13th, 16th and 30th June, and 2d and 5th 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 functionaries at Paris, but for the fur-

ther 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 first 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, &c. &c.

(Signed)

R. SMITH.

William Pinkney, esq. &c. &c. &c.



Mr. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

October 19, 1810.

SIR,

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 com-

plexion 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 15th, 1799, from Mr. King, our minister at London, and also such part of Mr. Marshall's letter† to him, of the 20th Sept. 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 abelligerent, as in the case of the blockade of Tripoli, as will be seen by the annexed letter|| 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

* See extract subjoined of the letter referred to, from Mr. King, and an extract from the correspondence alluded to by him.

† Subjoined.

‡ Subjoined.

|| Subjoined.

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 first 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 first 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 an 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 independency. 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, &c. &c.

(Signed)

R. SMITH.

Wm. Pinkney, esq. &c. &c. &c.

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 cruizes 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.”

* See extract annexed.

*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.”

Extract of a letter from Mr. Marshall, secretary of state, to Mr. King, dated

September 20, 1800.

“ 2dly. The right to confiscate vessels bound to a blockaded port, has been unreasonably extended to cases not coming within the rule, as heretofore adopted.

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.”

Extract of a letter from Mr. Madison to Mr. Charles Pinckney, minister plenipotentiary of the United States, at Madrid, dated

DEPARTMENT OF STATE,

Washington, 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 :

1st. That the proclamation was made as far back as the 15th February, 1800, and has not since been renewed; that it was immediately protested against by the American and other neutral ministers at Madrid, as 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.

2d. 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 ap-

proved 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 1781. The spirit of articles XV. and XVI. 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, this 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 shewn to have been expressly renounced in a single stipulation between particular nations.

3d. That the situation of the naval force at Algeiras, 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 the 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.

4th. 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

* See late treaties between Russia and Sweden, and between Russia and Great Britain.

vessels must sail within the view and reach of the armed boats belonging to Algeiras. If, because a neutral vessel bound to Gibraltar can be annoyed and put in danger by way-laying cruizers, 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 Algeiras 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 the ports thereby not only blockade any particular port or 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 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.

5th. 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 the 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.

6th. 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 shewn 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 the 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 Algeciras cruizers 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 Algeciras 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 pre-monished 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 conse-

quently 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."



Mr. Smith, Secretary of the navy, to commodore Preble.

NAVY DEPARTMENT,

February 4, 1804.

SIR,

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 am, &c. &c.

(Signed)

R. SMITH.

Commodore Preble.



Extracts from a letter of Mr. Smith to Mr.

• Pinkney, dated

DEPARTMENT OF STATE,

November 2, 1810.

“With the duplicate of my letter to you of the 19th ult. I now send 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. Smith to Mr. Pinkney.

DEPARTMENT OF STATE,

Nov. 15, 1810.

SIR,

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. &c.

(Signed)

R. SMITH.

Wm. Pinkney, Esq. &c. &c.

CORRESPONDENCE

BETWEEN MR. SMITH AND GENERAL ARMSTRONG.

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE,

June 5, 1810.

SIR,

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 of 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 of 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, &c. &c.

(Signed)

R. SMITH.

General Armstrong, &c. &c.



Mr. Smith to General Armstrong.

DEPARTMENT OF STATE,

July 2, 1810.

SIR,

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. &c.

(Signed)

R. SMITH.

General Armstrong, &c. &c. &c.

Mr. Smith to General Armstrong.

DEPARTMENT OF STATE,

July 5, 1810.

SIR,

The arrival of the John Adams brought your letters of the 1st, 4th, 7th and 16th of April.

From that of the 16th of 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 transmit-

ting 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 her 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 14, 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 indentified 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 spoliations, 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 justifi-

cation 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 monopolising views of Great Britain by a vigorous 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, &c. &c.

(Signed)

R. SMITH.

General Armstrong, &c. &c. &c.

*Mr. Smith to General Armstrong.*DEPARTMENT OF STATE, *July 17, 1810.*

SIR,

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 lieut. 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 first 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, &c. &c.

(Signed)

R. SMITH.

General Armstrong, &c. &c.*Extracts of a letter from Mr. Smith to General Armstrong, dated*

DEPARTMENT OF STATE,

November 2, 1810.

“ You will herewith receive a printed copy of the proclamation, which conformably to the act of con-

gress, 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 connection 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.

DEPARTMENT OF STATE,

Nov. 5, 1810.

SIR,

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 acknowledgement, 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 3d 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, &c. &c.

(Signed)

R. SMITH.

General Armstrong, &c. &c.

LETTERS

FROM MR. PINKNEY TO MR. SMITH, SECRETARY OF STATE.

*Mr. Pinkney to Mr. Smith.*LONDON, *February 19, 1810.*

SIR,

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 first 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 abovementioned, 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, &c. &c.

(Signed)

WM. PINKNEY.

P. S. March 23, 1810. 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. &c.,

(Signed)

WM. PINKNEY.

From General Armstrong to Mr. Pinkney.

PARIS, *January 25, 1810.*

SIR,

A letter from Mr. Secretary Smith of the 1st of December last, made it my duty to enquire 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 conditions 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.

(Signed)

JOHN ARMSTRONG.



Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

February 15, 1810.

MY LORD,

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 enquiry, 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 be, &c. &c.

(Signed)

W^M. PINKNEY.



Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE, *March 2, 1810.*

SIR,

I have the honor to acknowledge the receipt of your note of the fifteenth 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 first 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, &c. &c.

(Signed)

WELLESLEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,
March 7, 1810.

MY LORD,

I have 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 first day of January, 1807.

I infer also, either that no other blockade of France was instituted by Great Britain during the period abovementioned, 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, &c. &c.

(Signed)

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, *February 23, 1810.*

SIR,

I have the honor to transmit inclosed a copy of a notification of the blockade of the "coast and ports of Spain, from Gijon to the French territory," re-

ceived from lord Wellesley two days ago. I have not yet given any answer to this communication.

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

(Signed)

WM. PINKNEY.

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 abovementioned 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.

(Signed)

WELLESLEY.

*Mr. Pinkney to Mr. Smith.*LONDON, *March 21, 1810.*

SIR,

On the 27th of December, Mr. Brownell 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 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 subjects 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 abovementioned.

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 in 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. In deed, 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 them 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'affairs*. 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, &c. &c.

(Signed)

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

January 2, 1810.

MY LORD,

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 ma-

jesty'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 recognize 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 shewn, 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 ex-

planation 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 on 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 shew 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, 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 was 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 would 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 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 more over 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 its 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 con-

stantly 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. Oakely 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 reason 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 enquiry having been made, the truth of the case is unknown; but that it was never 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 proposi-

tions 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,

(Signed)

WM. PINKNEY.

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE,
March 14, 1810.

SIR,

The letter which I had the honor to receive from you, under date of the 2d of January, together with the additional paragraph received on the 24th of 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 re-

dress 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,

(Signed)

WELLESLEY.

Mr. Pinkney to Lord Wellesley, dated

GREAT CUMBERLAND PLACE,
March 17, 1810.

MY LORD,

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.

(Signed)

WM. PINKNEY.

Lord Wellesley, &c. &c. &c.

Extract of a letter from Mr. Pinkney to Mr. Smith, dated

LONDON, *March 27, 1810.*

"I have the honor to inclose 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."

Lord Wellesley to Mr. Pinkney.

FOREIGN OFFICE,
March 26, 1810.

SIR,

I have the honor to acknowledge the receipt of your letter of the 7th instant, requesting a further ex-

planation 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,

(Signed)

WELLESLEY.



Mr. Pinkney to Mr. Smith.

LONDON, *April 8, 1810.*

SIR,

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 Dr. Logan) of your letters of the 20th of January and the 16th of February, and to inform you that I had, in consequence, an appointment to meet lord Wellesley on the third.

At the interview which took place in pursuance of the 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, 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. &c.

(Signed) ●

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.

(Signed)

WM. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE.

[without date.]

MY LORD,

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.

(Signed)

WM. 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 Thursday next, at two P. M. if that hour should suit his convenience.

*Mr. Pinkney to Mr. Smith.*LONDON, *April 9, 1810.*

SIR,

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 enquiring 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.

(Signed)

WM. PINKNEY.

Mr. Pinkney to General Armstrong.

LONDON, *April 6, 1810.*

DEAR SIR,

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 meantime such use can be made of my communication of the 27th ultimo, as you may deem advisable.

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

(Signed)

W^M. PINKNEY.



Mr. Pinkney to Mr. Smith.

LONDON, *May 2*, 1810.

SIR,

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 enquiring 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.

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. &c.

(Signed)

W^M. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

April 30, 1810.

MY LORD,

The French minister for foreign affairs, has stated in an official note to general Amstrong, 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 abovementioned 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. &c.

(Signed)

W^M. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, *May 3, 1810.*

SIR,

I inclose 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. &c.

(Signed)

W^M. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

May 3, 1810.

MY LORD,

I have the honor to call your lordship's attention, in pursuance of the instructions of my govern-

ment, 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 enquiry 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 this 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. &c.

(Signed)

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, *May 18, 1810.*

SIR,

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. &c.

(Signed)

WM. PINKNEY.

*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 the 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 the assurances of his high consideration.

(Signed)

WELLESLEY.

*Extract of a letter from Mr. Pinkney to Mr. Smith, dated*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 Armstong, dated 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 of 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. Irving 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 Berkely 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. &c.

(Signed)

WM. PINKNEY.

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. &c.

(Signed)

WM. 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 and 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'affairs. 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 farther 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'affairs) I shall lose no time in doing so.

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

(Signed)

W^M. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, July 23, 1810.

SIR,

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 inclosed, 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 the 13th 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, &c. &c.

(Signed)

WM, PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

July 7, 1810.

MY LORD,

In pursuance of the conversation which I had the honor to hold with your lordship on the 6th inst. 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 relations 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, &c. &c.

(Signed)

WM. PINKNEY.

*The most noble**The marquis Wellesley, &c. &c. &c.*

[Private.]

Lord Wellesley's reply to the foregoing.

APSLEY HOUSE, July 22, 1810.

SIR,

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 appoint-

ment 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

And humble servant,

(Signed)

WELLESLEY.

Wm. Pinkney, Esq. &c. &c. &c.



Mr. Pinkney to Mr. Smith.

LONDON, *August 14, 1810.*

SIR,

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 myself 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.

1. The overture to contain such a recital or statement, as is found in Mr. Erskine's letter to you of the 17th of 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.

2. To offer, *without any reservation*, the restoration of the men *to the ship from which they were forcibly taken*.

3. 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 farther 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 to 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 in my power to expedite the appointment.

The letter from general Armstrong, to which my letter of the 8th instant to 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 to be, &c. &c.

(Signed)

WM. PINKNEY.

The Hon. Robt. Smith, &c. &c. &c.



Mr. Pinkney to Mr. Smith.

LONDON, August 18, 1810.

SIR,

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. &c.

(Signed)

WM. PINKNEY.



Mr. Pinkney to Mr. Smith.

LONDON, August 21, 1810.

SIR,

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. &c.

(Signed)

WM. PINKNEY.

Copy of gen. Armstrong's letter to Mr. Pinkney.

PARIS, August 6, 1810.

SIR,

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 following 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,

And am, sir,

With very great respect, &c. &c.

(Signed)

JOHN ARMSTRONG.

General Armstrong to Mr. Pinkney.

PARIS, August 7, 1810.

SIR,

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. &c.

(Signed)

JOHN ARMSTRONG.

* *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 ”

*Extract of a letter from Mr. Pinkney to
Mr. Smith.*

“ LONDON, *Friday, August 24, 1810.*

“ I transmit a copy of my answer formed upo your recent instructions, to lord Wellesley’s notifica tion of the blockade of Corfou. Is it not worthy of reflection, whether an attempt to blockade an entir sea, like the Adriatic, should not be protested against whatever may be the force employed in closing th passage to it ?”



Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

August 21, 1810.

MY LORD,

I have had the honor to receive your official not of the 18th instant, communicating the resolution o the British government to establish a blockade of the canal of Corfou, and shall not fail to transmit a copy of it, with as little delay as possible, to the secretary o 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 acknowledgements 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 in-

ducing 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. &c.

(Signed)

WM. PINKNEY.

Mr. Pinkney to Mr. Smith.

LONDON, *August 29, 1810.*

SIR,

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 Cheapeake "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 for acting 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 affected, that I will remonstrate in very decided terms.

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

(Signed)

W_M. PINKNEY.



Mr. Pinkney to Mr. Smith.

LONDON, *September 3, 1810.*

SIR,

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. &c.

(Signed)

W_M. PINKNEY.

Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

August 25, 1810.

MY LORD,

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. &c.

(Signed)

WM. PINKNEY.

*The most noble**The marquis Wellesley, &c. &c. &c.*

Lord Wellesley to Mr. Pinkney....in reply to the foregoing.

FOREIGN OFFICE, *August 31, 1810.*

SIR,

I have the honor to acknowledg the receipt of your letter under date the 25th instant.

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,

With the highest consideration,

Sir,

Your most obedient

And humble servant,

(Signed)

WELLESLEY.

Wm. Pinkney, esq.



Mr. Pinkney to General Armstrong.

LONDON, *September 3, 1810.*

SIR,

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 favour 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 Wellesly'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 humble servant,

(signed)

WM. PINKNEY.

His excellency Gen. Armstrong, &c. &c. &c.



Mr. Pinkney to Mr. Smith.

LONDON, *September 4, 1810.*

SIR,

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. &c.

(Signed)

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.

(Signed)

WM. PINKNEY.



Mr. Pinkney to Mr. Smith.

LONDON, *September 7, 1810.*

SIR,

It has been supposed here that the notification of a blockade of "the canal of Corfou," on the 18th of last month, was intended to close the Adriatick, and the English newspapers, as you will have perceived, so represented it. In my letter to you of the 20th ultimo, 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 Corfou.

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

(Signed)

WM. PINKNEY

*Mr. Pinkney to Mr. Smith.*LONDON, *September 15, 1810.*

SIR,

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. &c.

(Signed)

WM. PINKNEY.

*Mr. Pinkney to Lord Wellesley.*

GREAT CUMBERLAND PLACE,

September 15, 1810.

MY LORD,

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 Gottenburgh, 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 inclosed 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 (suposing the enclosed narrative to be true,) it is not only characterised by an utter disregard of the rights of the American government, and by the oppression of its citizens, but is practised under a shew of friendly protection, and aggravated by every practical wrong which could well be associated with it.

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

(Signed)

W^M. PINKNEY.



Mr. Pinkney to Lord Wellesley.

GREAT CUMBERLAND PLACE,

September 21, 1810.

MY LORD,

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 enquire, 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 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 Guadaloupe were, and for some time 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, as my government expects, that 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 abovementioned, 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 Guadeloupe 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 shew 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 trans-

mitting the inclosed 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,

(Signed)

WM. PINKNEY.

The most noble

The marquis Wellesley, &c. &c. &c.



Mr. Pinkney to Mr. Smith.

LONDON, *September 28, 1810.*

SIR,

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 Elsi-

* Answer subjoined.

nore (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.

(Signed)

WM. PINKNEY.



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. &c.

Mr. Pinkney to Mr. Smith.

LONDON, *October 3, 1810.*

SIR,

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 equivoque in the original communication was certainly not intentional."

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

(Signed)

WM. PINKNEY.

LETTERS

FROM GEN. ARMSTRONG TO MR. SMITH, SECRETARY OF STATE

Extract of a letter from General Armstrong to Mr. Smith, dated,

PARIS, *January 28, 1810.*

"Mr. Champagny stated, that the order given in relation to our ships, &c. &c. in Spain was a regular consequence of the system declared in his letter of the 22d of August last, and which had been promulgated throughout the United States. 'It is obvious,' he added, 'that H. M. 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 of December, 1809, I demanded whether, if Great Britain revoked her blockades of a date anterior to the decree commonly called the Berlin decree, H. M. the emperor would consent to revoke the said decree? to which the minister answered, that "the only condition required for the revocation by H. M. 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."

*Extracts of a letter from general Armstrong
to Mr. Smith, dated*

PARIS, February 17, 1810.

“The note from Mr. Champagny, a copy of which is inclosed, 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 ult. which took the same road.”

(TRANSLATION.)

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 denationalised (denationalises) 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 (tarifes) 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 burden 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 disposition to American commerce.

The undersigned prays Mr. Armstrong to accept the assurance of his high consideration.

(Signed)

CHAMPAGNY,

Duc de Cadore.

Paris, February 14, 1810.

His excellency the Minister Plenipotentiary of the United States,

*General Armstrong to Mr. Smith.*PARIS, *February 18, 1810.*

SIR,

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 very great respect, &c. &c.

(Signed)

JOHN ARMSTRONG.

Honorable Mr. Smith, &c. &c. &c.

*Extract of a letter from general Armstrong
to Mr. Smith.*

March 10, 1810.

“I have at length received a verbal message in answer to my note of the 21st ult. 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 depot.' This message has given occasion to a letter from me (marked No. 2) in a temper somewhat different from that of the 18th of February."



General Armstrong to the Duke of Cadore.

PARIS, *March* 10, 1810.

SIR,

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 depot."

On receiving this information, two questions suggested themselves :

1. Whether this decision was or was not extended to ships as well as to cargoes ? and

2. 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 4th 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 ground of com-

plaint 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 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 denationalises 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 regular 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 perpetrator? Surely if it be the duty of the United States to *resent* the 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 on the American vessels, not only within his own territories, but also within the countries un-

der 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 :

1. The right of his majesty to seize and confiscate American vessels within his own territories.

2. The right to do so within the territories of his allies ; and

3. 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 shewn, 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 of 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 June or July last, and certainly did not *then* excite any in 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 Ameri-*

can 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 a 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. &c.

(Signed)

JOHN ARMSTRONG.

His excellency

The duke of Cadore, &c. &c. &c.

*Extracts of a letter from general Armstrong to
Mr. Smith, dated*

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 ult.

“I informed M. Champagny....1st. 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 2d, 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.”



Copy of Mr. Pinkney's letter to gen. Armstrong.

LONDON, *March* 23, 1810.

DEAR SIR,

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, &c. &c.

(Signed)

WM. PINKNEY.

His excellency

General Armstrong, &c. &c. &c.

General Armstrong to Mr. Smith.

PARIS, *April* 16, 1810.

SIR,

The John Adams being yet detained, I am able to inform you that on the 11th inst. 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 *casse privéé*. 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 obdt. and very hmbl. servt.

(Signed)

JOHN ARMSTRONG.

The hon. Mr. Smith, &c. &c.

Extracts of a letter from General Armstrong to Mr. Smith, dated

PARIS, *May* 3, 1810.

“ Mr. Lee arrived here some days ago with two letters from Mr. Pinkney, copies of which, with my answer, are enclosed.”

“ I need scarcely observe how impossible it is for me to make *this, or any similar statement* the ground work of a new demand for a repeal of the Berlin decree.”

Mr. Pinkney to General Armstrong.

LONDON, *March 27, 1810.*

SIR,

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 of January, 1807, and that 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 have the honor, &c. &c.

(Signed)

WM. PINKNEY.

His excellency

General Armstrong, &c. &c. &c.

Mr. Pinkney to general Armstrong.

LONDON, April 6, 1810.

SIR,

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, &c. &c.

(Signed)

WM. PINKNEY.

His excellency

General Armstrong, &c. &c. &c.

Extract of a letter from General Armstrong to Mr. Pinkney, dated

PARIS, May 2, 1810.

“ I have received your three letters of the 5d 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 acknowledgement 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 of a letter from General Armstrong
to Mr. Smith, dated*

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. &c. &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 10th 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."

Translation of a Decree issued by the Emperor of the French at Rambouillet, March 23, 1810.

Napoleon, &c. &c. &c. Considering that the government of the United States, by an act dated the 1st of 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 of 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 U. States from any foreign port or place whatsoever, under 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:

Article 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 of 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.

(Signed)

NAPOLEON.

*Extracts from a letter of General Armstrong to
Mr. Smith, dated*

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.”



The duke de Cadore to General Armstrong.

[Translation.]

PARIS, *August 5, 1810.*

SIR,

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 has 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 of 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 transigir*). The sequester 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 sespas*); 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 first 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.

(Signed)

CHAMPAGNY,

Duc de Cadore.

His excellency

General Armstrong, &c.



General Armstrong to the Duke of Cadore.

[No date.]

SIR,

The inclosed 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. auroit 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 general elle n'en a eu connoissance qu'indirectement, et apres un long intervalle du temps. Il resulte de ce retard, des inconveniens graves, qui n'auroient pas lieu, si ces actes étoient promptement et officiellement communiqués."*

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

* *Translation.* "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 has resulted from this delay serious inconveniences, which would not have existed, if these acts had been promptly and officially communicated."

5th. The late act of the 1st 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, &c. &c.

(Signed) JOHN ARMSTRONG.

His excellency the duke de Cadore.



*Extracts of a letter from General Armstrong to
Mr. Smith, dated*

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 of 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.

12th September. 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 is 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 of October next.”



The Duke of Cadore to General Armstrong.

[TRANSLATION.]

PARIS, *September 7, 1810.*

SIR,

You have done me the honor to ask of me, by your letter of the 20th of 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 decrees of Berlin and Milan, under the conditions pointed out in my letter to you, of the 5th of 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 *hostily*, if they have lost their national character, (*s'ils se son laissé dénationaliser*) 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.

(Signed)

CHAMPAGNY,
Duc de Cadore.

His excellency

General Armstrong, &c. &c. &c.

General Armstrong to the Duke of Cadore.

PARIS, *September (7), 1810.*

SIR,

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 :

1. 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 relation 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,

(Signed)

JOHN ARMSTRONG.

His excellency

The Duke of Cadore, &c. &c. &c.



(TRANSLATION.)

The Duke of Cadore to General Armstrong.

PARIS, *September 12, 1810.*

SIR,

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.

(Signed)

CHAMPAGNY,

Duc de Cadore.

His excellency,

General Armstrong, &c. &c. &c.



General Armstrong to Mr. Pinkney.

BORDEAUX, *September 29, 1810.*

SIR,

Your letter of the third 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 gives 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 day 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 began 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 first 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 colour 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 first of 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 first 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 first of 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 first 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, shew, 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 first 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 to depend on an act, which would be altogether that of the United States.

I have the honor to be, &c.

(Signed)

JOHN ARMSTRONG.

His excellency Wm. Pinkney, &c. &c. &c.

PAPERS

IN RELATION TO WEST FLORIDA.

Mr. Smith to governor Claiborne.

DEPARTMENT OF STATE,

October 27, 1810.

SIR,

From the inclosed 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.

(Signed)

R. SMITH.

*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 of 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 controul; 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 their 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 violations of our reve-

nue 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 state: 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.

(L. s.) Done at the city of Washington, the twenty-seventh day of October, Anno Domini, one thousand eight hundred and ten, and in the thirty-fifth year of the Independence of the United States.

(Signed) JAMES MADISON.

By the President.

(Signed) ROBERT SMITH,
Secretary of State.

Extract of a letter from Governor Holmes to Robert Smith, Esq. Secretary of State, dated

TOWN OF WASHINGTON, *October 17, 1810.*

“The enclosed letter I have been requested to transmit to you.”

To the Honorable Robert Smith, Secretary of State for the United States.

SIR,

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 the 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 partizans 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 monies arising from the sales of these lands, applied as they will be to improving the internal communications of the country, opening canals, &c. &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 dollars 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.

(Signed) JOHN RHEA, *President.*

Baton Rouge, October 11, 1810.

*The convention of Florida to his excellency the
Governor of the Mississippi territory.*

SIR,

We, the delegates of the people of this state, have the honor to inclose 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 intregal and inalienable portion of the United States.

The convention and their constituents of the state of Florida rest in the firm persuasion, that the blood which flows in their veins will remind the government and 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, nor 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.

(Signed)

JOHN RHEA, *President.*

Baton Rouge, Sept. 26, 1810.

(COPY.)

*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 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 agreeable to the provisions of 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 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*.

Mr. Smith to Governor Holmes, dated

DEPARTMENT OF STATE,

November 15, 1810.

SIR,

I have received your letter of the 17th of October, inclosing 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 recognize in the convention of West Florida, any independent authority whatever to propose or to form a compact with the United States.

I have the honor to be, &c.

(Signed)

R. SMITH.

To Governor Holmes.

Extract of a letter from John Gavino, esq. consul of the United States at Gibraltar, to the secretary of state, dated

SEPTEMBER 18, 1810.

“ I beg leave to hand you a copy of a letter from consul Cox, dated Malta, 26th ult. 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.”

From Mr. Cox to Mr. Gavino, dated

MALTA, *August 26, 1810.*

SIR,

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 Haslett, 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 *Consolate del Mare*, (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 and their cargoes to be released, which had been taken within the limits of his 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 250,000 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 servant,

(Signed)

C. D. COXE.

