SUPPLEMENT

To the late ANALYSIS of the public correspondence between our Cabinet and those of France and G. Britain.

* *Mr. CANNING to Mr. PINCKNEY, accompanying his letter of Sept. 23, 1808.*

Foreign Office, Sept. 23, 1808.

SIR,

IN laying before the King your letter of the 23d of August, and in communicating to you the accompanying answer, which I have received his Majesty's commands to return to it, I confess I feel some little embarrassment from the repeated references which your letter contains, to what has passed between us in conversation.—An embarrassment arising in no degree (as you are perfectly aware) from any feeling of *distrust* in you personally, but from a recollection of the *misrepresentation* which took place in America of former conferences between us. You gave me, on that account, the most satisfactory proof that such *misrepresentation* did not originate with you, by communicating to me that part of your dispatch, in which the conferences particularly referred to, were related correctly.—But this very circumstance which establishes your personal claim to entire confidence, proves, at the same time, that a *faithful* report of a conference on your part is not a security against its *misrepresentation*.

It was for that reason, principally, that after hearing, with the most respectful attention, all that you had to state to me verbally, upon the subject of the present overture, I felt myself under the necessity of requiring as "*indispensable*," a written communication upon the subject.

It is for that reason, also, that as in your written communication you refer me to our late conversations for the "bearings and details" of your proposal, I feel it necessary to recapitulate, as shortly as I can, what I conceive to have passed in these conversations beyond what I find recorded in your letter.

* This letter, of which the authenticity was first denied on account of its bearing on the insincerity of our cabinet, has been *since* officially acknowledged by Mr. Jefferson.

The principal points on which the suggestions brought forward by you in personal conference, appear to me to have differed in some degree from *the proposal now stated by you in writing*, are two—the *first*, that in conversation the proposal itself was not distinctly stated *as an overture authorised by your government*—the *second*, that the beneficial consequences likely to result to this country from the acceptance of that proposal were "pursued" through more ample "illustrations."

In the first of our conferences, I understood you to say little more on the authority of your government, than that you were instructed to remonstrate against the Orders in Council of the 7th of January, and 11th of November, 1807;—but to add, as from *yourself*, an expression of your *own conviction*, that if these orders were repealed, the President of the United States would suspend the Embargo with respect to Great Britain.

Upon the consequences of such a suspension of the Embargo, while it would still be enforced against France, you expatiated largely—*still speaking*, however, (as I understood) your *own* individual sentiments.

It was suggested by you, that America would, in that case, probably arm her merchant ships against the aggressions of France—an expedient, to which, you observed, it would be perfectly idle to resort against Great Britain. The collisions of armed vessels would probably produce war—and the United States would thus be brought into the very situation in which we must wish to place them—that of hostility to France, and virtual, if not formal alliance with Great Britain.

In our second conference, you repeated and enforced the arguments calculated to induce the British government to consent to the repeal of the Orders in Council, and in this conference, *though not stating yourself to be authorised by your government formally to offer the suspension of the Embargo as an immediate consequence of that repeal*—yet you did profess (as I understood you) a readiness to take* upon yourself to make an offer, *provided that I should give you beforehand* an unofficial assurance, that coupled with that offer so made, the demand of the repeal of the Orders in Council of January and November, 1807, would be probably rescinded.

I, of course, declined to give any such *previous assurances*—but as you appeared to attach *great importance to this suggestion*, and as I was led to think that a compliance with it might *relieve you* from a difficulty in executing the instructions of your government, I consented to take a few days to consider of it, and to reserve my definitive answer until I should see you again.

I never doubted, in my own mind, as to the inexpediency and impropriety of encouraging you *to take an unauthorised step*, by an unofficial promise that it should be well received—but in a matter of such delicacy, I was desirous of either confirming or correcting my own opinion by the opinion of others.

The result was, that in a third interview, which took place shortly after the second, I had the honor to inform you, that after the most ma-

* It seems, that so late as this second conference with Mr. Canning, which was on the 22d July, Mr. Pinckney declared to the British minister, that his offers were from himself only.

ture deliberation, I found it impossible to yield to your suggestion; and that it, therefore, remained for you *to frame your proposition according to the instructions of your government*, as to your own unbiassed discretion.

My own share in these several conferences, beyond what was implied in the above statement, was very small. I have (as you know) always wished to refer the argumentative discussion of the subject of the Orders in Council, to the official correspondence, which I have more than once been *taught to expect* you to open upon it, than to engage with you in a verbal controversy, which, if confined to ourselves, would be useless—if afterwards to be reduced into writing for the purpose of being communicated to our respective governments, superfluous.

But to the representations which you have repeatedly made against the Orders in Council of January and November, "as violating the rights of the United States, and affecting most destructively their best interests upon grounds wholly inadmissible both in principle and in fact,"—I have uniformly maintained the unquestionable right of His Majesty to resort to the fullest measures of retaliation, in consequence of the unparalleled aggression of the enemy, and to *retort* upon that enemy the evils of his own injustice—and have uniformly contended that "if third parties suffer from those measures, the demand of repation must be made to that power, which *first* violates the established usages of war and the rights of neutral states."

There was, indeed, one point, upon which I was particularly anxious to receive precise information, and upon which, from your candor and frankness, I was fortunate enough to obtain it. The connecting together in your proposed overture, the suspension of the embargo, and the repeal of the Orders in Council, as well those of Nov. as the succeeding one of 7th of January, might appear to imply that the embargo had been the *immediate consequence* of those orders, and I was, therefore, desirous to ascertain whether, *in fact*, the Orders in Council of Nov. had been known to the government of the United States previous to the message of the President proposing the embargo; so as to be a moving consideration to that message. I had the satisfaction to learn from you, that such *was not the fact*—that *rumours*, indeed, might have reached America of some measure of further retaliation, being in the contemplation of the British government, that, perhaps, (as I understood you) some more severe and sweeping measures might have been expected; but that the Orders in Council of the 11th of Nov. as having *been issued*, there was no knowledge of in America—at least none in the possession of the American government at the time of proposing the embargo. Such, sir, is (according to the best of my recollection) correctly, the substance of what has passed between us at our several interviews, previous to the presentation of your official letter; and such I have represented to have been the substance of what has passed on those several occasions in the reports of our conferences which it has been my duty to make to the King.

If, in this recapitulation, there is any thing mistaken, or any thing omitted, you will do me the justice to believe the error unintentional, and you may rely on my readiness to set it right.

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

Reflections upon the foregoing lately discovered Letter.

BY THE AUTHOR OF THE "ANALYSIS."

The first and most natural inquiry is, why this *important* letter was suppressed—it contains no secrets; nothing of a confidential nature; no proposals which the state of our negotiation required to be concealed.

On the most careful perusal of it, we can *discern* no possible motive for withholding it from the public eye, except this, that it contains irrefragable proofs of the insincerity and hypocrisy with which the negotiation with Great-Britain was conducted; it furnishes also, conclusive evidence of the unfairness with which former negotiations had been conducted, and the *well-founded* jealousy of the British government, lest the same system of misrepresentation should be again pursued.

This letter of September 23d, 1808, from Mr. Canning to Mr. Pinckney, covered the letter of the same date from that minister, which has been published, and was intended to prevent a repetition of that course of misrepresentation which had been adopted on former occasions.

As the author of the *Analysis* could only judge from the documents which the government had seen fit to publish, he was left to conjecture from the force of his own reasoning, the *nature* of the *real* communications which were suppressed, and the following charges, made by him, are now *unequivocally* established.

Firstly. That the documents published, were imperfect fragments of the true state of the negotiation, and probably gave the *fairest* side of it. This letter of Mr. Canning supports this charge.

Secondly. That Mr. Pinckney was never authorised to propose to Great Britain, the repeal of the embargo unconditionally, as the consideration for the rescinding of the Orders in Council. The author of the *Analysis* stated expressly in his sixth number, that Mr. Pinckney was only authorised "*to encourage the expectation*, that the Presi- "dent would, within a *reasonable* time, *give effect* to the authority vest- "ed in him, as to the suspension of the Embargo.

Mr. Canning now tells Mr. Pinckney, that he *never* did state that he was authorised but impliedly admitted that he was not, and simply proposed as "of *himself*, that if Great Britain would repeal the Orders, "the President might repeal the Embargo."

Mr. Pinckney was *invited* to correct this statement, if not true; but as he has not done it, we must presume the British minister to be correct, especially as our government *suppressed* this letter of Mr. Canning.

Thirdly. This letter proves, that if Great Britain had acceeded to Mr. Pinckney's offer, the government of the United States was at liberty, while Great Britain would have been bound. It would have been in the power of Mr. Jefferson, after Great Britain had humbled herself by repealing her Orders, to have refused to agree to the *unauthorised* promises of his ministers, as he had done in case of the British Treaty,

and to have represented that his wise and strong measures had brought her to his feet.

Great Britain perceived the perfidy, and escaped the snare which an unprincipled and intriguing policy had prepared for her.

Fourthly. This letter proves to what a state of degradation the false and insincere conduct of our cabinet has reduced our nation—that foreign governments can no longer trust the declarations or verbal assurances of our ministers.

Though Mr. Canning acquits Mr. Pinckney personally of having been instrumental in the gross misrepresentations of former discussions, yet he does it by transferring the charge to our own cabinet.

Yet these are the men who talk of the unjust and dishonorable views of Great Britain, and of her refusal to treat with us on any equitable terms.

From the whole of this *important* letter, which we conjure our fellow citizens to examine with attention, it is proved, that Mr. Jefferson never did as he has stated, offer to Great Britain to repeal the Embargo if she would rescind her Orders—that he always left himself a loop hole from which he might, as in a former case, escape, and that this want of *positive assurances* was a conclusive point with Great Britain in refusing to listen to the terms.

Lastly. It appears from the confession of Mr Pinckney to Mr. Canning, that the *British Orders* did not in FACT form any part of the considerations for laying the Embargo, the volumes of equivocation and falsehood of its supporters to the contrary notwithstanding.

The Famous Offers to Great-Britain about the Embargo and Orders.

Notwithstanding all the developement given to this subject, it is said that some persons do not yet understand it. It is confessed that it requires more attention than most people are willing to pay, because it has been purposely involved in mystery. It would not indeed bear the light, and therefore partly by *suppression*, and partly by misrepresentation, the Government succeeded in making a *first*, but improper impression in their favor.

We state then explicitly, and challenge denial—

1st. That although early in July last, Mr. Pinckney received the orders from our Government, yet in fact he never made any proposal of rescinding the Embargo, till August 23d, except from himself.

2d. That the offer which he explicitly made on the 23d of August, was conceived by the British Government unauthorized. He communicated his powers to them, and they *very rightly* thought them insufficient.

3d. That had he been fully authorized, the offer was not equal to the one made to France, which was that of *joining* her in the war—it was not solid, reciprocal, or honourable. It was one which Great

Britain could not conſiſtently *grant*, and of courſe to which we *could not*, and the Adminiſtration *did not expect* her to accede.

Mr. Pinckney's Powers.

It is doubted by ſome whether Mr. Pinckney did not offer unconditionally the repeal of the Embargo.

An Agent or Miniſter can legally do nothing but according to his *Inſtructions*—If he does, his principal or ſovereign is not bound.

Mr. Pinckney had three letters of Inſtruction about the orders.

1ſt. One of April 4th, which ordered a remonſtrance, but contained no *propoſal whatever* about the Embargo.

2d. One of April 30th, which he received the 14th July, by the St. Michaels. This did not authoriſe him to propoſe ſpecifically the repeal of the Embargo, but ſimply "to authorize *the expectation*," [Is this a *promiſe* binding on the party ?] "that the preſident would within a *reaſonable* time." [What is reaſonable time ? At *common law* this is to be decided by a court and jury, according to the *nature of the caſe*, but between ſovereign powers, *reaſonable time*, means the will or pleaſure of the *ſtipulating ſovereign*—In ſhort, it means *nothing*. But what was to be done in a *reaſonable time ?*] "The preſident *would give effect* to the *power* veſted in him on the ſubject of the Embargo." [In what way ? By taking it off ? How ? in *whole* or in *part ?* The law veſted him with *both* powers.]

Did this looſe clauſe of "*giving effect to the power*," neceſſarily include the promiſe of taking it *off wholly ?*

3d. The *only other* letter on this ſubject was of the 18th July, and this could not by *poſſibility* have been received prior to the *verbal conferences* ſpoken of by Mr. Canning.

I find Mr. Pinckney ſays he received it on the *20th day* of Auguſt, and that on the 4th Auguſt, he wrote our government of the various interviews which he had had with Mr. Canning on that ſubject. Of neceſſity he could not have done otherwiſe than *act for himſelf* in all *theſe* interviews, ſince we have ſhewn he had till the 20th of Auguſt, if then, *no authority* to *pledge* the government.—Mr. Canning, diſſatisfied with theſe looſe conferences, demanded a formal letter, which Mr. Pinckney addreſſed to him on the 23d Auguſt, three days after he received the *laſt* inſtructions of July 18th.

Was he inſtructed to make this *explicit* offer by this laſt letter ?

I ſay *no*—The only authority is contained in theſe words—"The communications and *inſtructions* forwarded by Mr. Purviance (which were thoſe of April 30th, and were wholly incompetent as I have proved) will enable you to bring the Britiſh government to a fair iſſue on the ſubject of its orders. If it has nothing in view more than it is willing to avow, it will not heſitate to concur in an arrangement, reſcinding on her part the Orders in Council, and on ours, the Embargo."

Now did this convey any *new power?* The latter part is a mere train of reaſoning of Mr. Madiſon—but he expreſsly refers Mr. Pinckney to the letter of the 30th April, for his *Inſtructions*. That gave him no ſuch power as is pretended.

All *theſe papers* were ſhewn to Mr. Canning, and having been once taken in by the rejection of a ſolemn treaty, on the *pretended* ground of breach of *Inſtructions*, he probably thought the powers incompetent—In this I and every other honeſt American will agree.

If it ſhould be aſked what Mr. Madiſon intended by ſaying that Great Britain could not juſtly refuſe the offer of repealing the Embargo, on condition of reſcinding the Orders?

I anſwer, that he meant as much as the preſident did, when he declared that there were ſimultaneous and equivalent offers made to G. Britain and France, when to one the offer of an alliance, and to the other nothing was in effect made. He knew well that this reaſoning intended to put Great-Britain in the wrong when publiſhed *here*, did not vary the poſitive *inſtructions* which were *confirmed* in the *ſame ſentence*, and which would *authorize* the preſident to *reject any bargain* made by Mr. Pinckney.

Additional ſtrictures on the Correſpondence between our Cabinet and that of France—tending to ſhew the mean ſubſerviency of the former to the latter.

THE author of the late Analyſis confined his examination of these diſpatches, chiefly to one point—the inequality of the offers made to had no direct bearing on that queſtion, wyre wholly or in a great part omitted.

I propoſe to ſupply briefly this deficiency, and to ſhew that in the correſpondence with France, the rights and honour of the United States have been ſhamefully ſacrificed and baſely deſerted.

The firſt proof of this aſſertion I ſhall draw from the correſpondence in relation to Mr Champagny's famous or rather *infamous* letter of the 15th of January, in which he declares the United States *at war* with Great Britain, and that France would hold all American property (amounting to 17 millions of dollars) ſequeſtered as a *pledge* for our obedience to this requiſition.

Although the Preſident and his party, betrayed in *this* country *no* marks of indignation at this letter, yet it appears that they were *ſenſible* of the indiguity offered to the nation, and by Mr. Madiſon's letter of May 2d, 1808, it is confeſſed that it excited ſtrong ſenſations in the minds of *all men alive* to the intereſts and honour of the nation.

I forbear to remark the conceſſion contained in this ſentence, that the *only minds alive to this ſenſe of honour* were thoſe of the *Federaliſts*, for *they* and *they alone* manifeſted these ſenſations.

Though Mr. Madison, in his letter, directed a remonstrance, yet he couched his directions in terms disgraceful and dastardly, for he simply characterised this outrageous attack on our rights "as having the air of an assumed authority," but lest these mild epithets should stir up the torpid spirit of General Armstrong to expressions of just indignation he cautions him expressly to be guarded and measured in his terms, lest he should offend the Emperor of the West!!

Still, however, he explicitly orders General Armstrong to demand *explanations*, and any independent cabinet would moreover have required an explicit disavowal of the *offensive tone*.

Insults to public and private life, are more difficult to be endured than *injuries*—and it is a fixed principle, that insults deliberately given by the *sovereign* power are less to be forgiven than those which proceed from the rash acts of inferiour officers.

Compare this case with that of the Chesapeake. Surely, no man of spirit will contend that the *injury* in this latter case, was equal to the insult. It was this point which so much excited publick resentment, as is apparent from the votes of all the bodies assembled on this occasion. Yet Great Britain was eager on the first knowledge of this affair, before any demand of reparation, to disavow the *insult*.

But the *insult* in the case of Mr. Champagny's letter was the act of the government, and that it *was* an *insult* is declared by Madison in his letter of May last. It was a *deliberate* act on the part of the Emperor, infringing our sovereign rights.

How did Mr. Armstrong execute his *publick* orders? In a *manner* which proves that he must have had *private instructions* in opposition to them, otherwise he ought to have been recalled.

On the 4th of July (the anniversary of our *Independence*) he addressed a polite note to Mr. Champagny and simply stated the offensive terms employed, but demanded *no explanation and no disavowal.*

Explanation, indeed, they could not make—the terms used did not admit of explanation, any more than if an individual had called another a liar or thief.—But a *disavowal* ought to have been required. Such a disavowal never has been demanded, nor has the Emperor deigned to make any reply, except by a Decree of the 21st of July, seventeen *days* after, dated at Bayonne, confiscating the American property, previously sequestered. How far the tameness and meanness of this application may have encouraged him to this act, and to the further assumption in the *same* decree of condemning all American ships, which should violate our Embargo, thus assuming *a new executive power*, in execution of *our* laws, we leave for the people to decide.

It is a solemn fact proved by these dispatches that no answer has ever been given to the *meek* remonstrance of Gen. Armstrong.

The next document to which I wish to call the attention of "that class of people who Mr. Madison says *are yet alive* to the honour and dignity of the United States," is the letter of Mr. Champagny to Mr. Armstrong, of November 24, 1807.

This letter of the French Minister contains the following important ideas:—

1. That any belligerent nation aggrieved at the *acquiescence* of a neutral in the unjust assumptions of its enemy has *a right* to *retaliate*. This is a *confession of France* that the claim set up by Great Britain to retaliate the Berlin decree is just if supported by facts—His words are "The United States bind themselves by that *tolerance* towards England to *allow* also the application of the measures of *reprisal* which France is obliged to employ against her." This is the doctrine of retaliation in its *broadest* form.

2ndly. The instances cited by Mr. Champagny of British violation of neutral rights are worthy of notice.

They are the general right of search (la visite.)

The taking away our crews—

The doctrine of blockade.

We do not find the rule of 1756 in this list of grievances for the best of all reasons, because France was the author of this doctrine and still insists upon it herself.

Two of the three cases of which she complains are the very *first rights* of war recognised by writers and by the practice of all nations.—As to the first, Mr. Jefferson ably defended it against Mr. Genet in 1793. As to the second, it was justly answered at that time by our government that it was a thing which concerned only *ourselves*—and as to the third, the British blockades have been confined to the principles adopted by the armed neutrality, to wit, "of an actual investing force competent to prevent the entry of ships without an imminent danger of capture."

Commodore Preble, with a single ship off Tripoli, set up the same doctrine, captured a *British ship*, sent her into Malta, and to *my* knowledge, Sir Alexander Ball, a British naval officer, commanding there, explicitly in writing, approved the conduct of Commodore Preble. Thus Great Britain claims nothing on this head but what she yields to other nations.

If France then claims by the *law of retaliation*, to seize and condemn our ships for our submission to principles *recognised* by the law of nations, may not Great Britain set up the same doctrine, when France violates through our rights the most sacred principles of this law?

Mr. Champagny, not content with the above futile justification, concludes by saying, "All these difficulties would be removed with ease if the United States *took* with the *whole* continent the part of guaranteeing itself therefrom. England has introduced into the maritime war an entire disregard of the law of nations—it is only in *forcing* her to a peace that it is possible to recover them."

In other words, *join* our coalition and force Great Britain to peace, or we will never abandon our system of retaliation for the just and acknowledged principles set up by Great Britain.

The offer had its effect—Our Government obedient to the suggestion, by restrictive energies, *joined* the whole continent against Great Britain, and France pleased with our obedience, deigns to applaud our loyalty in a style to which we have been before familiarized in the language to Holland—to Spain, and to Switzerland.

The last paper I shall notice in this disgraceful correspondence, is

that of General Armstrong of the 6th of August, on the subject of the French decrees. It will be remembered that the orders to General Armstrong were explicitly to offer an alliance on the side of France against Great Britain, if the former should repeal her decrees and the latter should refuse to repeal her orders.

These instructions I find General Armstrong acknowledges that he received on the 1st day of June.

There are no communications whatever respecting this very interesting subject, either of *verbal conferences* or written memorials from that day till the *6th of August*, nor any reason or apology for the neglect assigned.

On the 6th of August General Armstrong addressed to the French government the most base and degrading letter that the whole annals of diplomacy in any country can furnish.

First. It is a total departure from his instructions which were positive and explicit, to offer France to take part in the war on her side upon the condition above stated.—As Mr. Armstrong was so long *silent*, and finally departed from the *avowed* instructions, and as he is yet continued in office and confidence, it follows that he must have had *private* instructions opposed to the *public* ones.

Secondly. He admits explicitly that the French decrees as *municipal* regulations were lawful, and of course he gives up, *unasked*, all the claims of our citizens for *seizures* under the decrees. This was entirely unsolicited and unnecessary—it was a base surrender of a question in which the *right is on our side*. It was moreover agreeing to a repeal of our treaty with France, which many sound civilians believe forbade this nefarious system of confiscation.

Thirdly. He basely deserts the question of right as to the decrees generally, and urges France to a *partial suspension* of them only, not as an act of justice, but on the ground of her own pecuniary interest. This was calculated to sink us if possible still lower in the estimation of France and of *all Europe*.

Lastly. He assures France that should she adopt this mean proposal, and Great Britain should capture our ships, we should "*declare war against Great Britain*, and thus his *Majesty's wishes* expressed in *January* last would be directly promoted." The *wishes* alluded to, were the positive order and declaration of war in Champagny's letter.

Who would believe that our country could be so degraded, as that our minister should offer as an inducement, our compliance with an *insolent order*, against which he had been directed to *complain*, and should gently and *humbly* call this order, the *expression* of his Majesty's *wishes!*

NOTE.

It is an extraordinary fact, that Gen. Armstrong never dreamed of the French decrees being *justifiable as municipal* regulations, till after he received Mr. Madison's directions so to treat them.

By his *own letters* of Nov. 12, 1807, and of April 2, 1808, to Mr. Champagny, it appears, that he considered our *treaty* violated, as well as the *law of nations*.

"To appeal to them," he observed, "would be literally appealing to the *dead.*"

But after receiving *instructions* from Mr. Madison not to offend France in the manner of urging our claims, his tone was entirely changed, and he never dared to urge the *repeal,* but only the *partial* suspension of the French decrees.

Another thing worthy of notice in the correspondence of Gen. Armstrong, is the glimpse we obtain of the decree of the French council of prizes relative to the ship Horizon, condemned under the Berlin decree of Nov. 21, 1806. Why our Cabinet have seen fit to suppress this decision, so necessary for the information of all those merchants who had property seized under the decree, I cannot conceive; but I shall add, in this note, some parts of it, which merit close attention, as tending to shew how shamefully our government suffered themselves to be *duped* in the construction of the Berlin decree.

The third reason, (says Gen. Armstrong) which the French Council of Prizes urged for the condemnation of the Horizon, was, "that the application of the 5th article aforesaid, as it concerns America and other nations, is the *result of the general expressions* of that *very* article, and of the communication recently made by his excellency the Grand Judge, concerning the *primitive* intention of the Sovereign."

Now the 5th article referred to was the 5th article of the Berlin decree, which made goods of English manufacture lawful prize; and it now appears "that the *primitive* intention of the Emperor was to extend it to *us,* as its words plainly import."

The fourth reason assigned by this highest French tribunal is, "that the expedition in question (the Horizon) having certainly been made with full knowledge of that decree (of Berlin) no objection can be drawn with propriety from the general rules forbidding retrospective action, nor in this case from the date of the act in which the Sovereign decides the question, since that act sprung from his supreme wisdom, not as an interpretation of a doubtful point, but a declaration of an *anterior and positive disposition.*"

The Horizon sailed in May, 1807, and the Council declare that his Majesty had always considered the Nov. decree of Berlin as a *positive disposition,* of which *neutrals* were bound to take notice.

What a complete piece of flummery and froth does the famous explanation of Mons. Decres to Mr. Armstrong, of the Berlin decree, *thus prove ! ! !*

Our government, we have formerly shewn, were not in *fact* deceived, but they chose to *appear so.*

They however learned a good lesson from this French manœuvre of explaining by an unqualified, *unauthorised* officer. They learned to apply the same trick in negotiating with Great Britain, through an *uninstructed* officer. But they have not been as successful or adroit in playing their game, as their patrons, and patterns, the French.

One OTHER IMPORTANT REMARK, to which we earnestly request the public attention, is this—By the *late* communication to Congress, called for by Mr. Lloyd, as to the belligerent orders, Mr. Madison states that he has not *yet* received the *Bayonne decree* of April last, but he quotes a letter of Gen. Armstrong of the 23d April last, giving some information concerning it.

Upon turning again to the despatches which were ordered to be published, we find *no such letter* among them. Here then is a second *case of suppression,* and that of a letter confessed to be important, as containing an account of a *new decree* against our trade. Perhaps if published it might produce as great an effect on the public mind, as the suppressed letter of Mr. Canning

Additional and incontrovertible PROOFS *of the devotion of Mr.* JEFFERSON *and his* CABINET, *to* FRANCE :—and

A COMPARISON *of the* ORDERS *and* DECREES *of the two great* BELLIGERENTS.

No. I.

THE Senate of the United States, on the 14th November last, requested the President "to cause to be laid before them, copies of *all orders* and decrees of the belligerent powers, passed since 1791, affecting the commercial rights of the U. States."

This order was simple—intelligible to the meanest capacity ; but it shook the *dry bones of the capitol*—it was perceived that it would exhibit France in the *true* light of a most unprincipled aggressor.

Something must be done to relieve their friends, and *two projects* were adopted, infamous indeed, and hard to believe ; but I mean to prove *both* of them, not by harsh epithets and general assertions, but by positive evidence.

Firstly. In order to excite an odium against Great Britain, the cabinet determined to travel out of the request of the Senate, and to introduce, not the decrees or orders of Great-Britain, affecting *American commerce*, but all her orders affecting the trade of other neutral nations, in no degree connected with or affecting us.

Secondly. In order to prevent an unfavourable impression towards France, they have, under various pretexts, not only suppressed many of her measures *affecting us*, but have wholly kept back her conduct towards *other* neutral countries, while they have inserted those of *Great-Britain* towards such countries.

I rest not upon bold assertion : But I proceed to the proof of these incredible facts.

It appears from these documents, submitted under the hand of Mr. Madison, that the *First* decree, violating *our* rights, was passed by France, on the 9th of May, 1793 ; in which they ordered the capture of all our ships loaded with provisions, bound to Great-Britain.—This was thirty days before any hostile order issued by Great-Britain.

The administration saw the embarrassment.—They perceived that, as in the *first*, so in all subsequent measures, their friends, the French, were the aggressors.

How was this charge to be covered, or smothered, or concealed ?

They took the bold and impertinent resolution of defending their political allies, by travelling out of the request of the Senate, and inserting *certain private* treaties of Great-Britain with the continental powers—treaties which were never enforced, and which were in no degree operative on neutrals. To prove this *assertion*, beyond a cavil or the possibility of contradiction, when France issued her *first* violation of neutral rights, in May 1793, although she inserted a preamble or apology twice as long as her decree, she never mentioned *these treaties* as

one of the causes :—They were not known until several months after, and were never executed during any period of the war.

Thus we see, as in a *former* case, our cabinet set up apologies that France herself has not the audacity to urge.

But the cabinet, not content with thus swelling the list of complaints against Great-Britain with subjects which were not contained within the request of the Senate, go farther, and introduce two orders referring to other neutral nations, and to circumstances with which we have no concern. The first is the order of the 25th November, 1807, reciting, that whereas Prussian and Lubeck vessels had been detained under the pretext that those countries were under the coercion or power of France, they should be released, and subject only to the orders of 11th November, 1807. A similar order is introduced with respect to ships belonging to Portugal.

It is not perceived for what purpose these are introduced, except to swell the catalogue of pretended British infractions, not towards American, *but other neutral flags.*

We shall now see with what fairness this same rule is applied to France.

The first instance which occurs of the suppression of a French article, is that of the 28th May, 1793, which it is pretended they could not find in the Department of State :—I will however supply it :—

"The National Convention, on the proposal of a Member, repeals the law of the 23d of May, which declared that the United States are not comprized in the (provision) order of the 9th of this month, and decrees, that the merchandize (American) should remain in sequestration provisionally, and charges its committee of public safety, in concert with the officers of the marine, to make a report."

The same difficulty of finding a French ordinance, which never occurred in the case of Great Britain, took place as to the order of 27th of July, 1793, which extended the *first* instance of violation of neutral rights to us.—I shall, also, again supply this defect.

"*July* 27, 1793.

"The National Convention, after having heard the report of its Committee of Marine, declares that it maintains the provisions of the decree of the 9th *May* last (the provision decree) relative to neutral vessels laden with provisions, or merchandize belonging to an enemy—that it shall have its full and entire execution, and all laws or provisions to the contrary shall be void."

It appears, then, that the conduct of France, as to this *first* violation ever committed in the late war upon neutral rights, by either belligerent, was precisely like her conduct as to the Berlin decree.—She first equivocated, pretended to respect our treaty, and finally declared its entire execution.

Let us now proceed, in imitation of Mr. Madison's conduct towards Great Britain, UNSOLICITED, to give the cases of the violation of *neutral* rights by France, and many instances of her ill conduct towards *us*, proved by official papers to this effect, purposely, we presume, omitted by our very impartial government. Surely it cannot be presumed that these official papers are not on record here, when they were published by the government of France :—

On the 16th August, 1793, the Convention decreed, that all vessels taken belonging to the German powers which had a voice in the diet of Ratisbon should be declared lawful prize.

On the 11th September a decree was passed, not noticed by Mr. Madison, affecting us and all *neutral* nations, that all neutral vessels *loaded* in their ports, wherever destined, should be obliged to unload.

On the 21st September, 1793, all neutral vessels were forbidden to transport from port to port of France any goods whatever. This gives some color to the British order of January 7th, 1807 · since it appears that it was prohibited trade, and probably only permitted because France could not carry on her own *coasting trade.*

On the 9th June, 1793, all the ships of the free Hanse Towns, and of the free town of Dantzick, were declared good prize ; they were called free towns in the decree, and were perfectly neutral in the then existing war.

But why did Mr. Madison *forget* to introduce, when he inserted British local statutes at large, the famous circular of the Minister of Justice, of the 21st Ventose, *an.* 5, urging the tribunals to be more rapid in their *condemnations*, and which circular was aimed solely at America, and concludes with these very remarkable words : " In vain have our perfidious and usurping enemy surprised a people *to whom we brought forth liberty*, (or whose liberty we delivered) into stipulations contrary to their *interests and ours :* We know how to maintain the equilibrium, by *reprisals*"—On whom ? On us.

Why did Mr. Madison remember to omit the laws of 2d January, 1795, and 27th April, 1796, expressly relating to us, and referred to in the decree of the 12th Ventose, *an.* 5th, cited and given by him ?

Why too did he choose to omit the memorable letter of the Minister of Justice to Mr. Skipwith, of the 4th Floreal, *an.* 5th, containing important regulations and constructions of our rights, which letter the Minister of Justice declares, that the Directors ordered him to transmit to the *maritime* tribunals for their government ?

Why was the important letter of the Minister of Justice, as to American vessels not possessing the *role d'Equipage*, omitted ? It was deemed so important as to be inserted into their code of prizes, published several years afterwards, as a serious national regulation.

Why, (will Mr. Madison have the goodness to explain) was the very important decree of the 8th Ventose, *an.* 6, (1798) ordering the seizure of all *French Sailors*, serving on board *neutral* ships, if found in any port of *France*, omitted ? Was it because it claimed the very right set up by Great Britain ? Did it not violate the rights of *Neutral* Flags ? Did it not further permit the seizure of *native* Englishmen on board American ships, in spite of the flag ? Did it not, in fact, go farther, and declare every sailor who spoke the English language a prisoner of war, though protected by the flag, unless he could prove himself to be an American by documents satisfactory to the French minister ?

I shall pursue this subject much farther.

.... No. II.

WE concluded our last by asking why the decree of France of the 6th *Ventose an.* 6, or, in old style, 1798, ordering the seizure of all French sailors in American or other neutral vessels was omitted ?

Shall I be told that this did not come within the order of the Senate? —That it did not affect the neutral rights of American commerce?— How happened it then that the British King's proclamation of the 16th *October*, 1807, recalling *all his seamen* from serving foreign states, was inserted?

Is what is *law* for *France* NO LAW for *Great Britain?* Or did Mr. Madison hope to escape the lynx-eyed vigilance of the lovers of truth, whom his former hypocrisy had rendered jealous of him?

Does Mr. Madison contend that France and Great Britain, have a right in their own ports to search neutral ships, and arrest their own seamen though naturalized in America, and though forming a part of the crews engaged in America?

If his answer is in the negative, why was this most important order of France suppressed?

Again—How happened Mr. Madison, when stating the decrees of Great Britain, concerning a few *Lubeck and Prussian cases in no degree affecting us*, to take especial care to overlook the public French report in the case of the Danish ships Heibs and Eliza, on the 24th *Ventose*, *an.* 6, (1798,) in which principles are advanced extremely important to us and to all neutral nations? I shall insert some of these provisions:—

"The passports of these ships, says the above mentioned French report, are not in rule. One of these ships was at Amsterdam when her passports were sent from Copenhagen. It is then confiscable under this view by the terms of the Ordonnance of July 26, 1778, which ordains that a passport shall be null, unless granted while the ship is *in the port of the Sovereign* who grants it."

This is a violation of neutral rights of which France, and France alone, has been guilty—it prohibits a neutral vessel from *making in any case* a second voyage without returning to her own country.

This construction is also put upon it by Mr. Ward, in his answer to Hubner, and as he considers it a gross violation of principle, I feel confirmed in my own opinion upon it.

Another quotation from this report is also extremely interesting—it recites the 4th article of the French Decree of 26th *July*, 1778, as still in force, which is,

"That vessels belonging to *neutrals* coming out of *enemies* ports, and there laden in whole or in part, to go into any other port than their *own*, either ally, neutral, or enemy, shall be, vessel and cargo, good prize, though owned by neutrals, or even Frenchmen."

Here is a great part and the most obnoxious part of the rule of 1756. recognised by France in the *present war*, and much surpassed in rigour.

Why did Mr. Madison omit this?—Was it because he had written a book *against this rule*, and this case went to convict him of mistakes?

What renders this omission more unpardonable is, that Mr. Madison inserts the first *favorable decree* of Bonaparte, when first consul, 19th December, 1800; which favorable decree declares, that the *whole ordonnance* of July 26, 1778, shall be *strictly observed.*

Now as the decree of 1800 was introduced by Madison to shew a re-

laxation on the part of France, why not insert the articles referred to in the ordonnance of 1778 ?

Was it because it would appear that after all this pretended relaxation, the French law, as above quoted from the original French, is infinitely more severe than any doctrine set up by Great Britain ?

Proh ! Pudor ! ! Can we suppress a blush for such shameless partiality ?

One phrase in the report above cited, gives us a bird's eye view of French *belligerent principles :—*

"People speak, say they, of the delicacy due to *neutrals* and allies, and forget all that is owing to those brave mariners who affront death in a thousand forms to cause the commerce of the republic to flourish and destroy that of the enemy."

Why again did Mr. Madison omit the decree of the 9th *Thermidor*, *an.* 9, which took off the embargo on American ships ? Was it because he hoped to have it overlooked that such a violation of our neutral rights as this embargo was, had ever taken place ?—Or did he not like the taunting and insolent nature of the preamble to this decree ? A language which France has always used towards this country.

Further—Why was the able message from the Executive Directory to the Council of Five Hundred, of the 22d *Nivose*, an. 7, omitted by Mr. Madison, though adopted as law? Was it because it contained the *following* passages offensive to the *ears of the friends* of *France*, who desire, against all *truth* and *fact*, to represent her as the friend of neutrals ? They say

"The object of privateering is to intercept and destroy the commerce of the nation with which you are at war.—But if on one side it happens that an enemy's ship *may* cover the property of a friend or neutral, so it is easy to foresee that *belligerents*, *unable* to navigate with *security* under their own *banner*, will *borrow* that of *neutral* powers to cover their property, and thus *reserve* the *habitual* and *easy* transport of the *profits of their soil and industry.*

"The employment and frequently repeated and partial use of this simulation, has diminished the respect for neutral flags, and we *must* be occupied with the consideration of the means of seizing enemies property wherever it may be on the sea, with whatever flag covered."

Again. "The regulations of 1744 were produced by changes in principles since 1704 in consequence of treaties with several powers."

But it will be remembered that the rule of 1744 still included that of 1756.

Again. "The ordonnance of 1778 (which we have shewn extends to the *worst part* of the rule of 1756) was founded on more liberal principles, BECAUSE the war of *America* having had for its *object* the repairing the *losses and injuries which we had* sustained for more than an age, by the medium of liberating the American colonies, and to protect at the same time the liberty of the seas, the French government was induced to *appreciate more* the rights of neutrals, and to perceive that *all which* it should do for neutrals would be a *blow aimed* at *England.*"

Here then we see the *ultimate object* and final end of all the liberal professions of France—it is, as expressed much more forcibly in the original, "*un coup porté* á l'Angleterre."

There are two other articles in the French ordonnances which merited a place in this collection upon the same principles upon which all the orders of Great-Britain as to neutrals, were introduced.

First. The *Arreté des Consuls de la Republique* of the 13th *Nivose*, an. 8, which took off the embargo on all neutral vessels which had been previously laid. This embargo was a manifest violation of the rights of all neutral nations, and ought therefore to have found a place in this collection.

And, *secondly*, the law passed by the *Consuls* of France as to disputes about the validity of prizes, passed so late as the 26th *Ventose*, an. 8. (1801)—This was an attempt at the *close* of the revolutionary war, to *return* to something like principle, which had been totally abandoned for a period of twelve years of warfare. The French author from whom I derive my information, and whose work was printed at the *national press*, observes, that "*here* "commenced a new jurisdiction of captures—a jurisdiction which "took place of the *ancient*, so *vacillating* and so *varied* under the "convention and the directory."

The *worst enemy* of France could not have used language more sarcastic; and it proves, from the confession of the *guilty party*, that from 1790 to the year 1801 nothing like steady principle was maintained in France, as to the question of prize and the rights of neutrals.

Yet Mr. Madison omits these articles, lest they should militate with the views of our cabinet. We are not surprised at this partiality and hypocrisy.—It is *perfectly conformable* to the conduct of our cabinet in their late conduct towards Great Britain and France.

The French themselves are more ready to confess their errors than our cabinet to admit them.

.... No. III.

WE have ſhewn the unpardonable partiality of our cabinet, not only in ſurpaſſing the bounds of their commiſſion in order to adduce proofs or ſurmiſes againſt *G. Britain*, with regard to her conduct to neutral nations with whom we had no connection, but alſo in ſuppreſſing *many, very many* French orders and decrees which materially affected our rights, and which therefore came ſtrictly within the late requeſt of the Senate.

It is my purpoſe now, to ſhew from theſe partial and *one-ſided* communications, that from the commencement of the *laſt* and the *preſent war*, FRANCE has been always the aggreſſor;—and that *Great-Britain*, ſo far from following her *pari paſſu*, (with equal ſtep) has never come up to the ſtandard eſtabliſhed by *France* in the *limitation* of neutral rights—but has adopted principles vaſtly more liberal than ſhe has done.

I ſhall proceed on the documents from the office of foreign affairs, furniſhed officially by Mr. MADISON, ſupplying in one or two inſtances

defects, from an *official publication* of the government of *France*, the authenticity of which cannot be queſtioned.

I ſhall divide the points of compariſon and inquiry into three great heads :—

Firſtly. The respective decrees and orders as to the capture of provisions.
Secondly. The same decrees and orders as to the extent of neutral trade with an enemy, in enemy's goods, and in colonial productions.
Thirdly. As to the question of blockade.

Firſtly. As to the capture of proviſions in neutral veſſels, it appears that *France* was the firſt aggreſſor, according to Mr. MADISON's late report.

On the 9th day of *May*, 1793, *France* ordered the capture of all neutral veſſels laden "in *whole* or *in part* with articles of proviſion belonging to *neutral* nations and deſtined for an enemy's port, or with *merchandize belonging to an enemy.*"

We ſay nothing about the abominable perfidy of the laſt article which violated our treaty of 1778 in the *firſt instance* in which we had occaſion to claim the benefit of it.—It was a renunciation of the doctrine of "free ſhips, free goods," and an abominable and *unprovoked* infringement of her ſtipulations on that ſubject. But we confine ourſelves ſimply to the ſeizure of proviſions.—We ſay this was the firſt decree or order for that purpoſe. The mode in which this was to be enforced was ſimilar to that of *Great Britain* paſſed thirty days after in *retaliation* of this, and that was by paying for the proviſions at a *fair price.*

But there WAS ONE DETESTABLE difference in the French order, a principle which in NO PART of the Britiſh laws has hitherto found an admiſſion, and that was, that the law of *May* 9th, 1793, ſhould have a *retroſpective* effect on innocent neutrals, and ſhould be applied to "all the prizes which had been made ſince the declaration of war"

Thus it ſeems that this decree, though dated in *May*, ninety days only after the declaration of war, was to have a *retroſpective* effect, and thus goes behind the *ſecret treaties* never *enforced* which Mr. MADISON officiouſly has foiſted into his report, in order to excite an unjuſt prejudice againſt *Great-Britain.*

The Britiſh *proviſion order*, and the only one cited by Mr. MADISON, is dated *June* 8th, 1793 and is retaliatory nearly in terms upon that of *France*, except that it has no *retroſpective* operation, like that of *France*, nor was like theirs, a violation of an *exiſting* treaty. There was another order about blockaded ports in the ſame paper, which we ſhall conſider under its proper head.

Secondly. We now come to other decrees, orders and acts of the belligerents, affecting neutral trade with enemies generally, eſpecially the very intereſting trade with colonies.

I ſhall again begin with *France*, becauſe I am *authorized* to ſay that her laws preceded thoſe of her enemy in reſtrictions on neutral commerce.

When *France* began the war in 1793, ſhe had a marine code of prizes, and until ſhe changed and modified it by other laws, the *old laws remained in force.*—I am entitled to lay this down from the decree of BONA-

PARTE and the other Conſuls, dated *December* 19th, 1800, cited by Mr. MADISON in the report referred to, page 103.—BONAPARTE *there declares*, that the repeal of the rigid and deteſtable act of 25th *Niveſe, an.* 6th, which we ſhall preſently conſider, neceſſarily "revives that ſtate of the law antecedently exiſting." And he proceeds to declare, that the law or ordonnance of *July* 26th, 1778, reſpecting *neutrals*, ſhould thenceforward be ſtrictly obſerved.

Hence it follows, according to the ſound and undoubted poſition of BONAPARTE, which no civilian or lawyer can deny, that prior to any modification, the ancient laws of marine capture being perpetual in their terms, continued in force in all future wars. Of neceſſity, the law of *France*, from the beginning of the war in 1793, to 1798, when ſhe paſſed the moſt execrable act, which I ſhall ſoon notice, was bottomed on the ancient and unrepealed ordonnances.—So I find their ſtateſmen and lawyers reaſoned and acted.

What was this *ancient law?*—In the firſt place the law of 1744, which forbade all trade between an *enemy*'s country and *any other*, even a neutral ſtate, except that to which the veſſel belonged.—This was again modified by the ordonnance of July 26, 1778, which in its preamble declared, that "it was the intent of the king to *renew* the diſpoſitions of the *ancient regulations*, and to *add new ones.*"—He then adds, that veſſels bound *to or from* an *enemy*'s port, ſhall not, for that cauſe, be condemned, but leaves in force the old ordonnances as to caſes of veſſels bound from an enemy's port to any other port of an enemy, or any other neutral port.

Such would have been *my* conſtruction, if left unſupported, but I have the higheſt authority to ſupport me.—*Le Nouveau code des Prises*, publiſhed by authority of the French Government, *Tome* III. *p.* 494, declares, that by the 4th article of an ordonnance of *July* 26, 1778, it is expreſsly provided "that veſſels belonging to any neutral States which ſhall have departed from any enemies' ports, and ſhall have there loaded, in whole or in part, to go into any other ſtate than *their own*, either ally, neutral, or enemy, ſhall be ſeized and declared good prize, even tho' laden for account of an ally, neutral, or even Frenchman."—BONAPARTE, in 1800, declares valid and re-enacts this ordonnance of *July* 26, 1778.—So that with the interval of two years only, this was and *ſtill continues* to be, the law of *France*.

Let us, then, briefly ſee what this law is.

An American veſſel is forbidden, even if laden with goods on account of any neutral citizen, to go from *London* to *Ruſſia*—to *Sweden*—to *Holland*—or from a Britiſh *Weſt India* iſland to *Great-Britain*, or to any other iſland.—Such is the law, as it ſtands. Shall we be told that they have not always enforced it?—We anſwer, that this varies not the principle—the ſame may be applied to the Britiſh practice, or what is falſely called the rule of 1756; but we can ſhew fifty caſes where the French have ſurpaſſed this rule, to one in which they have fallen ſhort of it.

But this is the mildeſt ſide of the picture:—In *January*, 1798, as cited by Mr. MADISON, *the French Directory paſſed a decree*, and had Mr

MADISON been an honeſt and impartial ſtateſman, I ſhould have aſked why he *omitted* the preamble to this decree, though it finds a place among the laws of *France* ſo important was it deemed?—This preamble recites the ordonnance of 1744, which condemns *all cargoes* of which *any* part were enemies' property, and adds, that this principle ought to be *further extended*.—The law then proceeds to declare, that *veſſel and cargo* ſhall be lawful prize, if ANY part of the goods are of Engliſh growth, "*ou proveniant d' Angleterre*" "*whoever might be the owner.*"—This wasn o *new idea* in *France*. To ſhew that my conſtruction of the ordonnance of *July* 1778, that it was rather cumulative than tending to diminiſh, was well founded, and that all the old laws ſtill remained in force, I ſtate, that on the 6th *Dec* 1779, the French *Council, preſent the King*, condemned a Daniſh ſhip, *with all* her cargo, becauſe *ſome* part of it was the property of an enemy.

The deteſtable principle above ſtated that veſſel and cargo ſhould be condemned, to *whomſoever* belonging, becauſe *any part* of it was of enemies' growth, is an anomaly is a monſter in the hiſtory of civil and national juriſprudence; and we turn with pleaſure to the example of a nation, which yet preſerves a reſpect for principles, and whoſe worſt doctrines, if not defenſible, are more tolerable and juſtifiable than the beſt doctrines of her enemy, *France*.

The firſt Britiſh order on the ſubject of the colonial trade, was dated the 6th of *November*, 1793, and authorized the capture of all French colonial produce, or ſupplies bound to ſuch colonies.—This order was repealed in two months, and two remarks may be fairly made upon it:

Firſt. That *Great-Britain* was then making great efforts to reduce these colonies in which she was soon afterwards successful as to several of them.*

Secondly. That she gave us what *France* has never done, ample compensation for these early captures under the treaty of 1794.

The ſecond Britiſh order on this ſubject was dated *Jan.* 18, 1794, and extended,

Firſt. To the capture of ships bound directly from the colony to *Europe*.

Secondly. To the capture of goods from said colonies, which goods should be the property of an enemy.

This Mr JEFFERSON declared to Mr GENET was the law of nations, and is a principle perfectly eſtabliſhed.

Thirdly. To the capture of all vessels attempting to enter the colonies of her enemies actually blockaded by His Majesty's arms.

This alſo did not vary the acknowledged law of nations.

Fourthly. To any vessels bound as aforesaid with naval or military stores.

This was likewiſe in purſuance of the law of nations.

The only other order of *Great Britain*, affecting colonial trade, was dated *January* 25, 1798.—This order does not vary from the former, except in *ſome* explanations favorable to neutrals, in relation to the ports of *Europe*, and chiefly affecting the neutral powers of *Europe*.—It is not perceived that the United States were in any degree affected by it ex-

* Sir John Jarvis and general Gray were then in the West Indies with great force and soon after took Martinique and several islands

cept in its extenſion to the colonies of *Spain* and *Holland*, which were not comprized ſpecifically in the firſt orders.

On all theſe orders it may be remarked, that they do not exceed the rule ſet up in 1756, which was an amelioration of the French ordonnances of 1704 and 1744.

That they did not affect any of the rights we enjoyed before the war · That, on the contrary, they left open to us, what we did not enjoy in time of peace, a *free* trade with theſe colonies for our own ſupply, and *an indirect trade* in their productions from which we have derived immenſe profits to the injury of the Britiſh colonies, and the reſtrictions on which were felt, not by us, but by the belligerent whom we ſupplied.

Further, we muſt contraſt theſe orders with thoſe of the French which forbade the trade from one European belligerent port to any other port *but our own* :—And the laſt execrable decree, which condemned veſſel and cargo for the ſole offence of having any article of enemies growth on board :—*Great Britain* never retaliated theſe deteſtable regulations.

We come now to the doctrine of *Blockades*.

The Britiſh orders on this ſubject are more numerous than thoſe of the French, for this obvious reaſon :—The Britiſh have been in a condition to blockade—while their enemies, ſo far from having this power, have been always blockaded in their principal ports of equipment.

The right to blockade an enemy's port, is the higheſt and moſt indiſputable belligerent right—it is recognized even by the armed neutrality. *Great-Britain* has exerciſed this right and if we regard the deciſions of her Courts we ſhall find, that ſhe ſets up no principles not recognized by this famous northern coalition formed to protect neutral trade.—

First. She blockaded or declared blockaded the ports of *Holland.*

Now could ſhe and did ſhe blockade theſe ports ?—The rule is, that a blockade is lawful when the blockading force is ſo great as to make "the danger of capture imminent." We appeal to our inſurance office records to prove, that in every blockade of *Holland*, the danger was equal to 90 per cent :—Is this or is it not an imminent danger ?

Secondly. The British government on the 5th *Jan.* 1804, inſtructed their officers not to conſider the blockade of *Martinique* and *Guadaloupe* operative against neutrals except with regard to ports actually inveſted, nor then until *warning* had been given.

Remarks :—*Firſt*, This is the principle on which deciſions have been generally made ; and Sir Wm. Scott has gone ſo far as to declare, that when the blockading ſquadron retires, the neutral right to trade attaches.

Second, That the Britiſh have always accompanied their orders with *warning*, which we ſhall ſhew that the French, in defiance of all law and juſtice, have never done.

The third blockade was of the ports from the port of *Oſtend* to *Fecamp*. This was in 1804, when all theſe ports were filled with veſſels for the *Invaſion of England.* Will it be pretended that ſhe had no right to prevent ſupplies going to an *invading force ?*—eſpecially as ſhe could *almoſt*, and did actually ſeal up as it were *hermetically* theſe ports ?

The ſame remarks are applicable to the blockade of *April*, 1806, from the *Elbe* to the *Weſer*, and that of *May* 16, 1806, from the ſame river to *Breſt*.

The blockade of the *Ems*, &c. was founded upon thoſe rivers being ſeized forcibly and held by French armies, and of their being the only avenues to ſupplies to thoſe armies by ſea.—The blockade alſo was effectual and ſincere.

That of *Carthagena*, *Cadiz* and *St. Lucar*, ſcarce deſerve notice.—The Britiſh had before them powerful fleets, compoſed of line of battle ſhips, and ninety-five per cent. would not have indemnified the inſurer for the riſk of egreſs or ingreſs.

The only remaining one is that of *Zealand*, an iſland filled with French troops, and completely inveſted by the Britiſh navy.

Let us now turn our eyes to the monſtrous picture of French blockading orders—remarking, firſt, that in no one moment of the war have they ever had a blockading force before the ports declared to be blockaded; but, on the contrary, even their moſt powerful fleets have been obliged to run a diſgraceful gauntlet through the ocean, burning and ſinking innocent neutral ſhips leſt their courſe ſhould be traced by their purſuing foes Would to Heaven! we were not obliged to add, that our Secretary, Mr. MADISON has apologized for this outrage on the plea of *neceſſity*—a plea which however excludes the poſſibility of the right of blockade, which is ſolely founded on the power of keeping the ocean.

The firſt French blockading decree was dated Feb. 1, 1797, and declared certain *West-India* iſlands in poſſeſſion of the Britiſh, in a ſtate of blockade no warning or notice provided

Secondly, a decree againſt *American* veſſels, by name, bound to or from Engliſh ports—and adds, that thoſe *already* taken before the blockade ſhall be ſtill detained.

Thirdly, Gen. FARRAND, governour of *St. Domingo*, and authorized to act for the French government, decreed all *Hiſpaniola*, which was occupied by the rebels, in a ſtate of blockade, and that all *neutrals* bound thither ſhould *ſuffer death*. The ſame puniſhment was ordered on all *neutrals* coming out.

That this decree was not enforced in all its ſanguinary terms was owing to the complaiſance of our government, who interdicted, at the requeſt of *France*, this lawful trade.

On the 21ſt *November*, 1806, BONAPARTE decreed all the Britiſh iſlands in a ſtate of blockade, without having one ſhip on the ocean near the Britiſh iſles and diſfranchiſed every neutral ſhip which ſhould have entered a Britiſh port after the decree. On the 17th *December*, 1808, by a decree at *Milan*, he confirmed the blockade and declared every neutral veſſel which had been viſited by a Britiſh ſhip, lawful prize. On the 17th *April*, at *Bayonne*, he extended the above decrees to the ſeizure of all American veſſels found on the high ſeas in any ſituation, *under pretext* that they muſt have violated the Embargo laws of the United States which he thus took upon himſelf to execute.

It is obſervable that none of theſe decrees provided for any notice;—

they were to take effect from their date upon innocent neutrals, and were inſtantly enforced the former in the neutral ſtate of *Hamburg*, and the latter on the high ſeas.

The meaſures *Great-Britain* has taken in retaliation after *twelve months* notice, leſs extenſive in terms, ſupported by a color at leaſt of the right of blockade, and founded on the acknowledged principles of the *lex talionis*, we need not cite.—They are too recent and have been too often diſcuſſed to require more particular inveſtigation.

There is one other subject contained in the orders and decrees transmitted by Mr. Madison, and that is the *British* proclamation for the recall of *British* seamen.

One would first ask how such a proclamation can be said to *affect our neutral* rights? Has not Great Britain in common with all the rest of the world a right to require the services of her subjects in time of war? Shall *our government*, especially who now in time of profound peace, interdict our free egress against the letter and spirit of our constitution, deny the power of the British King over *his own* subjects?

I am aware that I shall be told that it is not this *recall* of which they complain, but it is the order to take *them* out of our merchant ships on the high seas.

Now in *what point* does this violate our rights?

1st. Is it the *coming* on board our ships, and *detaining them to search?*

Answer...This would exist without the *other* claim. It would exist, says Azuni, even if neutral flags were permitted to set up the new and monstrous doctrine of covering all *who sail*, and all the *property* under them, because as this advocate of Bonaparte and free trade contends, the *right of search* and even *capture* would *still* exist, inasmuch as it would be impossible to discern a neutral from an enemy without *search* and sometimes without trial.

2d. Is it the *mustering* and *examination* of the crews?

This has been the subject of many a flaming speech; yet this is necessarily incident to all *marine captures*, and has been used in all ages. It is necessary, in order to ascertain whether there are *enemies* on board. *All* nations subject to capture enemies in *actual service*, and the ordonnances of France, render prisoners of war *all* enemies found in neutral vessels, whether in service or not.

This right of *muster* and *search* is necessary often to ascertain the *fact* of property; many nations of Europe requiring that all neutral vessels shall be reputed enemies unless two thirds or three fourths of the crew are *natives* of the neutral country. The ordonnance of July 26, 1778, which Bonaparte declared by the decree above cited should be *strictly observed*, in the 9th article, condemns a vessel for the sole cause of "having a supercargo, agent, or officer as mate, or *one third of the sailors* SUBJECTS of enemy states."

Two thirds of our ships from the southern states are subject to condemnation on this ground. But how is *the fact* to be ascertained? Only by thorough *search* and *muster*.

One of the French ordonnances directs their officers to have a good interpreter, and to notice whether the sailors of a neutral vessel *speak correctly* the language of the country to which the ship purports to belong ; also, they are required to ask the names of the crew of themselves personally, whether they are married or single, and whether they have children, and where they reside, and to draw up a procès verbal of these facts to be *signed* by the crew.

What is the object of all this ? To detect frauds. But it must not be overlooked that it implies the right of *search*, of *muster* of the crew, and includes more burdensome and arbitrary ceremonies than are ever claimed by the *much censured Britons*.

3d. But we shall be told, that it is the *abuse* of this right of which we complain ; that Americans are often taken away instead of *British* subjects.

To argue from an abuse against a known and established *right*, would contradict *all* principles, and we should recollect that the *same difficulties* which had led to this *abuse* of a just right, to wit, similarity of language and manners, have also led to a most gross abuse on our side *as neutrals*, and that is the taking away in time of war at least 10,000 *British* seamen from the very *necessary* service of their country.

Nor ought it under this head to be forgotten that this very proclamation of Great Britain was issued to lessen these abuses—to define the cases in which the right was to be exercised—to prohibit all improper conduct in the exercise of it—and to point out the manner in which deserters on board of foreign public ships should be claimed so as to prevent future collisions.

But unhappily, from some hidden cause, even the sincere attempts of Great Britain to cure evils—to remove asperities, furnish new sources of complaint against her.

We shall now contrast this proclamation with the French usages and laws on the same subject.

The first section of the British proclamation simply recalls their seamen.

This is precisely the same which every sovereign does in every war. Denmark *did it* last year. There are many Danes in our service whom if met with by a Danish cruiser the officers would seize. Why then did not Mr. Madison insert the Danish proclamation among *belligerent acts affecting* our rights. France has always issued such proclamations, and I find no less than *four* laws and ordonnances for the return of their seamen in the present war.

I can perceive no difference except this, that by the *freedom* of the *British* laws there is no penalty except for desertion, whereas by the *French* ordonnances any unhappy classed seaman, (and they are *all* classed,) was formerly liable to the penalty of death for being in foreign service, and lately to the galleys for life.

The second section of the British proclamation authorises the taking out of any British subjects when found on board neutral merchant ships on the high seas or elsewhere.

This we say is the practice of all nations, that when searching merchant ships for enemies' goods, if they find their own seamen they take *them out.*

We need not repeat the *conduct* of Admiral Verheuil, who the year before last took out four French sailors from an American ship at sea, we shall shew that he did this pursuant to *law*. By an ordonnance of Louis XVI. in 1784, respecting seamen, in the 22d article it is provided that "les gens de mer classés qui en tems de guerre seront arrêtés sur des navires étrangers, ou passant en pays étranger seront condamnés à trois ans de galeres.

"That all seamen classed (that is enrolled) who in time of war shall be *arrested on board foreign ships*, or going into foreign countries, shall be condemned to three years confinement in the galleys.

We notice in this decree,

First. The denial of the right of expatriation in time of war.

Secondly. That the terms of arrest being not confined to the ports of France, extend to an arrest on the high seas: we shall shew presently that when intended to limit the arrest they know how to express the limitation to their own ports.

By the same decree it is made the duty of the officers to make report of "such sailors as shall have passed into *foreign countries* and who may have been arrested"—See article 25, of the above ordonnance. This also almost necessarily implies an *arrest out of* the jurisdiction of France.

By the decree of the directory, 8 Ventose, an. 6, it is declared that all French sailors (not deserters) serving in *neutral* vessels, who shall be found in the ports of the republic shall be arrested."

This shews the French idea, that a Frenchman cannot quit his country—that the neutral flag is no protection against the rights of the sovereign—but that they know how to distinguish between arrests in their *own* ports, and arrests in *any place* whatever. Hence it follows that the arrests spoken of in the ordonnance of 1784 not being limited to their *own ports*, must be presumed to authorise an arrest in any *place whatever*, wherever the seamen may be found.

The third section of the British proclamation of October 16th, 1807, prescribes the mode in which demand is to be made without resort to force, in case deserters should be protected aboard *public ships* of foreign nations.

Our cabinet, sensible of the impropriety of the practice heretofore adopted of enlisting deserters, have since given orders *not to enlist them*, and they have authorised Mr. Pinckney to communicate this determination to the British government. This settles the rule, and is a return, on the part of our administration to correct principles, and justifies this part of the British proclamation.—The 4th section of the British proclamation declares, that a *naturalization* in a foreign country does not deprive the British government of the right of claiming the allegiance of their own subjects.

This claim was at one period the subject of great complaint in this country, though we are at last returning to something like correct notions on this subject.

If doubts still remain as to the correctness of the British rule they will be dispelled by the *practice of France*.

Surely we cannot undertake to undermine or destroy the uniform principles adopted by all the European nations. This would be a de

gree of *quixotism* to which the good people of the United States would never consent.

By the 11th article of the French ordonnance of 1744 it is declared "that *no regard* shall be paid to passports granted by *neutral* states "either to *owners* or masters of ships who are subjects of enemy states "if they were not *naturalized* before the *declaration* of war."

This rule the French author of the code des Prises says is confirmed in the ordonnance of July 26 1778 which Bonaparte has received and ordered to be strictly observed.

It is then settled by the *French law* that no naturalization after a declaration of war shall so far change the character of an enemy as to liberate the *neutral* ship or cargo of which he is owner or master from capture.

Can it be pretended that the right of an enemy to vacate and annul the naturalization laws of a *neutral* are paramount to the right of the sovereign who claims such *naturalized* subjects?

They are both founded on the same principles, that neutral nations cannot in time of war divest belligerent subjects of their national character.

We have thus shewn, that neither as it respects provision orders—or clonial trade, or the doctrine of blockade—or the right to take their own seamen, have the British Government ever advanced doctrines so injurious to neutrals as France has done *and at this moment* supports.

NOTE.

SINCE this supplement was put to press, the answer of Mr. Pinckney to the *suppressed* letter of Mr. Canning has been reluctantly extorted from the President, and if no other reasons existed against inserting it at large we think the following would suffice.

Mr. Pinckney has deemed it necessary to write twelve pages in reply to Mr. Canning, when one single page would be sufficient if he had explicitly contradicted *any one assertion* contained in Mr. Canning's note, but so far from contradicting those assertions, he most explicitly confirms the *only material point*, which was, that he was *not authorised*, and accordingly *did not* assure the British cabinet that his powers were competent to make a clear, unequivocal offer to repeal the Embargo on condition of the repeal of the British orders. We here insert his express acknowledgment upon this subject. Mr. Pinckney observes, "I feel persuaded, Sir, that upon further reflection it will occur to you "that *at our first conference* I told you explicitly that the "*substance*" "of what I then suggested that is to say, that your orders *being repealed* "as to us, we would suspend the Embargo as to Great Britain was from "my Government: but that the MANNER of CONDUCTING and "illustrating the subject, upon which I had NO PRECISE orders, "was MY OWN—I even repeated to you the words of my instructions

" as they were upon my memory ; and I did not understand either then
" or afterwards that there was any doubt as to their existence or suf-
" ficiency or any desire to have a more exact or formal communication
" of them WHILE THE RESULT of our discussions was *distant and uncer-*
" *tain*" While the *result* was *uncertain and distant*, it was not important for Mr. Canning to know the precise extent of the powers ; but it seems that when the positive *written* offer was made, *a part* of Mr. Pinckney's *instructions* were communicated.

We have shewn above that these *instructions were in* their *whole* extent totally incompetent, of course, the *partial* communication of them must have been unsatisfactory.

A *public* agent or *private* attorney cannot exceed his powers. These powers of Mr. Pinckney are before the public, and we affirm he had no authority to pledge his government EVEN to the *small* measure of a repeal of the Embargo.

So Mr. Pinckney understood them, and accordingly in his letter of the 4th of August, after *all the verbal* conferences were finished he tells Mr. Madison " that the objects mentioned in his letter of the 30th April (*the only letter* of instructions) would be accomplished *if he should authorise the expectation* which *that* letter *suggests*," and he goes on to declare in two passages that he made an " *intimation*" to that effect. Now every man of *sound sense* and common honesty will naturally reflect, that if a simple proposition of a repeal of the Embargo as a condition of the repeal of the Orders in Council was to be made, there was no occasion for *duplicity or concealment*—there was no necessity for speaking of " *authorising the expectation*" of throwing out an " intimation," nor could there be any necessity for Mr. Pinckney's declaring as he *says* he did, that the " *manner* of *conducting this repeal* he could not *state*, because he had no *precise orders* on that subject, and therefore what he said on that *point was his own.*"

The President was expressly empowered by a *short act not* one *fiftieth* part as long as these explanations to suspend or repeal the Embargo, in whole or in part, in case of a relaxation on the part of either belligerent. Why then was not Mr. Pinckney empowered, and why could he not in pursuance of said power (had it ever been given, which it *was not*) explicitly have offered a repeal of the Embargo on condition of a repeal of the orders ?

No such power was ever given—The only power and instructions were contained in the letter of the 30th April, and in order to render them intelligible not merely to every lawyer but every citizen, I shall, in a *familiar manner* insert *THESE VERY* words into a power of attorney from one individual to another pretending to authorize a sale of land—This will test the force of the expression.

" Know all men by these presents, that I Thomas Jefferson, of Monticello,
" in the State of Virginia, Philosopher, do hereby constitute and appoint
" WILLIAM PINCKNEY, Esq. now resident in London, my Attorney, with
" full power in my behalf " *to authorize the expectation, that I will, within a rea-*
" *sonable time, give effect to the power vested in me by law for the sale of my estate*
" *and negroes at Monticello.*"

Now, suppose Mr. Pinckney under such a power should give a deed of the Monticello estate and negroes, is there a lawyer, is there a plain

citizen in the United States who would believe that the sale and conveyance would be good against Thomas Jefferson?

Yet such was precisely the fact in this case, and in so shameful a manner, in a manner so loose, hypocritical and insincere have the *most essential interests* of the United States been treated. And because Great Britain after having been once cheated would not accept such a loose and incompetent power, we are to have the Embargo System continued, to have our houses robbed, and our throats cut, or to submit to a declaration of war against her for her refusal to believe this offer sincere.